

Filing Requested By:

Big Wave Group
223 Dolores St.
El Granada, CA 94018

When Filed Mail To:

John Nibbelin, Chief Deputy
San Mateo County Counsel's Office
400 County Center, 6th Floor
Redwood City, CA 94063

THIS SPACE FOR RECORDER'S USE ONLY

LIEN AGREEMENT

Big Wave Group, an Internal Revenue Code § 501(c)3 non-profit entity, and the County of San Mateo (the "County"), a political subdivision of the State of California, hereby enter into this lien agreement pursuant to Government Code § 66499(a)(4) ("Lien Agreement").

Big Wave Group, owner of a parcel of real property located in the unincorporated Princeton area of San Mateo County that has been assigned by the San Mateo County Assessor the Assessor Parcel Number APN 047-312-040, more particularly described in the attached Exhibit A, which is incorporated herein by reference ("Subject Property"), hereby grants San Mateo County a lien against the Subject Property to secure performance of the construction and installation of certain County-Required Offsite Improvements and certain County-Required Onsite Improvements specified in the Joint Subdivision Improvement Agreement entered into between the County of San Mateo and Big Wave Group and Big Wave, LLC and Granda Community Services District, dated _____, and the Amendment to the Joint Subdivision Improvement Agreement, dated _____, which are attached hereto as Exhibit B and made a part of this Lien Agreement by reference (collectively, the "Subdivision Agreement").

Description of Property

1. Big Wave Group is the sole owner of the Subject Property, which is the subject of this lien, which is attached to and made a part of this Lien Agreement by reference. Big Wave Group has provided the County with a title insurance policy and current title report from a title company documenting that it is the record owner of the Subject Property and Big Wave Group hereby attests that it remains the sole owner of the Subject Property.

Lien on Real Property

2. As authorized by Government Code § 66499(a)(4), and in accordance with the terms and conditions of this Lien Agreement, Big Wave Group hereby grants to the County of San Mateo a lien on the Subject Property to secure the obligations of Big Wave, LLC, with respect to the full cost of construction and installation of the County-Required Offsite

Improvements (as defined in the Subdivision Agreement) and the County-Required Onsite Improvements (as defined in the Subdivision Agreement). The County-Required Onsite Improvements and the County-Required Offsite Improvements are collectively referred to herein as the "Improvements." The Improvements are more fully described in Section 2 of the Subdivision Agreement attached hereto as Exhibit B, as well as in the Conditions of Approval for the Project.

Priority of Lien

3. This Lien Agreement creates and constitutes a secured obligation in the form of a lien against the Subject Property for the purposes of securing Big Wave Group's performance of this Lien Agreement and Big Wave LLC's performance of the terms of the Subdivision Agreement, and construction of the Improvements. Big Wave Group shall cause this Lien Agreement and all exhibits thereto to be recorded. From the date of recordation of this Lien Agreement, a lien shall attach to the entire Subject Property, which shall have the priority of a judgment lien in an amount necessary to discharge all obligations of Big Wave, LLC to the County contained in the Subdivision Improvement Agreement and of Big Wave Group to the County contained in this Lien Agreement. This lien may be enforced by judicial foreclosure on the Subject Property as provided for in the Code of Civil Procedure, § 726(a), *et seq.* Such action may only be commenced after a default as described in Section 4, below. The County shall under no circumstances be obligated to subordinate the lien, but may do so in its sole and absolute discretion in a manner provided by law.

Establishment of Default and Bringing an Action for Judicial Foreclosure

4. Upon the occurrence of any one of the following events, Big Wave Group shall be deemed in default under this Lien Agreement if Big Wave Group fails to cure or cause to be cured such occurrence within ninety (90) days after receipt of written notice of default from the County; provided, however, that if such event is of such a nature that it cannot be cured within such ninety (90) day period, then Big Wave Group shall not be in default if it commences a cure in good faith within such ninety (90) day period and thereafter diligently prosecutes the cure to completion:

- (a) If, after Big Wave Group has received any necessary government permits, and it has not commenced construction of the Improvements within 180 days. If Big Wave Group has applied for but not yet received any necessary government permits, it is not in default;
- (b) If the County constructs any of the Improvements, demands payment from Big Wave Group following completion of construction, and Big Wave Group fails to pay the County within 90 days of said demand; or
- (c) If Big Wave Group breaches any other material term or condition of this Agreement or of the Subdivision Improvement Agreement.

