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2017-0022356

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Joseph E. Holland  
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08:00AM 11-May-2017 TK Page 1 of 31

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

THE LAND TRUST FOR SANTA  
BARBARA COUNTY

Post Office Box 91830  
Santa Barbara, California 93190-1830  
Telephone: (805) 966-4520

DNTT  
31  
CCW

E5

APN: 083-280-022

SPACE ABOVE THIS LINE FOR RECORDER'S USE

5437668

**DEED OF CONSERVATION EASEMENT**

TRANSFER TAX

**(Big Bend Ranch)**

This Deed of Conservation Easement ("Conservation Easement" or "Easement") is granted on this 11<sup>th</sup> day of May, 2017, from **BIG BEND REAL ESTATE LLC**, a California limited liability company ("Landowner"), to **THE LAND TRUST FOR SANTA BARBARA COUNTY**, a California nonprofit public benefit corporation ("Land Trust"), each a "party" and together the "parties" to this Easement, for the purpose of establishing in perpetuity the conservation easement and associated rights described herein. This Easement shall be effective upon recordation in the Official Records of the County of Santa Barbara, State of California (such date of recordation the "Effective Date").

RECITALS

A. Landowner is the sole owner in fee simple of certain real property identified as Assessor's Parcel No. 083-280-022, consisting of approximately 108.90 acres, located in the unincorporated portion of the County of Santa Barbara, State of California, and more particularly described in Exhibit A and depicted on Exhibit B, each attached hereto and incorporated herein by this reference (the "Property"). The Property currently contains one existing building area ("Existing Building Envelope"), in which certain residential and appurtenant structures are located, as depicted on Exhibit C, attached hereto and incorporated herein by this reference, and further described in the Baseline Report (as defined below).

B. The Property also contains certain areas of particular ecological importance, which are designated collectively as the "Ecologically Important Areas," as depicted on Exhibit C and further described in the Baseline Report; provided that the Ecologically Important Areas are defined as including, among other significant ecological attributes, the entirety of El Jaro Creek (including its bed, banks, and designated buffers to the extent that the land is located within the Property), and if the position of El Jaro Creek shifts with time, the Ecologically

Important Areas moves with them. Land Trust reserves the right to remap the Ecologically Important Areas as needed to document a shift in the position of El Jaro Creek. The remainder of the Property shall be referred to herein as the "Agricultural Area," as depicted on Exhibit C and further described in the Baseline Report.

C. Land Trust is a publicly-supported, tax-exempt "qualified conservation organization" as defined by Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended ("Code"), and Section 23701(d) of the California Revenue & Taxation Code and is eligible to hold this Conservation Easement pursuant to Section 815.3 of the California Civil Code. As certified by resolution of its governing body, Land Trust accepts the responsibility of monitoring and enforcing the terms of this Conservation Easement and upholding its conservation purposes.

D. The Property consists primarily of farmland, grazing land, oak woodland and riparian areas. The natural resources associated with the Property are highly valuable. El Jaro Creek, which runs through the Property, is designated critical habitat for the endangered Southern California steelhead trout by the National Oceanic and Atmospheric Administration. The dry-farmed land in the northwest portion of the Property has been classified as Prime by the California Farmland Monitoring and Mapping program. Upland pastures have a combination of soils and climate suitable for vineyard development.

E. The Property also contains productive agricultural land with a long history of agricultural operations with high agricultural value and agricultural productivity (collectively, the "Agricultural Values"). The Natural Resources Conservation Service, U.S. Department of Agriculture, has classified most of the soils on the Property as useful principally for dry farming and grazing.

F. The Property also possesses the following scenic and ecologically significant values (collectively, the "Ecological Values"): scenic open-space vistas, oak woodland, habitat for Southern California steelhead trout and river frontage along El Jaro Creek, and other natural plant and wildlife habitat, the preservation and protective management of which are consistent with the present and continued use of the Property for agricultural and open space purposes in accordance with this Easement.

G. The Agricultural Values and Ecological Values are collectively referred to herein as the "Conservation Values" of the Property and are further described in the Baseline Report.

H. Landowner intends to convey the Easement herein described to Land Trust to assure that the Property's Conservation Values, including but not limited to its agricultural productivity, scenic open spaces created by working landscapes, and wildlife habitat, will be conserved and sustained in perpetuity as provided herein, and that uses of the Property that are inconsistent with the protection of the Conservation Values will be prevented or corrected.

I. Landowner further intends, as owner of the Property, to convey to Land Trust the right to preserve and protect the Conservation Values of the Property in perpetuity as further described herein.

J. The grant of this Conservation Easement will further the purposes of the following clearly delineated governmental conservation policies:

Section 815 of the California Civil Code, in which the California Legislature has declared that: (1) “the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California”; and (2) it is “in the public interest of this state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations”; and

Section 51220 of the California Government Code, in which the California Legislature has declared that “in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments”; and

The Santa Barbara County Comprehensive Plan, as amended from time to time, which currently includes as one of its goals the protection of all viable agricultural lands designated as prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses; and

The Agricultural Element of the Santa Barbara County Comprehensive Plan, the County Right to Farm Ordinance and other policies and zoning ordinances to preserve Santa Barbara County's productive agricultural lands.

K. The current physical and biological conditions of the Property, as well as its current uses and state of improvement, are described in a baseline conditions report dated May 8, 2017, and prepared by Land Trust, with the cooperation of Landowner, consisting of maps, photographs, and other documents, and acknowledged by both parties to be complete and accurate as of the Effective Date of this Conservation Easement (the “Baseline Report”). Both Landowner and Land Trust have received copies of the Baseline Report, which will be used by Land Trust to assist in its monitoring and enforcement of Landowner's compliance with the Easement. The Baseline Report, however, is not intended to preclude the use of other evidence to establish the baseline condition of the Property if there is a controversy over some aspect of that condition.

L. The parties intend that the Easement Purpose (as defined in Section I below) will be achieved through the continuation of farming and ranching activities using sound, sustainable agricultural practices that are consistent with the terms of this Easement to sustain and protect the agricultural value of the Property; through continuation of the working landscape to sustain open space value; and through the provision of natural plant, fish and wildlife habitat through agricultural land use as well as the existing natural environment of the Property, all as more particularly set forth in this Easement.

M. Land Trust recognizes that the Conservation Values associated with the physical environment of the Property exist, in part, because of the past stewardship and depend on the future good stewardship decisions of Landowner and its successors and assigns. Landowner is entrusted with those future management decisions. The parties recognize that Landowner's

changes in the agricultural uses of the land, including intensification and vegetation management, may occur in concert with maintaining the natural plant and wildlife habitat in the Property, provided that such changes do not significantly impair the Conservation Values and are otherwise consistent with the terms of this Easement. Land Trust is entrusted with determining that the Conservation Values have been protected.

## DEED AND AGREEMENT

In consideration of the recitals set forth above, the parties' mutual promises and covenants, and other good and valuable consideration, Landowner hereby grants and conveys to Land Trust and its successors and assigns, and Land Trust hereby accepts, a perpetual conservation easement on the Property as defined by Section 815.1 of the Conservation Easement Act of 1979 (California Civil Code Section 815 *et seq.*) of the nature and character described in this Easement.

### I. PURPOSE.

A. The Property-wide purpose of this Conservation Easement is to identify, preserve, and protect the Conservation Values of the Property in perpetuity (the "General Purpose"). No use or activity shall be permitted on the Property that would result in the significant impairment of this General Purpose.

