

## LICENSE

THIS LICENSE is granted this \_\_\_\_\_ day of \_\_\_\_\_ 2012 by **MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**, a public district of the State of California, hereinafter called "District", to **TRACY TOLAND**, hereinafter called "Licensee."

### WITNESSETH

District, for and in consideration of the fees, covenants and promises contained herein, does hereby grant this License to Licensee, and Licensee hereby accepts from District that certain unimproved real property hereinafter called "Premises" and further described below, located in the unincorporated area of Kentfield, California, for landscaping purposes.

This License is made upon the following terms, covenants and conditions to which the parties hereby agree.

**1. ADMINISTRATION.** This License shall be administered on behalf of District by the Chief Real Property Agent, Real Estate Section, Department of Public Works, whose mailing address is:

Marin County Department of Public Works  
Real Estate Section  
P.O. Box 4186  
San Rafael, CA 94913

and as Licensee:

Tracy Toland  
235 West End Ave., Apt. 3F  
New York, NY 10023

Any notice or notices provided by this License, or required by law to be given or served upon District or Licensee, may be given or served by depositing the same in the United States Mail, postage prepaid, addressed as set out in this clause.

**2. DESCRIPTION OF PREMISES.** The Premises is defined as a parcel of land approximately 360 square feet in size known as a portion of Assessor's Parcel 74-011-77 which lies parallel to and adjacent to Assessor's parcel 74-064-14, as shown on Exhibit "A" attached hereto and made a part hereof.

**3. TERMINATION.** This License is terminable at will by the District and by Licensee. Licensee shall vacate the Premises within thirty (30) days upon receipt of a written notice of termination from District.

**4. TERMINATION ON SALE OR TRANSFER.** Licensee understands and agrees that in the event that Licensee sells, or conveys their property, irregardless of their specific consent or nature of the transaction, this License shall terminate as of the date of said transaction. Licensee shall not represent to any party that they possess any rights to the Premises other than those contained within this License, nor shall they represent to any party that they have the ability or right to convey, transfer, assign or pass any rights in the Premises at any time.

**5. LICENSE FEE.** Licensee shall pay to District in advance and upon execution of this License a fee in the amount of **FIVE HUNDRED DOLLARS (\$500.00)**. On \_\_\_\_\_, 2011 and on each anniversary thereafter until the termination of this License, Licensee shall pay to District a License fee in the amount of **FIVE HUNDRED DOLLARS (\$500.00)**. District reserves the right to review and increase the License fee on the yearly anniversary of the date of this License.

**6. USE.** The Premises shall be used for garden and fence purposes, but shall not interfere with District's right to use said property. Licensee shall obtain approval from the District prior to installing any trees that at maturity shall have trunks greater than four inches, or any shrubs that at maturity are over 3 feet tall. No other use of the Premises by Licensee shall be permitted by District.

**7. MAINTENANCE OF PREMISES.** LICENSEE shall be responsible for the maintenance and upkeep of the existing improvements referred to in item 6 above. No enlargement or expansion of the uses of the existing improvements nor physical expansion of said improvements shall be allowed.

**8. ENTRY BY DISTRICT.** District and its agents shall have the right, and Licensee shall permit District, and its agents, to enter onto said Premises at all times for any purpose. Nothing contained in this License Agreement gives, nor shall it be construed as giving, the District a right of access to and from the Premises by way of entry on, over upon, under or across any adjoining property owned by Licensee, except by separate agreement.

**9. DISTRICT'S RIGHTS.** It is further understood and agreed by Licensee that District's rights to Premises are paramount to this License. Licensee shall in no way interfere with District's right to use, access or possess the Premises.

