



Meeting Date: 10/26/10

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Melissa Hettner Agenda Item No. I-6
 Reviewed By: City Manager [Signature] City Attorney Holmberg Finance [Signature] Other (Specify) _____

DATE: October 18, 2010

TO: City Council

FROM: William E. Wilkins, Housing Director
Housing Department [Signature]

SUBJECT: City Approval of the Amended and Restated Assignment and Assumption, Amendment, and Modification Agreement for the Camino Gonzalez Apartments project located at 481 W. Gonzales Road.

RECOMMENDATION

That City Council approve and authorize the Mayor and the Housing Director to execute an Amended and Restated Assignment and Assumption, Amendment, and Modification Agreement (the "Agreement") for the Camino Gonzales Apartments project.

DISCUSSION

The City has previously approved a First Amended and Restated Affordable Housing and Loan Agreement (A-7098) to Cabrillo Economic Development Corporation ("CEDC") in the amount of \$1,623,840 (the "City Loan") for the development of 43 affordable apartments to be located at 457 W. Gonzales Road. Subsequent to this approval, CEDC subdivided the land to develop two independent projects on two separate parcels, commonly known as Paseo De Luz Apartments and Camino Gonzales Apartments (the "Camino Project").

The Camino Project, approved by the City, is scheduled to start construction in November 2010. The request for approval of the document identified above and described in more detail below is to satisfy the tax credit investor's requirements for the Camino Project, and to facilitate construction of the project.

Previously on September 14, 2010, the City Council approved an Assignment and Assumption Amendment, and Modification Agreement (the "Assignment Agreement") for the Camino Gonzalez project located at 481 W. Gonzales Road. The Assignment Agreement allowed for CEDC to assign its interest in the City Loan to a Camino Gonzalez Associates LP (the "Partnership"), a limited partnership which will develop the Camino Project with an equity investment utilizing the federal low income

housing tax credit program. Subsequent to this approval of the Assignment Agreement, CEDC accepted a commitment from Wells Fargo Bank, N.A., to provide a construction loan for the project as well as a tax credit equity investment offer from Wachovia Affordable Housing Community Development Corporation (the "Investor"). The Investor has since had the opportunity to review the previously approved Assignment Agreement, and has requested certain changes to the document to allow the Investor to provide a tax credit equity investment to the Camino Project. Such changes include the following: transfer provisions in the City Loan documents which pertain to the Investor, changes which clarify the terms of the City Loan, changes which allow for the City Loan documents to be consistent with the terms of the Partnership's limited partnership agreement, changes to provide notice to the limited partner, and changes to provide a cure period to the Investor in the case of a default in the City Loan documents. This new Agreement replaces in its entirety the Assignment Agreement. Without the Investors tax credit equity investment in the Camino Project, it will not be possible to move forward.

CEDC is not requesting a new loan or additional funding to develop the above-referenced projects.

FINANCIAL IMPACT

There is no financial impact.

Attachment #1 - Amended and Restated Assignment and Assumption, Amendment, and Modification Agreement

Recording requested by and
When recorded mail to:

City of Oxnard
305 West Third Street
Oxnard, CA 93030

No fee for recordation pursuant to
Government Code Section 27383

**AMENDED AND RESTATED ASSIGNMENT AND ASSUMPTION,
AMENDMENT, AND MODIFICATION AGREEMENT**
(Camino Gonzalez
A-7098)

This Amended and Restated Assignment and Assumption, Amendment and Modification Agreement (the "Agreement") is entered into as of October 26, 2010, by and among the City of Oxnard, a municipal corporation (the "City"), Cabrillo Economic Development Corporation, a California nonprofit public benefit corporation ("CEDC"), and Camino Gonzalez Associates LP, a California limited partnership (the "Partnership"). This Agreement amends and restates, in its entirety, that certain Assignment and Assumption, Amendment, and Modification Agreement executed by and among the City, CEDC, and the Partnership, dated September 14, 2010.