B. In the Ecologically Important Areas, the primary purpose of this Easement is to assure that such portions of the Property, subject to the reserved and conditional rights described herein, will be retained forever in their natural, scenic, open-space, and ecological condition and to prevent any use within the Property that will significantly impair the Ecological Values (the "Ecological Purpose"). No use or activity within the Ecologically Important Areas shall be permitted that would result in the significant impairment of this Ecological Purpose.

C. In the Agricultural Area, the primary purpose of this Easement is to assure that such portion of the Property, subject to the reserved and conditional rights described herein, will be retained forever in its agricultural condition and to prevent any use within the Agricultural Area that will significantly impair the Agricultural Values (the "Agricultural Purpose"). No use or activity within the Agricultural Area shall be permitted that would result in the significant impairment of this Agricultural Purpose.

The General Purpose, Agricultural Purpose, and Ecological Purpose shall collectively be referred to herein as the "Easement Purpose." The parties agree that Landowner's retention of certain rights specified in this Conservation Easement, including specified agricultural, residential, recreational and commercial uses, is consistent with the Easement Purpose, provided that those rights are exercised in accordance with the terms of this Conservation Easement. As used in this Easement, the terms "significantly impair" and "significant impairment" mean to diminish in quantity, quality, value, strength or viability for more than a transient period.

II. AFFIRMATIVE RIGHTS CONVEYED TO LAND TRUST. To accomplish the Easement Purpose and to otherwise uphold the terms of this Easement, the following rights and interests are conveyed to Land Trust by this Easement:

A. **Identify, Preserve and Protect Resources and Values.** To identify, preserve and protect in perpetuity the character, use, utility, soil and water quality and the Conservation Values of the Property.

B. **Monitor Uses and Practices.** To enter upon, inspect, observe, and study the Property for the purposes of identifying the current uses and practices thereon and the baseline condition thereof, and to monitor the uses and practices regarding the Property to determine whether they are consistent with the terms of this Easement. Except in cases where Land Trust determines, in its reasonable discretion, that immediate entry is required to investigate a use or condition on the Property in order to verify, prevent, terminate, and/or mitigate a violation or potential violation of the terms of this Easement, such entry shall be permitted only at reasonable times and upon prior notice to Landowner and shall be made in a manner that will not unreasonably interfere with Landowner's use and quiet enjoyment of the Property.

C. **Prevent Inconsistent Uses.** To prevent any activity on or use of the Property that is inconsistent with the Easement Purpose or deleterious to the Conservation Values, to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, and to otherwise enforce the terms of this Easement. However, it is not the intention of this Easement to limit Landowner's discretion to implement various agricultural, farming and ranching uses and management practices within the Property as long as those uses and practices are consistent with the Easement Purpose and the terms of this Easement.

D. **Implement Conservation Improvements.** To work with Landowner, in Landowner's sole discretion, to develop joint projects for the purpose of identifying and promoting ecological improvements or enhanced management techniques which may restore or enhance the Property. Such improvements and/or techniques shall not impose involuntary costs on any party hereto and will not unduly interfere with Permitted Uses (as defined in Section III of this Easement) or Landowner's quiet enjoyment of the Property.

III. **RESERVED RIGHTS; PERMITTED USES AND PRACTICES.** Landowner reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited or limited herein and are not inconsistent with the Easement Purpose. Without limiting the generality of the foregoing and except for those uses and activities that are expressly prohibited or limited in Section IV below, the following rights, if conducted in a manner that is consistent with the Easement Purpose, are expressly reserved and are specifically deemed "Permitted Uses" without further consent from Land Trust (except as otherwise expressly provided below):

A. **Residential Use.** To allow Landowner and/or its caretaker(s) or lessee(s) to reside in structures approved under applicable law for residential use, as follows (collectively the "Residential Uses"):

1. The Property may contain (i) one (1) primary residence; and (ii) accessory residential structures that are defined as accessory to a primary residential use and

permissible by the Santa Barbara County's Land Use and Development Code ("Permitted Accessory Structures"). Landowner may construct, use, maintain, repair, remove, enlarge and/or replace the primary residence and Permitted Accessory Structures; provided that (I) the footprint of the primary residence shall not exceed 4,000 total square feet; (II) the footprint of each Permitted Accessory Structure shall not exceed 2,000 total square feet; (III) all existing and new residential structures (including the primary residence and all Permitted Accessory Structures) on the Property, when combined, shall not occupy a footprint exceeding 8,000 total square feet, and no residential structure shall exceed two stories in height above grade; and (IV) the primary residence and Permitted Accessory Structures shall be located entirely within the Existing Building Envelope and/or a second building envelope ("New Building Envelope"), neither of which shall exceed (2) two acres in size, shall not be located within any area designated as Ecologically Important Areas on Exhibit C and in the Baseline Report, and shall not significantly impair the Conservation Values.

2. Prior to any construction or associated alteration of the land, Landowner shall provide prior written notice to Land Trust of such construction and the location of the New Building Envelope, including, if applicable, a depiction of the proposed location of the New Building Envelope, which Land Trust can use to determine whether the proposed construction complies with the terms of this Easement. Landowner's notice shall be presented to Land Trust in accordance with the terms of Section VI of this Easement.

**B. Agricultural Uses.** To allow any and all agricultural uses of the Agricultural Area that are consistent with the Easement Purpose (collectively, "Agricultural Uses"), and to allow land previously in Agricultural Use to lie fallow or to be maintained as open space for a period of time determined by Landowner without prejudice to Landowner's right to resume Agricultural Uses at a later point in time. Agricultural Uses shall not result in significant soil degradation, significant pollution or degradation of any surface or subsurface waters, or significant impairment of open-space vistas or other Conservation Values, and shall be consistent with the Easement Purpose. No Agricultural Uses may occur within any area designated as Ecologically Important Areas on Exhibit C and in the Baseline Report. Agricultural grading to prepare the Agricultural Area for planting of crops and to control erosion, in accordance with the Easement Purpose, is permitted.

**C. Existing Agricultural Structures.** To use, repair, maintain, remove, enlarge and/or replace existing Agricultural Structures (as defined below) identified in the Baseline Report, provided that such repair, maintenance, enlargement, removal, enlargement or replacement does not significantly interfere with, impair or otherwise materially burden the Conservation Values, and that all such Agricultural Structures (existing and new) do not exceed a cumulative total of 12,000 square feet as further described in Subsection D below. If any such Agricultural Structure is proposed to be repaired, maintained, removed, or replaced in other than its current location, Landowner shall provide prior written notice to Land Trust, and such substituted site shall not be located within any area designated as Ecologically Important Areas on Exhibit C and in the Baseline Report and shall not significantly impair the Conservation Values.

**D. New Agricultural Structures and Improvements.**

1. To allow new structures associated with permitted Agricultural Uses, including but not limited to pump houses, barns, animal shelters, service sheds, vehicle and equipment storage, greenhouses and hoopouses, repair facilities, and loading docks (each an "Agricultural Structure") within the Agricultural Area, subject to the limitations set forth in this Subsection D, and provided that such activities do not significantly interfere with, impair, or otherwise materially burden the Conservation Values. No Agricultural Structure may be used for human habitation unless otherwise approved by Land Trust. For purposes of this Easement, a "structure" shall be defined as anything constructed or erected on the ground or attached to something located on the ground, including without limitation, storage tanks and associated uncovered, paved areas. Greenhouses and hoopouses shall be sited to avoid impacting scenic public views to the extent reasonably feasible.

2. A cumulative total of 12,000 square feet for all Agricultural Structures may be developed within the Agricultural Area. Any single new Agricultural Structure over 4,000 square feet, or the addition or expansion of one or more existing Agricultural Structures after the Effective Date of this Easement that results in such structure exceeding 4,000 square feet, may be built only with the advance written notice to Land Trust. The notice shall include information evidencing the conformity of such activity with the square-footage requirements of this section and the other terms of this Easement.