**10. INSURANCE.** Licensee, at Licensee's own cost and expense shall maintain liability insurance (including protective liability coverage on operations of independent contractors engaged in construction and contractual liability insurance) on an "occurrence" basis for the benefit of the Licensee as named insured and the District, its officers, elected and appointed officials, agents, boards, commissions, and employees as additional insured against claims for

bodily injury, death, personal injury and property damage liability with a limit of not less than \$1,000,000 Combined Single Limit, per occurrence and aggregate in connection with Licensee's use of the Premises. All such insurance shall be effected under valid and enforceable policies and shall be issued by insurers licensed to do business in the State of California and with general policy holder's rating of at least A and financial rating of VIII or better as rated by A.M. Best's Insurance reports and shall provide that District shall receive thirty (30) days written notice from the insurer prior to any cancellation of coverage or diminution of limits.

On or before commencement date of this License, Licensee shall furnish District with a certificate evidencing the aforesaid insurance coverages and renewal policies or certificates shall be furnished to District at least thirty (30) days prior to the expiration date of each policy.

**11. WAIVER OF SUBROGATION RIGHTS.** District and Licensee hereby grant to each other, on behalf of any insurer providing insurance to either of them with respect to the Premises, a waiver of any right of Subrogation, which any insurer of one party may acquire against the other by virtue of payment of any loss under such insurance.

**12. POSSESSORY INTEREST.** Licensee acknowledges that they have been informed that under Section 107 of the Revenue and Taxation Code of the State of California, the Marin County Assessor is required to place a value on all possessory interests. Possessory interest is defined as the right of a private taxable person or entity to use property owned by a tax-exempt agency for private purposes. A possessory interest tax will, therefore, be levied by the County Assessor on this property against the Licensee as of the lien date, which is March 1 of each year.

**13. ALTERATIONS AND IMPROVEMENTS.** No improvements or alterations permanently affecting the Premises shall be made by Licensee. In no event shall any improvements or alterations be made or approved that in any way interfere with the District's use of its property. Upon service of notice or termination of this License, Licensee shall, at their sole expense, immediately remove all improvements from the Premises as specified by District. If on the 30<sup>th</sup> day after receipt of said notice, Licensee fails to remove all improvements and vacate the Premises as specified, then said failure shall constitute authorization for District, or its authorized agents, to enter upon the Premises and remove Licensee's property, if any, therefrom. All costs associated with the removal of Licensee's improvements by District shall be at Licensee's expense and the District shall have the right to recover said costs by any means legally permissible.

**14. COVENANT FOR MECHANIC'S LIENS.** Licensee will save District free and harmless, and indemnify it against any and all claims for labor and materials in connection with any improvements, repairs, or alterations to the Premises made by Licensee and also the cost of defending against any and all such claims including reasonable attorneys' fees and court

costs.

**15. WASTE, QUIET CONDUCT.** Licensee shall not dispose of, or store, any waste, including but not limited to hazardous waste, upon said Premises, nor commit, or suffer to be committed any nuisance, or other act or thing which may disturb the quiet enjoyment of others.

**16. ABANDONMENT OF PREMISES.** Licensee shall not vacate or abandon the Premises at any time during the term without written notice to District. If Licensee shall abandon, vacate or surrender said Premises, or be dispossessed by process of law, or otherwise, any improvements and personal property belonging to Licensee and left on the Premises shall be deemed to be abandoned, at the option of District.

**17. ACCEPTANCE OF PREMISES AS-IS.** Licensee accepts the Premises in its "as-is" condition and agrees that District makes no express or implied warranties with regard to the condition of the Premises or its suitability for use by Licensee.

**18. DISTRICT TO BE HELD HARMLESS.** LICENSEE shall defend, indemnify, and hold harmless District, its agents, officers and employees from and against all claims, suits, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees arising out of, or resulting from losses to anyone who may be injured or damaged by reason of the omissions, willful misconduct, negligence or wrongful acts of LICENSEE, and LICENSEE'S officers, employees, invitees, volunteers or agents.

**19. ASSIGNMENT OR SUBLETTING.** Absolutely no assignment or sublet of the Premises by Licensee shall be permitted by District under any circumstances.

**20. CONTINUATION OF LICENSE AFTER BREACH.** Should Licensee breach this License, the License will continue in effect as long as District does not terminate Licensee's right to possession at District's option. District may enforce all its rights and remedies under this License including the right to recover License fees as they become due hereunder.