RECITALS

A. The City and CEDC entered into that certain First Amended and Restated Affordable Housing and Loan Agreement, executed on February 23, 2010 (the "City Loan Agreement"), which amended and restated in its entirety that certain Affordable Housing and Loan Agreement dated October 14, 2008, pursuant to which the City agreed to loan One Million Six Hundred Twenty-Three Thousand Eight Hundred Forty Dollars (\$1,623,840) to CEDC in connection with the development of forty-three (43) units of affordable rental housing (the "City Loan"). The forty-three (43) units consisted of eighteen (18) very low income farm worker units (the "Tax Credit Units"), and twenty-five (25) units for very low income disabled households pursuant to the HUD Section 811 program (the "HUD 811 Units").

B. CEDC purchased property in the City of Oxnard to construct the Tax Credit Units and the HUD 811 Units (the "Original Parcel"). CEDC subsequently subdivided the Original Parcel into two separate parcels to develop the Tax Credit Units and the HUD 811 Units on separate parcels. An affiliate of CEDC, named Paseo De Luz, Inc. ("PL"), will acquire one of the parcels to construct and operate an affordable rental housing project consisting entirely of the HUD 811 Units (the "HUD 811 Project"). The Partnership, with Camino Gonzalez LLC, a California limited liability company, being the general partner of the Partnership, will own the second parcel and will construct an affordable rental housing project consisting entirely of the Tax Credit Units (the "Development"). CEDC is the sole member of Camino Gonzalez LLC.

C. The property containing the Tax Credit Units is located at 481 W. Gonzales Road, Oxnard, County of Ventura, State of California, as more particularly described in Exhibit A attached hereto and incorporated herein (the "Property").

D. CEDC utilized funds from the City Loan to pay for predevelopment expenses associated with the HUD 811 Project. At the time that CEDC conveys the Property to PL, CEDC will require the repayment to the City of all of the City Loan funds advanced for predevelopment expenses associated with the HUD 811 Project. The City intends to utilize the repaid City Loan funds from the HUD 811 Project (along with the entire balance of the City Loan funds not disbursed for the HUD 811 Project) to be disbursed to the Partnership to assist the Partnership in financing the construction and operation of the Tax Credit Units. Consequently, the entire amount of the City Loan will be disbursed to the Partnership.

E. The City Loan is evidenced by an Amended and Restated Promissory Note (the "City Note") executed by CEDC in favor of the City dated February 23, 2010 and secured by a First Amended and Restated Deed of Trust with Assignment of Rents (the "City Deed of Trust") dated February 23, 2010, and recorded against the Original Parcel (which now includes the Property after the subdivision of the Original Parcel) on June 2, 2010, as Instrument No. 20100602-00081477 in the Official Records of the County of Ventura (the "Official Records"). The City Deed of Trust amended and restated in its entirety that certain Deed of Trust with Assignment of Rents dated October 14, 2008.

F. The City Loan is subject to the terms and conditions of a First Amended and Restated Regulatory Agreement (the "Regulatory Agreement") by and between the City and CEDC, restricting the occupancy and rent levels of the Tax Credit Units and HUD 811 Units, dated February 23, 2010 and recorded against the Original Parcel (which now includes the Property after the subdivision of the Original Parcel) on April 4, 2010, as Instrument No. 20100407-00052738 in the Official Records. The Regulatory Agreement amended and restated in its entirety that certain Regulatory Agreement dated October 14, 2008. The City Loan Agreement, the City Note, the City Deed of Trust, and the Regulatory Agreement shall be collectively referred to herein as the "Loan Documents".

G. CEDC has formed the Partnership to acquire, develop, and own the Development. In connection with the transfer of the Property from CEDC to the Partnership, CEDC desires to assign the Loan Documents and all of CEDC's right, title, and interest in, and obligations under the Loan Documents to the Partnership, and the Partnership desires to assume all of CEDC's right, title, and interest in and obligations under the Loan Documents from CEDC. The City desires to consent to the assignment of CEDC's right, title, and interest in, and obligations under the Loan Documents from CEDC to the Partnership.