3. Prior to any construction or associated alteration of the land, Landowner shall provide prior written notice to Land Trust of such activity, which notice shall be accompanied by a depiction of the proposed location of the new Agricultural Structure sufficient for Land Trust to determine whether there will be any significant impairment of the Conservation Values by the development in the proposed area. Landowner's notice shall be presented to Land Trust in accordance with the terms of Section VI of this Easement.

**E. Lighting.** Lighting for residential or agricultural structures shall be dark-sky compliant (see Sample Guidelines for Lighting Regulations for Small Communities, Urban Neighborhoods, and Subdivisions, [www.darksky.org](http://www.darksky.org)). All other outdoor lighting is prohibited, except that which is reasonably necessary for safety or security of the Property.

**F. Fences.** Landowner may maintain, repair, and replace, at their locations identified in the Baseline Report, fences, scales and corrals within the Property for purposes of reasonable and customary management of livestock and wildlife. New fences, scales and corrals at new locations may be constructed for similar purposes without further permission from Land Trust, provided that any new fence, scale or corral shall be sited and designed in such a manner as to protect the Conservation Values of the Property, and all new fences shall be located outside the Ecologically Important Areas unless otherwise approved in advance by Land Trust.

**G. Road Construction and Paving.**

1. Existing roads, as identified on Exhibit C and in the Baseline Report, may be maintained, repaired and rebuilt (in the same location(s)) by Landowner, in its sole

discretion and without further permission of Land Trust, provided that any such existing road shall not be paved without the prior written approval of Land Trust.

2. New roads inside the Agricultural Areas intended for agricultural purposes and/or to provide access to any permitted Agricultural Structure may be built, maintained, repaired and rebuilt by Landowner, in its sole discretion and without further permission of Land Trust, provided that any such new road shall not be paved without the prior written approval of Land Trust.

3. Any new or existing road inside the Agricultural Areas intended to provide access to one or both Building Envelopes may be built, rebuilt, paved, maintained and/or repaired by Landowner, in its sole discretion and without further permission of Land Trust.

4. New or existing roads inside Ecologically Important Areas may be built, paved, maintained, repaired and rebuilt by Landowner only with the advance written approval of Land Trust. Land Trust's approval of additional road paving or construction within the Ecologically Important Areas shall be granted upon Landowner's demonstration that the proposed road improvement and location will not significantly diminish or impair the Conservation Values or, if this finding cannot be made, that the road improvement and location are necessary to provide access to structures or improvements permitted by this Easement or are necessary to meet governmental requirements.

5. All new roads are to be sized and located to the extent reasonably feasible so as to minimize any impact to the Conservation Values and shall be constructed and maintained so as to minimize erosion and sedimentation and ensure proper drainage, utilizing Best Management Practices as recommended by the U.S. Natural Resource Conservation Service or similar or successor entity, but this sentence shall not be construed to require that existing roads be reconstructed to meet these standards. For purposes of this Section III.G, "paving" shall include the covering of the soil surface with concrete, asphalt or other impervious surface, but shall not include the application of a reasonable amount of gravel to stabilize unpaved roads.

H. **Water Resources.** Landowner may develop and maintain such water resources and water-related improvements on the Property as are necessary or convenient for Agricultural Uses and Residential Uses, including reservoirs, ponds, waterlines, and irrigation ditches, in a manner consistent with the Easement Purpose. Where water-related improvements are intended to serve one or more of the Building Envelopes, Landowner may install such improvements in convenient locations within the Property, provided that such improvements shall not significantly interfere with, impair or otherwise burden the Conservation Values, and provided that the locations for the improvements are approved by Santa Barbara County in conjunction with discretionary approvals for development of such Building Envelope. As to all other water resources and water-related improvements, such activities must contribute to the preservation and protection of the Conservation Values of the Property. Landowner shall not transfer, encumber, lease, sell, or otherwise separate water rights from, or export or allow the use of water off of the Property.

I. **Use of Agrichemicals.** To use agrichemicals, including but not limited to fertilizers, pesticides, herbicides, and fungicides, in those amounts and with such frequency of



application necessary for Agricultural Uses, provided that such use shall be in accordance with county, state and federal laws and regulations, shall not be used within the Ecologically Important Areas, and shall be utilized in such a manner so as to minimize any impact to the Conservation Values.

**J. Control of Plants and Animals.** To control predatory, invasive and problem animals and non-native plants by the use of selective control techniques.

**K. Utility Easements and Utilities.** To grant, with Land Trust's prior written consent, utility easements to public and quasi-public utilities and to grant utility easements for Landowner's Agricultural Use and Residential Use of the Property; provided that any such utility easement or utility installation shall be consistent with the Easement Purpose and shall not otherwise significantly impair the Conservation Values. Landowner may grant other easements, including conservation easements, interests in land, or use restrictions on the Property, provided that they do not restrict Agricultural Use or interfere with any of the terms of this Easement, as determined by Land Trust. Land Trust's written approval shall be obtained at least thirty (30) days in advance of Landowner's execution of any proposed subsequent easement, interest in land, or use restriction on the Property, and any such subsequent easement, interest in land, and use restriction shall make reference to and be subordinate to this Easement.

Landowner may construct private utility facilities and infrastructure, including but not limited to solar collection facilities, wind generation facilities, or other minimally invasive renewable energy sources and associated infrastructure, which facilities and infrastructure are clearly accessory to any Agricultural or Residential Uses or structures permitted by this Easement and which serve and are utilized on the Property only, provided that such facilities and infrastructure shall not be located within the Ecologically Important Areas identified on Exhibit C and in the Baseline Report without Land Trust's prior written consent and shall not otherwise significantly impair Conservation Values; and provided, further, that, notwithstanding the foregoing, Landowner may sell to or exchange with third parties any surplus electricity that is generated by such solar, wind or other renewable energy sources in excess of that needed for on-Property use so long as such facilities and infrastructure were designed and sized for on-property use. Landowner may install cellular transmission facilities and associated infrastructure for the purpose of public safety pursuant to the directive of any—and which comply with all—permitting or regulatory requirements of any local, regional, state or federal governmental or quasi-governmental agencies.

**L. Mineral Rights.** Landowner reserves all right, title, and interest in the Property's subsurface oil, gas, and minerals, provided that the manner of exploration for, and development or extraction of, any oil, gas or minerals shall be subject to Section IV.G of this Easement.

**M. Residence-Based Business.** To allow any person living on the Property to conduct business within his/her residence so long as such business is not a sales or service business involving dealing with the general public on the Property on a regular basis.

N. **Restoration.** Landowner may restore any portion of the Property that may be damaged by fire, flood, storm, earth movements, or acts beyond Landowner's control, so long as all restoration is consistent with the Easement Purpose.

O. **Passive Recreational Use.** Passive recreational uses such as wildlife viewing, hiking and photography by residents and guests are permitted on the Property without further permission from Land Trust, provided that no such use significantly interferes with, impairs or otherwise burdens the Conservation Values.