County's Remedies Upon Occurrence of Default

5. Upon any default pursuant to the terms of Section 4, above, the County, at County's option, may exercise any one or more of the following remedies: (a) pursue any or all of the remedies provided in the Subdivision Agreement; (b) enforce the lien created by this Lien Agreement by appropriate action in court or as provided by law; or (c) pursue any other remedy, legal or equitable, for the foreclosure of a lien. Notwithstanding any language to the contrary, nothing in this Lien Agreement shall be interpreted to compel the County to construct the Improvements. The County shall be entitled to collect from Big Wave Group or from the proceeds of any foreclosure sale its attorneys' fees incurred in enforcing this Lien Agreement, including in connection with any proceedings to foreclose or otherwise enforce the lien on the Subject Property.

Release of Lien

6. Upon completion of construction of the Improvements by Big Wave Group or by others acting on behalf of Big Wave Group, or if the obligation to construct said Improvements is extinguished through subsequent modification of the project Conditions of Approval and/or Subdivision Agreement, then the County shall release the Subject Property from the provisions of this Lien Agreement and shall execute any necessary release in a form as required by law to enable Big Wave Group or its transferee to clear the record of title of the Subject Property.

Binding on Successors and Assigns

7. This grant of lien binds Big Wave Group's successors and assigns and constitutes a servitude on the Subject Property that runs with the land.

Entire Agreement

8. This Lien Agreement is intended to be the final expression of understanding between the parties and supersedes any and all prior restrictions, promises, representations, warranties, agreements, understandings and undertakings between the parties with respect to the within subject matter. No other statement or representation, written or oral, express or implied, has been received or relied upon entering into this Lien Agreement. All prior discussions, statements and negotiations shall be deemed merged into this Lien Agreement.

Further Assurances

9. The Parties agree to perform any and all such further acts and to execute and deliver any and all such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Lien Agreement, the intentions of the Parties, and the purposes of Government Code § 66499(a)(4).

Governing Law

10. This Lien Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California. The Parties agree that all actions or proceedings arising in connection with this Lien Agreement shall be tried and litigated only in the state courts located in the County of San Mateo, State of California, or federal courts located in the Northern District of California.

No Agency Created

11. Neither Big Wave Group nor any of its officers, directors, agents, employees, or contractors, or successors in interest are or shall be considered to be agents of the County in connection with the performance of any of the obligations under this Lien Agreement.

Notices

12. All notices required by or provided under this Lien Agreement shall be in writing and delivered in person or sent by certified or registered mail, postage prepaid and addressed as provided in this Section. Notice shall be effective on the date it is delivered in person, or, if mailed, on the date of deposit in the United States Mail.

Notice to County:

Office of the County Counsel
Attn: John Nibbelin,
Chief Deputy County Counsel
400 County Center, 6th Floor
Redwood City, CA 94063

Notice to Big Wave Group:

Big Wave Group
223 Dolores Street
El Granada, CA 94018

Authority

13. Each individual executing this Lien Agreement on behalf of a party represents and warrants that the individual is duly authorized to execute and deliver this Agreement on the party's behalf.

IN WITNESS WHEREOF, the Parties hereto have executed this Lien Agreement.

Dated: 1/16/2020

Big Wave Group

By: _____

Printed Name: _____

Title: _____

County of San Mateo

By: _____

Printed Name: _____

Title: _____

Jeffrey Peck

JEFFREY PECK

PRESIDENT

STATE OF CALIFORNIA - COUNTY OF SANTA CLARA

On January 16, 2020, before me Kathy E. Reed, A Notary Public, the undersigned Notary Public, personally appeared Jeffrey Peck, 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/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person 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.

By: Kathy E. Reed
Notary Public, State of California