H. The City, CEDC and the Partnership also desire to modify the Loan Documents to reflect how the City Loan funds are to be used solely to finance the construction and operation of the Development, and modify the restrictions contained in the Loan Documents so these restrictions apply solely to the Development, and not the HUD 811 Project. The City and PL

will enter into a separate regulatory agreement whereby the City will record affordability restrictions in connection with the HUD 811 Project.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, the City, CEDC and the Partnership (referred to individually as the "Party" and collectively as the "Parties") agree as follows:

1. Assignment by CEDC. CEDC hereby assigns to the Partnership all of CEDC's right, title, and interest in and obligations under the City Loan and the Loan Documents.

2. Acceptance of Assignment and Assumption by the Partnership. The Partnership accepts the above assignment of CEDC's right, title and interest in, and assumes all obligations under, the City Loan and the Loan Documents, and agrees to perform all of CEDC's obligations and covenants under the City Loan and the Loan Documents as if the Partnership were the original signatory thereto and agrees that as of the date hereof it shall be deemed a party to the Loan Documents. All references in the Loan Documents to the "Borrower," "Developer" or "Trustor" shall be deemed to be references to the Partnership.

3. Representations.

(a) The Partnership represents and warrants that it is a duly formed, validly existing limited partnership in good standing under the laws of the State of California, and has the power and authority to execute this Agreement and perform CEDC's obligations under the Loan Documents.

(b) The Partnership represents and warrants that it will deliver to the City: (i) a certified copy of the Certificate of Limited Partnership (LP-1) form for the Partnership; and (ii) a copy of the executed Amended and Restated Agreement of Limited Partnership of the Partnership (the "Partnership Agreement").

(c) CEDC represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its right, title, or interest in or obligations under the Loan Documents.

4. Further Approvals. Each Party to this Agreement shall execute and deliver such instruments, documents and other written information and take such other actions as another party may reasonably require in order to carry out the intent of this Agreement.

5. City Consent. The City hereby consents to the assignment to and assumption of CEDC's right, title, and interest in and obligations under the City Loan and the Loan Documents by the Partnership.

6. Project and the Property Descriptions. All references to the "Project" in the Loan Documents shall be deemed to be references to the Development. All references to the "Property" in the Loan Documents shall be deemed to be references to the Property, as defined in this Agreement. Furthermore, the legal description attached to all of the Loan Documents shall be deemed to be replaced with the legal description attached to this Agreement.

7. Amendments to City Loan Agreement. The City Loan Agreement is hereby amended as follows:

(a) Project Description and Affordability Requirements/Farm Workers. Paragraph B(1) of the City Loan Agreement is hereby deleted in its entirety and replaced with the following:

“1. This Agreement provides funds for development of eighteen (18) affordable rental units for very low income Farm Worker families (the “Tax Credit Units”). The Tax Credit Units shall be made available to and shall be restricted for occupancy by very low income families at an affordable rent to such families as provided in this Agreement. The Tax Credit Units shall be made available to families earning 50% or less of AMI. The Tax Credit Units shall be made available at affordable rents to such families. The affordability covenant contained herein shall remain effective for 55 years after the date of the first occupancy of a Tax Credit Unit. In addition, to the extent permitted by applicable law, the Tax Credit Units shall primarily be made available for rent to families in which at least one wage earning adult is a Farm Worker. Farm Workers, for purposes of this Agreement, shall be those persons defined as Farm Workers by the United States Department of Agriculture Rural Development Program, unless the parties hereto agree in writing upon another definition.”