IV. **PROHIBITED AND LIMITED USES.** Unless otherwise expressly permitted herein, any activity on or use of the Property that is inconsistent with the Easement Purpose or significantly impairs the Conservation Values is prohibited. Neither Landowner nor Land Trust may perform, or knowingly allow others to perform, any act or use on or affecting the Property that is prohibited by or in conflict with this Easement. Landowner authorizes Land Trust to enforce the terms of this Easement, including restoration (subject to Section II.C of this Easement) where reasonably appropriate. Without limiting the generality of the foregoing, the following activities and uses are deemed inconsistent with the Easement Purpose and are expressly prohibited:

A. **Subdivision and Lot-Line Adjustments.** Landowner shall maintain the Property and all interests therein under common ownership and shall maintain the Property as though it were a single legal parcel owned by a single owner. Following the execution of this Easement, the legal or *de facto* division, subdivision or partitioning of the Property into two or more legal parcels and/or any sale, transfer or conveyance of one portion or parcel apart from the sale, transfer or conveyance of the entire Property is prohibited, and the seeking of a partition of the Property as a remedy in a lawsuit is prohibited; provided, however, that such division, subdivision, sale, transfer, conveyance, partition, or a lot-line adjustment is permissible if accomplished in connection with an action initiated by an entity exercising the power of eminent domain pursuant to the terms of this Easement.

B. **Development Rights.** The Property shall not be used for calculating permissible development or lot yield of any other property. Landowner hereby grants to Land Trust all development rights, except as specifically reserved to Landowner herein, that are now or hereafter allocated to, implied, reserved or inherent in the Property, and the parties agree that such rights are terminated and extinguished, and may not be used on, or transferred to, any portion of the Property as it now or hereafter may be bounded and described, or to any other property, adjacent or otherwise.

C. **Construction of Buildings, Facilities and Other Structures.** Except as expressly permitted herein, the construction or reconstruction of any building, facility or structure of any type is prohibited.

D. **Signs.** No billboards or signs shall be erected on the Property, except that one or more signs denoting the names and addresses of residents or permitted uses on the Property, or identifying the Property as privately owned and not open to the public, and/or posting the Property to control unauthorized entry or use, are permitted, insofar as such signs do not significantly impair the Conservation Values of the Property.

E. **Motorized Vehicles.** The use of motorized vehicles off roads, except by Landowner, Landowner's family members, Landowner's non-paying guests or others in connection with Agricultural Uses or Residential Uses of the Property, is prohibited, provided that the use of motorized and/or off-road vehicles is permitted on the Property when necessary for property maintenance, retrieval of large game, or for emergency purposes. Commercial motorized vehicle use, including but not limited to motorized vehicle races, and the construction of motorized off-road vehicle courses are expressly prohibited.

F. **Erosion.** Any use or activity that causes significant degradation of topsoil quality, significant pollution or a significant increase in the risk of erosion on the Property is prohibited.

G. **Mining.**

1. Surface Mining. The mining, exploration, extraction, or removal of soil, sand, gravel, oil, natural gas, fuel, or any other mineral substance using any surface mining method is prohibited. For the purposes of this Section IV.G.1, "surface mining" shall not include road grading, agricultural activities, or cut and fill required by any permitted building development.

2. Mineral Rights. Any right, title, and interest in subsurface oil, gas, and minerals shall not be sold separately from the surface property of the Property.

H. **Watercourses.** The alteration or manipulation of watercourses located on the Property is prohibited, except that the creation of new water impoundments or watercourses for purposes related to Permitted Uses of the Property is permitted pursuant to the terms of this Easement and with the prior written consent of Land Trust, and except in such instances that bank erosion or other hydrological processes threaten to substantially modify existing watercourses, and except in such instances as restoration opportunities are identified that would enhance the habitat values provided by watercourses especially as relates to southern steelhead trout, California red-legged frog and other sensitive riparian species.

I. **Native Tree and Vegetation Management.** Cutting or clearing of native trees and vegetation outside the Building Envelopes is prohibited, except as provided in this Section IV.I. Control and removal of non-native invasive vegetation is permitted and encouraged.

Cutting or clearing of native trees and vegetation located within the Ecologically Important Areas is prohibited, except with prior notice to and approval of Land Trust pursuant to Section VI of this Easement and only for the following purposes: to maintain defensible space pursuant to the requirements of the County of Santa Barbara fire department; around permitted structures, roads, and utilities; to prevent personal injury or property damage; to control insects and disease; or to promote the ecological health of the trees or vegetative community, including thinning of undergrowth and removal of senescent, dead and decadent plant material.

Cutting or clearing of native trees and vegetation located within the Agricultural Area for uses inconsistent with Agricultural Uses or other expressly permitted uses of the Property is prohibited, except with prior notice to Land Trust pursuant to Section VI of this

Easement and only for the following purposes: to maintain defensible space pursuant to the requirements of the County of Santa Barbara fire department; around permitted structures, roads, and utilities; to prevent personal injury or property damage; and to control insects and disease or to promote the ecological health of the trees or vegetative community, including thinning of undergrowth and removal of senescent, dead and decadent plant material.

J. **Trash.** The dumping or accumulation of any kind of trash, refuse or derelict equipment on the Property is prohibited. However, this prohibition shall not be interpreted to prevent (1) the storage or accumulation of agricultural products and byproducts on the Property, provided that such storage or accumulation is done in accordance with all applicable laws and regulations and in a manner so as to avoid any significant impairment of the Conservation Values; or (2) the application of organic material, other than biosolids, which is generated by Agricultural Uses on the Property in accordance with applicable federal, state and county laws and generally accepted agricultural management practices as defined in programs administered by the Natural Resources Conservation Service Field Office Technical Guide or similar publications.

K. **Granting Subsequent Easements, Interests in Land, or Use Restrictions.** The grant of any subsequent easements, interests in land, or use restrictions that might diminish or impair the agricultural productive capacity, open-space character, or other Conservation Values of the Property is prohibited.

L. **Other Incompatible Uses.** The parties acknowledge that certain activities do not serve to promote the continuing viability of Agricultural Uses on the Property and do not serve to assist in achieving the Easement Purpose and shall not be permitted on the Property, including: feed-lot operations; commercial motorized, bicycle, or other off-road activities; operation of golf courses or gaming facilities; commercial recreational facilities, including commercial horse rentals, commercial horseback riding, and horse boarding stables.

M. **Industrial and Non-Agricultural Commercial Uses.** All industrial and non-agricultural commercial uses of the Property not expressly permitted herein are prohibited.

## V. **LANDOWNER RESPONSIBILITIES; INDEMNIFICATION.**

A. **Responsibilities of Landowner and Land Trust Not Affected.** Other than as otherwise expressly specified herein, this Easement is not intended to impose any legal or other responsibility on Land Trust, or in any way to affect any existing obligation of Landowner as owner of the Property. Continuing obligations include but are not limited to the following:

1. **Taxes.** Landowner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority. If Land Trust is ever required to pay any taxes or assessments on the Property or opts to do so to protect Land Trust's interest in the Property, Landowner will promptly reimburse Land Trust for the same.

2. **Upkeep and Maintenance.** Landowner shall continue to be solely responsible for the upkeep and maintenance of the Property. Land Trust shall have no obligation for the upkeep or maintenance of the Property.

**B. Liability and Indemnification.**

1. Landowner hereby agrees to indemnify, protect, defend and hold Land Trust, its officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns (collectively, "Land Trust Indemnified Parties") harmless from and against all liabilities, costs, losses, orders, liens, penalties, damages, expenses, or causes of action, claims, demands, or judgments, including without limitation reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, or any other costs or liabilities resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, except to the extent caused by the gross negligence or willful misconduct of the Land Trust Indemnified Parties.

2. Land Trust hereby agrees to indemnify, protect and hold Landowner, its officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns (collectively, "Landowner Indemnified Parties") harmless from and against all liabilities, costs, losses, orders, liens, penalties, damages, expenses, or causes of action, claims, demands, or judgments, including without limitation reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, or any other costs or liabilities resulting from any affirmative act related to or occurring on or about the Property arising out of or caused by the gross negligence or willful misconduct of the Land Trust Indemnified Parties, except to the extent caused by the negligence or willful misconduct of the Landowner Indemnified Parties.