**21. DEFAULT.** In the event that District or Licensee shall default in the performance of any term or condition of this License and shall fail to cure such default within 30 days following service upon the defaulting party of a written notice of such default specifying the default or defaults complained of, the complaining party may forthwith terminate this License by serving the defaulting party written notice (per Clause 1, Administration) of such termination.

**22. ATTORNEYS' FEES.** In case suit shall be brought for an unlawful detainer of said Premises, for the recovery of any License fees due under the provisions of this License, or because of the breach of any other covenant herein contained, the parties shall bear their own

attorney's fees and costs.

**23. DISTRICT' S LIABILITY.** The term "District" as used herein shall mean only the owner or owners of the fee title, at the time in question, and in the event of any transfer of such title, District herein named (and in case of any subsequent transfers, the then Grantor) shall be relieved from and after the date of such transfer, of all liability as respects District's obligations thereafter to be performed, provided that any funds in the possession of District or the then Grantor at the time of such transfer in which District has an interest, shall be delivered to Grantee. The obligations contained in this License to be performed by District shall, subject as aforesaid, be binding on District's successors and assigns only during their respective periods of ownership.

**24. ORDINANCES AND STATUTES.** Licensee shall comply with the requirements of all Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the said Premises, and shall faithfully observe in the use of the Premises all Municipal Ordinances and State and Federal Statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of Licensee in any action or proceeding against Licensee whether District be a party thereto or not, that Licensee has violated any such ordinance or statute in the use of the Premises, shall be conclusive of that fact as between District and Licensee.

**25. DAMAGE TO IMPROVEMENTS.** It is also agreed that while using, maintaining and/or improving the Premises or adjoining lands (Corte Madera Creek), District will take reasonable care to not damage Licensee's improvements. However, if any of Licensee's improvements should become damaged, District shall not be obligated in any way to repair or replace any of Licensee's improvements and it shall become the obligation of Licensee to make said repairs should it become necessary.

**26. WAIVER, CAPTIONS, JURISTITION OF LAW.** This License shall be governed by and construed in accordance with the laws of the State of California. No waiver by a party of any provision of this License shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this License or at law shall not prevent the exercise by that party of any other remedy provided in this License or at law. The captions heading the various paragraphs of this License are for convenience and shall not be considered to limit, expand, or define the contents of the respective paragraphs. Masculine, feminine, or neuter gender and the singular and the plural number, shall each be considered to include the other whenever the context so requires. If either party consists of more than one person, each such person shall be jointly and severally liable. This License shall be interpreted under California law and according to it's fair meaning, and not in favor of or

against any party.

**27. ENTIRE AGREEMENT.** This License contains the entire agreement between the parties hereto and no term or provision thereof may be changed, waived, discharged or terminated unless made in writing and executed by both parties hereto.

**IN WITNESS WHEREOF**, on the day and year first above written, the parties hereto have caused this License to be executed.

**DISTRICT:**

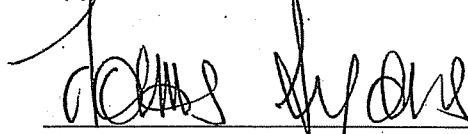
\_\_\_\_\_  
**STEVE KINSEY**

President, Board of Supervisors

Marin County Flood Control and Water Conservation District

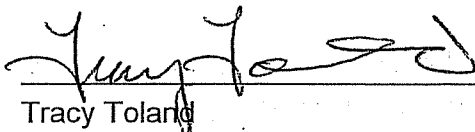
**ATTEST:**

Approved as to form.