(b) Tenant Preferences. Paragraph B(4) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

“4. To the extent permitted by applicable law, Developer will establish preferences for rental of the Tax Credit Units to Farm Worker families who reside in Oxnard, then to Farm Worker families with members who work in Oxnard, but reside elsewhere, and finally, units will be made available to all other Farm Worker families. Developer will maintain a waiting list of all persons who apply to become tenants, with information sufficient to rank such persons. During the entire period of the Regulatory Agreement that the Tax Credit Units are rented, the Tax Credit Units will be made available to persons from the waiting list and other applicants in the order of priority, set forth above. For purposes of this paragraph, a Tax Credit Unit shall be considered to have been made available as follows:

a. A Tax Credit Unit shall be considered to have been made available if Developer actually notifies a potential tenant and a period of 48 hours elapses after such actual notice is given.

b. At any time during such 48 hour availability period, the potential tenant may notify Developer of his/her election to rent the Tax Credit Unit. In such event, Developer and tenant shall negotiate in good faith for rental of the Tax Credit Unit.”

(c) Loan Amount. Paragraph C(1) of the City Loan Agreement is hereby amended by adding the following sentence after the second sentence in paragraph C(1): City represents that the funding has not been and will not be funded in whole or in part, directly or

indirectly, with proceeds of obligations the interest on which is exempt from federal income tax under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") or federal grants within the meaning of Code Section 42(d)(5)(A) and not described in Code Section 42(i)(9).

(d) Repayment Terms; Final Payment Date. Paragraph C(3) of the City Loan Agreement is hereby amended by adding the following sentence to the end of paragraph C(3): "Notwithstanding the foregoing, principal and interest on the Loan shall be payable from Defined Net Cash Flow as set forth in paragraph 2(B)(4) of the Amended and Restated Promissory Note."

(e) Construction Requirement. The City and the Developer believe that the Developer does not have to undergo competitive bidding for the Development. However, the Developer must comply with all applicable local, state or federal requirements as provided in the City Loan Agreement.

(f) Transfer in Connection with Syndication of Tax Credits. The following paragraphs shall be added to the end of paragraph F(10) of the City Loan Agreement in regards to any future potential transfers of the Property in connection with the low income housing tax credit program.

"The Partnership anticipates syndicating the low income housing tax credits that will be generated by the Development, which syndication will require the transfer of limited partnership interests in the Partnership. The City hereby approves the initial transfer of the limited partnership interest in the Partnership to Wachovia Affordable Housing Community Development Corporation and the initial transfer of the general partnership interest in the Partnership to Camino Gonzalez LLC.

The City hereby approves future transfers of the limited partner interest in the Partnership and the transfer of any direct or indirect ownership interests in the limited partner, provided that the limited partner has been admitted to the Partnership as a limited partner in accordance with the Partnership Agreement.

The City hereby approves a transfer of the Property from the Partnership to Cabrillo Economic Development Corporation ("CEDC") or a non-profit affiliate corporation controlled by CEDC, and an assumption of the Loan by such transferee at the end of the fifteen (15)-year compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986 (26 USC 42 (i)(1)). CEDC shall establish control of the non-profit affiliate corporation by CEDC having the authority to appoint the board members of such corporation, or CEDC and such corporation sharing the same board membership body.

In the event the general partner of the Partnership is removed by the limited partner of the Partnership in accordance with the terms and provisions of the Partnership Agreement, the City hereby approves the transfer of the general partner interest to a 501(c)(3) tax exempt nonprofit corporation selected by the limited partner and approved by the City, which approval shall not be withheld unreasonably."

(g) Deletion of Subdivision Requirement. Because CEDC has completed the process of subdividing the Original Parcel into two separate parcels, one for the Development and a second for the HUD 811 Project, paragraph F(22) of this Agreement is hereby deleted in its entirety.

8. Amendments to Regulatory Agreement. The Regulatory Agreement is hereby amended as follows:

(a) City Contributions. Paragraph 3 of the Regulatory Agreement is hereby deleted in its entirety and replaced with the following:

“3. City Contributions. The City has provided funds for development costs of approximately eighteen (18) affordable rental units (the “Tax Credit Units”).”