**C. Insurance.**

1. Landowner shall maintain an occurrence-basis commercial general liability policy insuring against bodily injury and property damage on the Property in the amount of not less than \$1,000,000, which amount shall be adjusted every five years to the nearest commonly available insured amount to reflect the percentage increase during the past five years in the "CPI," which means the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for all Urban Consumers (CPI-U, all items) (1982-84=100), or the successor of such index. Land Trust shall be named an additional insured on the policy. The liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Land Trust. Landowner waives all rights of subrogation against Land Trust and its agents, representatives, officers, directors, and employees for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Easement. Landowner shall furnish Land Trust with certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. The foregoing insurance requirements do not replace, waive, alter or limit the hold harmless or indemnification provisions of this Easement.

2. Land Trust shall maintain an occurrence-basis commercial general liability policy insuring against bodily injury and property damage caused by Land Trust on the Property in the amount of not less than \$1,000,000, which amount shall be adjusted every five years to reflect the percentage increase during the past five years in the CPI. Landowner shall be named an additional insured on the policy. The liability insurance shall apply as primary

insurance with respect to any other insurance or self-insurance programs afforded to Landowner, except as otherwise provided in Subsection C.1 above. Land Trust waives all rights of subrogation against Landowner and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Easement. Land Trust shall furnish Landowner with certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. The foregoing insurance requirements do not replace, waive, alter or limit the hold harmless or indemnification provisions of this Easement.

VI. **NOTICE AND APPROVAL.** Whenever notice to Land Trust is required to be given by Landowner hereunder, on in the event Landowner proposes to undertake an activity that may have a significant impact on the Conservation Values, Landowner shall notify Land Trust in writing not less than thirty (30) days prior to the date Landowner intends to undertake the activity in question. The notice shall describe the nature, scope, design, location and any other material aspect of the proposed activity, in sufficient detail (including, if appropriate, sketch plans or scaled drawings of the site(s) of the proposed activity) to permit Land Trust to evaluate such activity and to make an informed judgment as to its consistency of the activity with the Easement Purpose and other terms of this Easement.

Where Land Trust approval is required by this Easement, Land Trust shall approve, conditionally approve or withhold approval of the proposed use or activity within fifteen (15) days of receipt of Landowner's written request therefor; provided, however, that if Land Trust reasonably requires more than fifteen (15) days to undertake a sufficient and thorough review of the documentation provided, or determines that it requires further documentation, Land Trust shall so notify Landowner within the original fifteen (15)-day period of the additional time, not to exceed an additional fifteen (15) days, and/or documentation required to respond to Landowner's request hereunder. At Land Trust's sole and absolute discretion, Land Trust may permit commencement of the activity less than fifteen (15) days after receiving Landowner's written notice and, in case of an emergency which requires immediate action, Land Trust will exercise commercially reasonable efforts to complete Land Trust's evaluation on an expedited basis consistent with the emergency involved. In the case of withholding of approval, Land Trust shall notify Landowner in writing with reasonable specificity of the reasons for withholding of approval, and the conditions, if any, on which approval might otherwise be given.

If Land Trust fails to respond within such fifteen (15)-day period (as extended, as discussed above), Landowner shall provide a final written notice to Land Trust with the clause "FINAL WRITTEN NOTICE" prominently displayed on such notice ("Final Written Notice"). Failure of Land Trust to deliver a written response to Landowner within five (5) business days of Land Trust's receipt of the Final Written Notice shall be deemed to constitute written approval by Land Trust of any request submitted for approval that is not contrary to the express provisions hereof, including but not limited to the Easement Purpose.

VII. **EASEMENT AREA MANAGEMENT AND ISSUE RESOLUTION.**

A. **Management Practices.** Landowner recognizes that the Conservation Values are best protected if Landowner uses the Property in accordance with agricultural practices that address soil and water conservation, erosion control, pest management, nutrient

management, and habitat protection. Land Trust believes that, in most cases, the existing stewardship on the ranches and farms it selects for conservation easement projects has supported and enhanced the conservation values these ranches and farms provide and, consistent with that premise, Land Trust agrees with Landowner to take, wherever possible, a cooperative approach to monitoring and management of the Conservation Values of the Property. If such monitoring reveals specific circumstances or activities on the Property that appear to require improvement to avoid significant impairment of the Conservation Values, the parties will meet and confer to determine if such circumstances warrant the development of a management plan; provided that nothing in this paragraph shall require Landowner to prepare a management plan nor shall waive or limit any of Land Trust's enforcement rights and remedies as provided herein.

**B. Dispute Resolution.** Notwithstanding any other provision of this Easement, Landowner and Land Trust agree that any action or proceeding arising from or relating to this Easement shall be commenced and tried in the Superior Court for the County of Santa Barbara (the "Court").

1. **Mediation.** If a dispute arises between the parties concerning either party's compliance with the terms of this Easement, either party may refer the dispute to mediation by request made in writing upon the other; provided that, if such dispute involves an activity or proposed activity of Landowner, Landowner agrees to cease or not to commence such activity, as applicable, during the pendency of the mediation process. If both parties agree to mediation via written notice, within thirty (30) days of the receipt of such a request, the parties shall select a single trained and impartial mediator. If the parties are unable to agree on the selection of a single mediator, then the parties shall, within fifteen (15) days of receipt of the initial request, jointly apply to the American Arbitration Association for the appointment of a trained and impartial mediator with relevant experience in real estate and conservation easements. Mediation shall then proceed in accordance with the following guidelines:

a. **Purpose.** The purpose of the mediation is to: (i) promote discussion between the parties; (ii) assist the parties to develop and exchange pertinent information concerning issues in the dispute; and (iii) assist the parties to develop proposals that will enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or de facto modification or amendment of the terms, conditions, or restrictions of this Easement.

b. **Participation.** The mediator may meet with the parties and their counsel jointly or ex parte. The parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of the parties with settlement authority shall attend mediation sessions as requested by the mediator.

c. **Confidentiality.** All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the parties or their respective counsel. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission of a party.

d. **Time Period.** Neither party shall be obligated to continue the mediation process beyond a period of ninety (90) days from the date of the selection or appointment of a mediator or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.

e. **Costs.** The cost of the mediator shall be borne equally by Land Trust and Landowner; the parties shall bear their own expenses, including attorneys' fees, individually.

2. **Judicial Enforcement.** If, in Land Trust's sole judgment, significant damage to the Conservation Values is imminently threatened or is occurring, or if Land Trust finds what it considers to be a violation of any provision of this Easement that, in Land Trust's sole judgment, cannot be satisfactorily addressed through mediation as provided in this Section VII, Land Trust shall have the right to bypass mediation or any other alternative dispute resolution process and to instead pursue appropriate legal action in accordance with this section. Unless an ongoing or threatened violation could significantly diminish or impair the Conservation Values of the Property, or the parties previously have discussed the violation, Land Trust shall give Landowner written notice of the violation and, not later than fourteen (14) days after the delivery of such written notice, the parties shall meet to discuss the circumstances of the violation and attempt to agree on appropriate corrective action. If the parties are unable to agree upon corrective action, Land Trust may pursue appropriate legal action in accordance with this section.

C. **Damages.** Land Trust shall be entitled to recover damages for violation of the terms of this Easement or injury to any of the Conservation Values protected by this Easement including, without limitation, damages for the loss of Conservation Values. Without limiting Landowner's liability therefor, Land Trust, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action in the Property.