  
\_\_\_\_\_  
Office of County Counsel

\_\_\_\_\_  
Deputy Clerk

**LICENSEE:**

 Nov 21, 2011  
Tracy Toland Date

Bk. 73  
31

Bosqui Tract, Amended Map of, RM, Bk. 2 Pg. 18  
Raymond Tract, Sub. 1, RM, Bk. 2 Pg. 30  
Raymond Tract, Sub. 2, RM, Bk. 2 Pg. 35

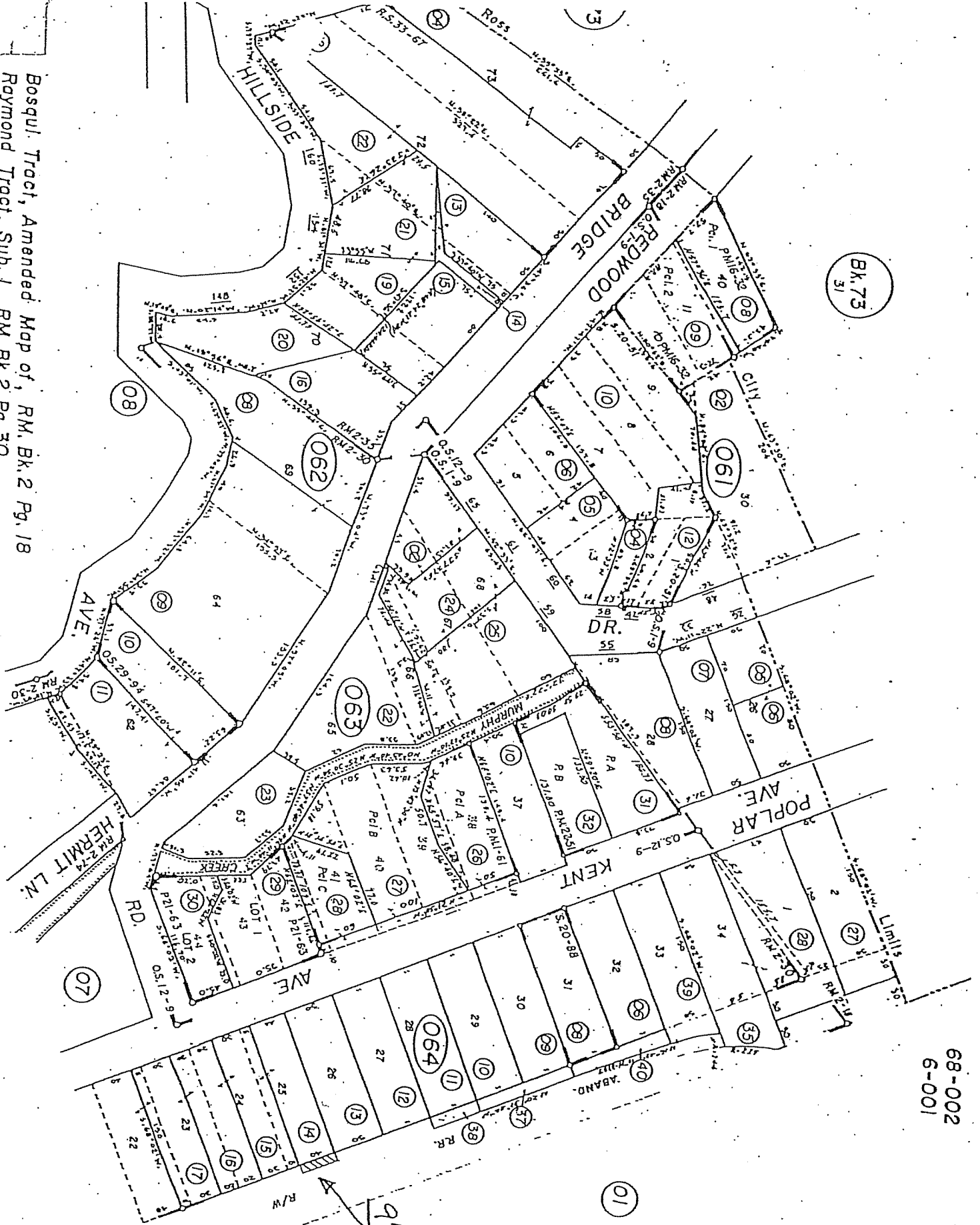


EXHIBIT A

9x40 1/2

No  
Sea

IT  
24-06

68-002  
6-001

Assessor's Map Bk. 74 -Pg. 06