(b). Affordability Requirements, Farm Workers. Paragraph 5 of the Regulatory Agreement is hereby deleted in its entirety and replaced with the following:

“The Tax Credit Units shall be made available and rented only to very low income households or families earning 50% or less of AMI, which may include extremely low income households or families. The Tax Credit Units will be rented at rents which are not greater than 30% of 50% of the AMI. To the extent permitted by applicable law, the Tax Credit Units shall be rented to persons or families where at least one wage-earning adult is a Farm Worker.”

(c) Oxnard Preference. Paragraph 6 of the Regulatory Agreement is hereby deleted in its entirety and replaced with the following:

“Oxnard Preference. To the extent permitted by applicable law, the Partnership will establish a preference for rental of the Tax Credit Units. Preference will be established as follows:

- a. Farm Worker families who live in Oxnard;
- b. Farm Worker families who work in Oxnard and live elsewhere;
- c. All other Farm Worker families.
- d. Other persons or families that qualify as a tenant under the low income housing tax credit program.

The Partnership will maintain a waiting list of all persons who apply to become tenants, with information sufficient to rank such persons.

During the entire period of the Regulatory Agreement that Tax Credit Units are rented, the Tax Credit Units will be made available to persons from the waiting list and among other applicants in the order of priority set forth above.

For purposes of this paragraph 6, the Tax Credit Units shall be considered to have been made available as follows:

a. Tax Credit Units shall be considered to have been made available if Developer actually notifies a potential tenant and a period of 48 hours elapses after such actual notice is given.

b. At any time during such 48 hour availability period, the potential tenant may notify Developer of his/her election to rent the Tax Credit Unit. In such event, the Partnership and tenant shall negotiate in good faith for rental of the Tax Credit Unit.”

9. Amendments to First Amended and Restated Deed of Trust with Assignment of Rents. The last full paragraph on the first page of the First Amended and Restated Deed of Trust is hereby amended by (i) deleting the reference to that certain Affordable Housing and Loan Agreement dated October 14, 2008 and replacing it with a reference to that certain Amended and Restated Affordable Housing and Loan Agreement dated February 23, 2010 and (ii) deleting the reference to that certain Regulatory Agreement dated October 14, 2008 and replacing it with a reference to that certain Amended and Restated Regulatory Agreement dated February 23, 2010.

10. Amendments to Amended and Restated Promissory Note.

(a) The second sentence in the second paragraph of the Amended and Restated Promissory Note (beginning with “For Value Received”) is hereby deleted in its entirety and replaced with the following: “The Loan is made pursuant to the terms of an Amended and Restated Regulatory Agreement (“Regulatory Agreement”) and an Amended and Restated Affordable Housing and Loan Agreement, executed concurrently herewith between Borrower and Lender.”

(b) Paragraph 1(D) of the Amended and Restated Promissory Note is hereby deleted in its entirety and replaced with the following:

D. Deed of Trust. The First Amended and Restated Deed of Trust, of even date with this Note, which deed of trust secures performance of Borrower’s obligations under this Note;

(c) The last sentence in paragraph 2(B)(2) of the Amended and Restated Promissory Note is hereby deleted in its entirety and replaced with the following: “Payment pursuant to paragraph C.3 of the Loan Agreement shall be made as provided in Paragraph 2.b.(4) herein below.

(d) Paragraph 2(B)(4) of the Amended and Restated Promissory Note is hereby amended by adding the following new paragraph 2(B)(4)(iii):

iii. Notwithstanding the foregoing, Borrower may (A) pay unpaid Credit Adjuster Payments, (B) repay Operating Deficit Loans, (C) repay any Developer Loan, and (D) replenish the Operating Reserve (as such terms are defined in the Partnership Agreement), from available cash flow prior to calculating the amount of Defined Net Cash Flow available for purposes of making payments under paragraph 2(B)(4)(i) hereof.