D. **Emergency Enforcement.** If Land Trust, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Land Trust may proceed immediately to seek an injunction to stop such damage, temporarily or permanently. Land Trust may also seek an injunction requiring Landowner to restore, or pay for the restoration of, the Property to its condition prior to the violation.

E. **Scope of Relief.** Land Trust's rights under this Section VII shall apply equally to threatened as well as actual violations of the terms of this Easement, and Landowner agrees that Land Trust's remedies at law for any violation of the terms of this Easement are inadequate and that Land Trust shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Land Trust may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Land Trust's remedies described in this Section VII shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. The provisions of California Civil Code Section 815 *et seq.* are incorporated herein by this reference and this Easement is made subject to all of the rights and remedies set forth therein. Land Trust retains the sole discretion to choose



the appropriate method to enforce the provisions of this Easement and shall not be required to exhaust the provisions of one subsection hereof in order to be entitled to the benefits of another.

F. **Expert Assistance.** The opinions of any Certified Rangeland Manager, District Conservationist or other appropriate consultant or expert engaged to assist the parties in the resolution of any claim of injury to any Conservation Value shall be admissible in any judicial proceedings conducted with respect to that asserted violation unless otherwise agreed by the parties.

G. **Costs of Enforcement.** Except as otherwise provided in this Section VII, any reasonable costs incurred by Land Trust in enforcement of the terms of this Easement against Landowner, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Landowner's violation of the terms of this Easement from such time as Land Trust first identifies the violation to the time the violation is remedied or otherwise resolved in accordance with a court order, settlement agreement, or other mutual agreement of the parties, as applicable, shall be borne by Landowner, provided that Landowner shall not be responsible for the costs of restoration necessary to remedy damage to the Property caused by the conduct of Land Trust or of third parties acting without permission or knowledge of Landowner.

H. **Enforcement Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Landowner or Land Trust, as the case may be, and any forbearance by Landowner or Land Trust to exercise its rights under this Easement shall not be deemed or construed to be a waiver by Landowner or Land Trust of such rights or of any subsequent breach of the same or any other terms of this Easement, or of its rights under the Easement. No delay or omission by Landowner or Land Trust in the exercise of any right or remedy upon any breach by Landowner or Land Trust shall impair such right or remedy or be construed as a waiver, and Landowner and Land Trust each hereby waives any defense of laches, estoppel or prescription.

I. **Acts Beyond Landowner's Control.** Nothing contained in this Easement shall be construed to entitle Land Trust to bring any action against Landowner for any injury to or change in the Property resulting from natural causes beyond Landowner's control, including without limitation fire, flood, storm and earth movement, or actions by unrelated third parties outside the knowledge or control of Landowner, or from any prudent action by Landowner to prevent, abate or mitigate injury to the Property resulting from such causes.

VIII. **NO PUBLIC DEDICATION OR PUBLIC ACCESS.** Nothing contained in this Easement shall be, or shall be deemed to be, a gift or dedication of any portion of the Property for use by the general public. This Easement does not convey a general right of access to the public.

IX. **LANDOWNER'S TITLE WARRANTY.** Landowner represents and warrants that Landowner has fee simple title to the Property, free from liens or encumbrances, except as set forth in that certain preliminary title report issued by First American Title Company, dated April 11, 2017, and provided to Land Trust prior to the Effective Date, and hereby promises to defend the same against all claims that may be made against it. Landowner represents and warrants that the Property is not subject to any other conservation easement. Landowner may

grant subsequent conservation easements on the Property, provided that such easements do not interfere with or reduce the Conservation Values of this Easement. Land Trust shall be notified at least ninety (90) days in advance, in writing, of any proposed conservation easement for the Property, which notice shall include the proposed easement.

X. **ENVIRONMENTAL PROVISIONS.**

A. **Landowner's Environmental Warranty.** Landowner warrants that Landowner has no knowledge of a release or threatened release of Hazardous Substances (as defined below) or wastes on or that could adversely affect the Property in any material respect and agrees to indemnify, defend, protect and hold the Land Trust Indemnified Parties harmless from any claim, judgment, damage, penalty, fine, cost, liability (including any amount paid in settlement of a claim) or loss, including reasonable attorneys' fees, consultant fees and expert fees (consultants and experts to be selected by Land Trust), which arise during or after the term of this Easement from or in connection with the violation of Environmental Laws (as defined below) or the presence or suspected presence of Hazardous Substances in the soil, groundwater, or soil vapor on or under the Property, except to the extent the Hazardous Substances are present as a result of the gross negligence or intentional act of any of the Land Trust Indemnified Parties.

Without limiting the generality of the foregoing, the indemnification provided by this section shall specifically cover any cost incurred by any of the Land Trust Indemnified Parties in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of the presence or suspected presence of Hazardous Substances in the soil, groundwater or soil vapor on or under the Property, except to the extent the Hazardous Substances are present as a result of the gross negligence or intentional act of any of the Land Trust Indemnified Parties. Without limiting the generality of the foregoing, the indemnification provided by this section shall also specifically cover any cost incurred in connection with: (1) Hazardous Substances present or suspected to be present in the soil, groundwater or soil vapor on or under the Property before the date this Easement is executed; or (2) Hazardous Substances present on or under the Property as a result of any discharge, dumping, spilling (accidental or otherwise) onto the Property during or after the term of this Easement, by any person, corporation, partnership or entity other than the Land Trust Indemnified Parties. The term "Environmental Laws" includes, without limitation, any federal, state, local, or administrative agency statute, regulation, rule, ordinance, order or requirement relating to environmental conditions or Hazardous Substances.

B. **Land Trust's Environmental Warranty.** Land Trust agrees to indemnify, protect and hold Landowner harmless from and against all litigation costs, demands, penalties, damages, liabilities, claims or expenses (including reasonable attorneys' fees) arising from or connected with any release of Hazardous Substances or violation of environmental laws as a direct result of or arising out of the gross negligence or intentional act of Land Trust on the Property or any breach of this Easement by Land Trust.

C. **Land Trust Not an Owner, Operator, or Responsible Party.** Notwithstanding any other provision herein to the contrary, the parties do not intend this

Easement to be interpreted such that it creates in or gives to Land Trust, and the parties agree that this Easement does not and shall not create in or give to Land Trust:

1. The obligations or liability of an “owner” or “operator” or “responsible person” as those words are defined and used in applicable environmental laws, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC § 9601 *et seq.* and hereinafter “CERCLA”);
2. The obligations or liability of a person described in 42 USC § 9607(a)(3) or (4);
3. The obligations of a responsible person under any applicable environmental laws;
4. The right to investigate and remediate any hazardous materials associated with the Property; or
5. Any control over Landowner’s ability to investigate, remove, remediate, or otherwise clean up any hazardous materials associated with the Property.

**D. Hazardous Substance.** The term “Hazardous Substance” means (1) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any federal, state or local laws regulations and ordinances as a “hazardous substance,” “hazardous material,” “hazardous waste,” “extremely hazardous waste,” “infectious waste,” “toxic substance,” “toxic pollutant,” or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or “PE toxicity”; and (2) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource-recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal sources.

**XI. LAND TRUST TRANSFER OF EASEMENT.** Land Trust may transfer this Easement to (a) any public agency authorized to hold interests in real property as provided in Section 815.3 of the California Civil Code; or (b) any private nonprofit organization that, at the time of transfer, is a “qualified organization” under Section 170(h) of the U.S. Internal Revenue Code and under Section 815.3(a) of the California Civil Code.