(e) The following provision is hereby added as new paragraph 21 of the Amended and Restated Promissory Note:

“21. **NONRECOURSE.** Repayment of this Note shall be a nonrecourse to the Borrower.”

11. Notice. The following notice parties are hereby added to paragraph F(13) of the City Loan Agreement and to paragraph 14 of the Regulatory Agreement:

Wachovia Affordable Housing
Community Development Corporation
MAC D1053-100
301 South College Street, 10th Floor
Charlotte, NC 28288-0173
Attention: Michael Loose, Asset Management

with copies to:

Joel Hjelmaas, Counsel
Wells Fargo Bank, N.A.
MAC X2401-06T
1 Home Campus, 6th Floor
Des Moines, IA 50328-0001

and

Craig A. deRidder, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

12. Cure by Limited Partner. The limited partner of Partnership shall have the right, but not the obligation, to cure any default of the Partnership under the Loan Documents and this Agreement. Any cure by the limited partner shall be deemed to be a cure by the Partnership. The Lender shall, before exercising any default rights and remedies under any Loan Documents, provide the limited partner of the Partnership with written notice of the Partnership's default and the opportunity to cure such default within thirty (30) days after receipt by each of such notice.

13. Attorney's Fees Enforcement. If any attorney is engaged by any party hereto to enforce or defend any provision of this Agreement, the prevailing party or parties shall be entitled to costs and reasonable attorney's fees.

14. Effective Date. This Agreement and the assignment, assumption, and modification described in this Agreement shall be effective as of the date first set forth above.

15. Full Force and Effect. Except as set forth in this Agreement, the Loan Documents remain unmodified and are in full force and effect.

16. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

17. Invalidity. Any provision of this Agreement which is determined by a court to be invalid or unenforceable shall be deemed severed here from, and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.

18. Headings. The headings used in this Agreement are for convenience only and shall be disregarded in interpreting the substantive provisions of this Agreement.

19. California Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

20. Counterparts. This Agreement may be signed by the different parties hereto in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written.

CEDC:

CABRILLO ECONOMIC DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation

By: Kc Flock
Karen Flock, Real Estate Development Director

PARTNERSHIP:

CAMINO GONZALEZ ASSOCIATES LP, a California limited partnership

By: Camino Gonzalez LLC, a California limited liability company, its general partner

By: Cabrillo Economic Development Corporation, a California nonprofit public benefit corporation, its sole member

By: Kc Flock
Karen Flock, Real Estate Development Director

CITY:

THE CITY OF OXNARD, _____

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

STATE OF CALIFORNIA)
)
COUNTY OF Ventura)

On Oct 18, 2010, before me, Laurie Ann Lored, Notary Public, personally appeared Karen Flock who 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.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



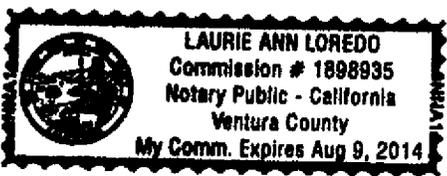
Laurie Ann Lored
Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF Ventura)

On Oct 18, 2010, before me, Laurie Ann Lored, Notary Public, personally appeared Karen Flock who 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.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Laurie Ann Lored
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT "A"

All that certain real property situated in the County of Ventura, State of California, described as follows:

Parcel 2 of Parcel Map No. 08-300-08, in the City of Oxnard, County of Ventura, State of California, as per map filed in Book 68, Pages 39 and 40 of Parcel Maps, in the Office of the County Recorder of said County.

EXCEPT THEREFROM all oil, gas, minerals and other hydrocarbon substances in, on, or under said land without the right of surface entry and without the right of subsurface entry except at a depth of more than 500 feet below the surface of said land as reserved by Andrew J. Borchard, by Deed recorded September 10, 1963, in Book 2390, Page 99 of Official Records.

Portion of Assessor's Parcel Number: **139-0-250-035**