**A. Voluntary Transfer.** In selecting an appropriate transferee entity, preference shall be given to a qualified agency or organization with an agricultural conservation purpose, that has board, staff, or consultants with practical agricultural management experience, and that expressly agrees to assume the responsibility imposed on Land Trust by this Easement. If such agency or organization cannot be found, or is not suitable for any reason, then another qualified agency or organization that expressly agrees to assume the responsibility imposed on Land Trust by this Easement may be selected. Land Trust shall provide to Landowner prior notice of any proposed transfer, information about proposed transferee(s), and opportunity for input. If more than one qualified agency or organization meets the foregoing criteria and are

equally capable of carrying out the purposes of this Easement, Land Trust may select the transferee in its reasonable discretion. As a condition of any such transfer, Land Trust shall require that the Easement Purpose set forth in this Easement continue to be carried out and enforced.

**B. Involuntary Transfer.** If Land Trust ever ceases to exist or no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code, or applicable state law, a court of competent jurisdiction shall transfer this Easement to another qualified organization having substantially similar purposes that agrees to assume the responsibilities imposed on Land Trust by this Easement, provided that Landowner shall be provided notice of and an opportunity to participate in the court proceedings.

**XII. LANDOWNER TRANSFER OF EASEMENT AREA.** Any time the Property or any interest in it is transferred by Landowner to any third party, Landowner shall notify Land Trust in writing prior to the transfer of the Property, and the deed of conveyance shall expressly refer to this Easement. Failure to notify Land Trust or include the required reference to this Easement in the deed shall not affect the continuing validity and enforceability of this Easement.

**A. Transfer Fee.** As partial consideration for Land Trust's acceptance of this Conservation Easement, and to help defray all or part of Land Trust's or its successors' costs of monitoring such Conservation Easement, Landowner shall, at the time of transfer of the Property to any third party, pay to Land Trust or its successor-in-interest, a transfer fee equal to one quarter of one percent (.25%) of the gross consideration received by Landowner for the transfer of the Property (the "Transfer Fee"); provided, however, that no such Transfer Fee shall be due for any of the following transfers:

1. Any transfer to a "family member" of Landowner or its successor in interest (defined as a grandparent, parent, uncle, aunt, brother or sister; lineal descendant of a brother, sister, uncle, or aunt; spouse; lineal descendant or adopted child (if the adoption occurs before the child reaches the age of majority) of Landowner or any member of Landowner or a combination thereof);
2. Any transfer by gift, donation, or bequest by Landowner or its successors in interest;
3. Any transfer into a revocable inter vivos trust for the benefit of the transferor, the transferor's heirs, successors or assigns or from such trust to the original grantor thereof; or
4. A transfer of a security interest to a bona fide lender by the owner of the Property or a sale or transfer by such lender or trustee of any deed of trust pursuant to the power of sale provisions in any mortgage or deed of trust.

The Transfer Fee, when due hereunder, shall be deemed a lien against the Property in accordance with California Civil Code Section 2872 *et seq.* and shall be enforceable by court proceeding in accordance with California Code of Civil Procedure Section 725a *et seq.* or non-judicially by power of sale pursuant to California Civil Code Section 2824 *et*

*seq.* Notwithstanding the foregoing, the lien created hereby shall at all times be deemed subordinate and junior to, and shall in no instance defeat, this Easement.

**B. Recordation of Notice against Property.** Concurrently herewith, in compliance with California Civil Code Section 1098.5, Land Trust will record a document entitled "Payment of Transfer Fee Required" in the form required by statute and reasonably acceptable to the parties.

**XIII. AMENDMENT.** This Easement may be amended only with the written consent of Land Trust and Landowner. Any such amendment shall be consistent with the purposes of this Easement and the adopted amendment policy of Land Trust in effect at the time, shall not affect its perpetual duration, and shall comply with Code Sections 501(c)(3) and 170(h), California Civil Code Section 815 *et seq.*, and any regulations promulgated in accordance with these statutes. Landowner shall reimburse Land Trust for its reasonable expenses associated with review, approval and recordation of any amendment initiated by Landowner.

**XIV. EXTINGUISHMENT.** If circumstances arise in the future which render the Easement Purpose impossible to accomplish, this Easement may be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction. Upon such termination, Landowner shall pay to Land Trust the stipulated fair market value of the Easement as provided in Section XVI below, which shall be used by Land Trust in a manner consistent with its conservation purposes, which are exemplified by this Easement. The fact that the Property is not in agricultural use is not reason for termination of this Conservation Easement.

**XV. CONDEMNATION.** If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Landowner and Land Trust shall act jointly to recover the full value of the interests in the Property subject to the taking or in-lieu purchase and all direct or incidental damages resulting therefrom. All expenses incurred by Landowner and Land Trust in connection with the taking or in-lieu of purchase shall be paid out of the parties' respective amounts recovered. Land Trust's share of the proceeds shall be determined by the ratio established in Section XVI below. Land Trust shall have an opportunity to accompany the appraiser for the condemning agency when the appraiser goes on the Property. Landowner shall obtain Land Trust's prior written consent prior to agreeing to an in-lieu purchase. If only a portion of the Property is subject to such exercise of eminent domain, this Easement shall remain in effect as to all other portions of the Property.

**XVI. VALUATION.** This Easement constitutes a real property interest immediately vested in Land Trust. For the purpose of Sections XIV and XV, the parties stipulate that this Easement has a fair market value determined by multiplying (a) the fair market value of the Property unencumbered by the Easement (minus any increase in value attributable to improvements made after the Effective Date of this Easement) by (b) the ratio of the value of the Easement to the value of the Property unencumbered by the Easement either as of the Effective Date of this Easement or as of the time of termination, whichever is greater. The values shall be determined by an appraisal performed by an appraiser jointly selected by Landowner and Land Trust and conforming to the Uniform Standards of Professional Appraisal Practices. The cost of

the joint appraisal shall be paid by the party seeking termination; otherwise, the cost of the joint appraisal shall be shared by Landowner and Land Trust. Nothing herein shall prevent Landowner or Land Trust from having an appraisal prepared at any party's individual expense. The value payable to Land Trust shall be paid at the time of termination; no final court order or other instrument terminating the Easement shall be recorded or will be effective unless Land Trust is first paid the value as provided above.

XVII. **SUBORDINATION**. If, at the time of conveyance of this Easement, the Property is subject to any mortgage or deed of trust encumbering the Property, Landowner shall obtain from the holder of any such mortgage or deed of trust an agreement to subordinate its rights in the Property to this Easement to the extent necessary for Land Trust to enforce the Easement Purpose in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of such mortgagee or deed of trust holder. Any subsequent mortgage or deed of trust encumbering the Property shall at all times be subordinate and subject to this Easement.

XVIII. **GENERAL PROVISIONS**.

A. **Controlling Law**. The interpretation and performance of this Easement shall be governed by the laws of the State of California.

B. **Liberal Construction**. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Easement Purpose.

C. **Severability**. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

XIX. **PERPETUAL DURATION**. The conservation easement created by this Easement shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Landowner and Land Trust shall also apply to and be binding upon their respective agents, heirs, beneficiaries, executors, administrators, successors, and assigns.

XX. **NOTICES**. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by United States certified mail, return receipt requested, or by reputable courier service where receipt is confirmed in writing, addressed as follows or such other address as either party from time to time shall designate on not less than thirty (30) days prior written notice to the other.

To Landowner:

Attn:  
Big Bend Real Estate LLC  
P.O. Box 724  
Lompoc CA 93438

To Land Trust:

Attn: Executive Director  
The Land Trust for Santa Barbara County  
Post Office Box 91830  
Santa Barbara, CA 93190-1830  
Telephone: (805) 966-4520

XXI. **LAWS AS IN EFFECT.** All references in this Easement to statutes, regulations and other laws shall be deemed to refer to those statutes, regulations and laws then in effect, or as amended (or any successor provision then applicable).

XXII. **ENTIRE AGREEMENT.** This Easement sets forth the entire agreement of the parties with respect to the Property and supersedes all prior discussions, negotiations, understandings or agreements relating to the Property, all of which are herein merged.

XXIII. **COUNTERPARTS.** The parties may execute this Easement in two or more counterparts, which shall, in the aggregate, have the same effect as if both parties had executed the same document; and both counterparts shall be construed together and shall constitute a single document.

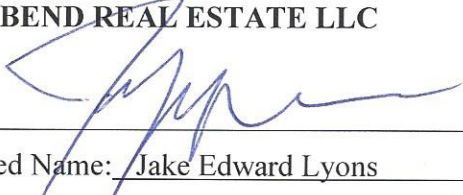
XXIV. **RECITAL; EXHIBITS.** The recitals above and the exhibits attached hereto are incorporated herein by reference:

Exhibit A: Property Description  
Exhibit B: Map of Property  
Exhibit C: Map of Existing Building Envelope, Ecologically  
Important Areas, and Agricultural Area

IN WITNESS WHEREOF the undersigned parties have executed this Conservation Agreement as of the date first above written.

**LANDOWNER**

**BIG BEND REAL ESTATE LLC**

By:   
Printed Name: Jake Edward Lyons  
Title: Managing Member

**LAND TRUST**

**THE LAND TRUST FOR SANTA BARBARA COUNTY**

By: \_\_\_\_\_  
Greg Parker, President

By: \_\_\_\_\_  
Warren Miller, Secretary



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

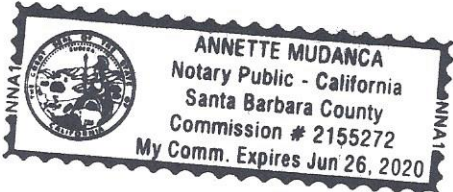
State of California  
County of Santa Barbara

On 5-9, 2017, before me, Annette Mudanca, Notary Public, personally appeared Jake Edward Lyons, 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.

Signature Annette Mudanca



IN WITNESS WHEREOF the undersigned parties have executed this Conservation Agreement as of the date first above written.

**LANDOWNER**

**BIG BEND REAL ESTATE LLC**

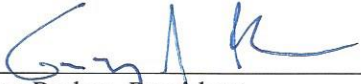
By: \_\_\_\_\_

Printed Name: Jake Edward Lyons

Title: Managing Member

**LAND TRUST**

**THE LAND TRUST FOR SANTA BARBARA COUNTY**

By:   
Greg Parker, President

By:   
Warren Miller, Secretary

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State of California  
County of Santa Barbara

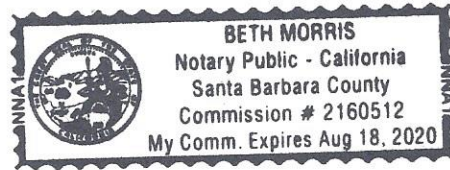
On May 9, 2017, before me, Beth Morris, Notary Public, personally appeared Greg Parker, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/~~their~~ 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.

Signature

*Beth Morris*



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Santa Barbara

On May 9, 2017, before me, Beth Morris, Notary Public, personally appeared Warren Miller, 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.

Signature Beth Morris

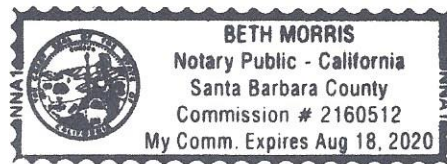


Exhibit A  
Property Description

PARCEL B OF PARCEL MAP NO. 11928, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON PARCEL MAP FILED IN BOOK 13, PAGE 77 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 083-280-022

Exhibit B  
Map of Property

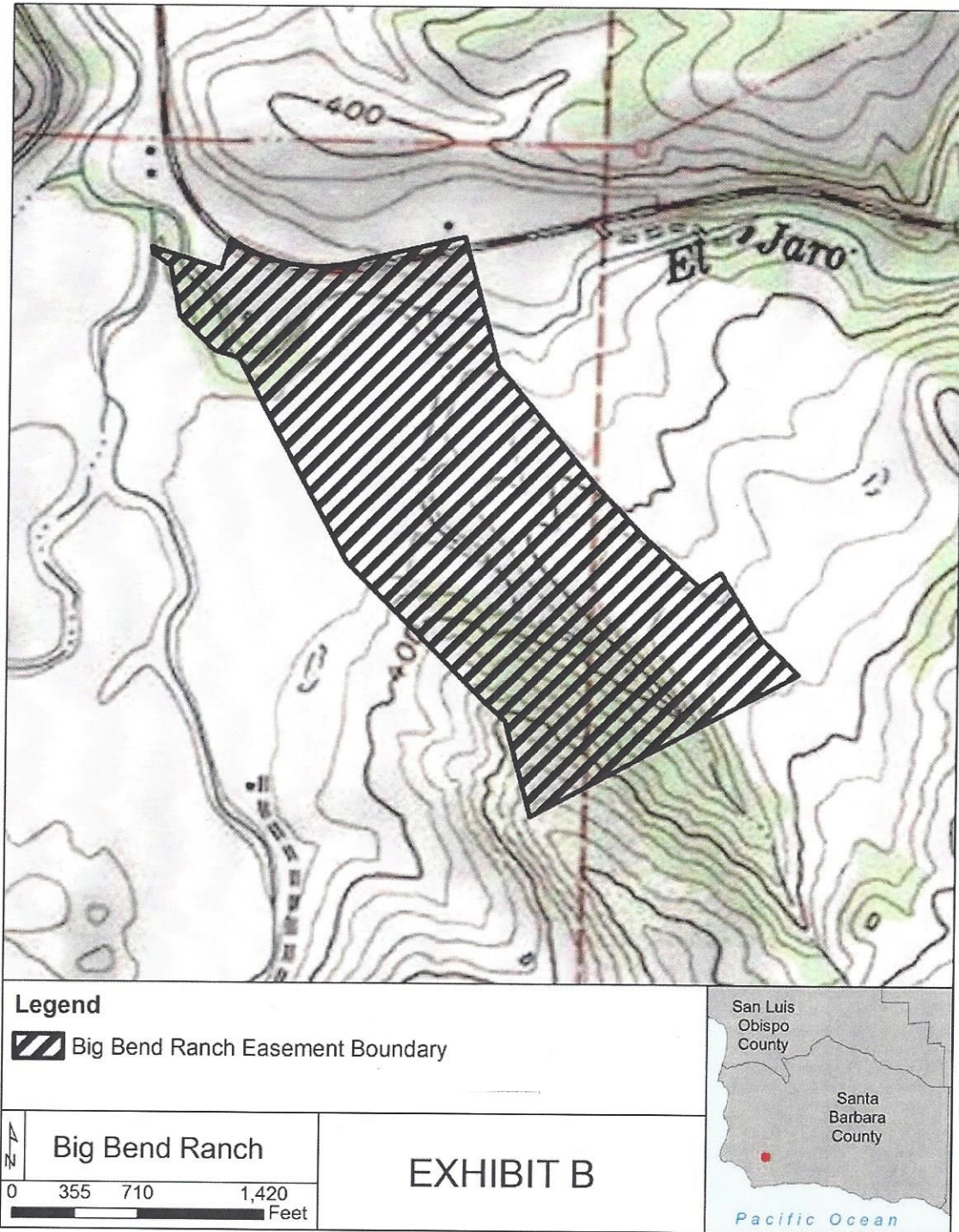


Exhibit C

Map of Existing Building Envelope, Ecologically Important Areas, and Agricultural Area

