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# Wildlife Conservation Board Easement

Due to the nature and length of this appendix, this document is not available as an accessible document. If you need assistance accessing the contents of this document, please contact Victoria Willard, ADA Coordinator for Sonoma County, at (707) 565-2331, or through the California Relay Service by dialing 711. For an explanation of the contents of this document, please direct inquiries to Karen Davis-Brown, Park Planner II, Sonoma County Regional Parks Department at (707) 565-2041.





RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Recorded: 9/29/05  
Doc # 2005-144636

State of California  
Wildlife Conservation Board  
1807 13<sup>th</sup> Street, Suite 103  
Sacramento, CA 95814

Space Above Line for Recorder's Use Only

**CONSERVATION EASEMENT DEED**

THIS CONSERVATION EASEMENT DEED is made this 22<sup>nd</sup> day of September, 2005, by County of Sonoma ("Grantor"), in favor of THE STATE OF CALIFORNIA ("Grantee"), acting by and through its Department of Fish and Game, a subdivision of the California Resources Agency, with reference to the following facts:

RECITALS

A. Grantor is the sole owner in fee simple of certain real property containing approximately 190 acres, located in the County of Sonoma, State of California, portions of designated Assessor's Parcel Numbers 068-060-057, 068-070-004, and 068-070-005, and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

B. The Property possesses, or will possess in the future, wildlife and habitat values (collectively, "conservation values") of great importance to Grantee and the people of the State of California;

C. The Property provides, or will provide upon completion of the activities to be undertaken in the "Restoration and Management Plan for Tolay Lake" referred to in (F) below, high quality wetland and aquatic habitats in the form of a large seasonal lake that supports the following species: California red-legged frogs; western pond turtles, a wide variety of waterfowl and water birds including Canada geese, mallards, cinnamon teal, shovelers, greater scaup, bufflehead, and greater yellowlegs; and raptorial birds including marsh harriers, golden eagles, and white-tailed kites.

D. The Department of Fish and Game has jurisdiction, pursuant to Fish and Game Code Section 1802, over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species, and the Department of Fish and Game is authorized to hold easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

CONFIRMED COPY

**E. The Sonoma County Agricultural Preservation and Open Space District (SCAPOS), will be acquiring the larger Cardoza Ranch property in part, with funds provided by the Department of Fish and Game and the Wildlife Conservation Board for the purposes of protecting its natural and historic open space values and providing for recreational use compatible with those open space values.**

**F. As a condition of grant contributions to SCAPOS for the acquisition, SCAPOS has agreed to provide this easement to the Department of Fish and Game, and to prepare a Restoration and Management Plan for Tolay Lake (Plan). The purpose of the Plan will be to restore Tolay Lake to a seasonal, shallow water lake whose function is primarily to benefit wildlife. Only wildlife-compatible recreational uses, approved by the Department of Fish and Game will be allowed within the area of the easement. The preparation and implementation of the Plan will be coordinated with and approved by the Department of Fish and Game. The Plan will describe enhancement measures needed to restore the hydrologic and wildlife functions of the lake and identify wildlife-compatible recreational uses of the lake.**

## COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to California law, including Civil Code Section 815, *et seq.*, hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property.

1. **Purposes.** The purposes of this Conservation Easement are to ensure the Property will be retained forever in its natural condition and to prevent any use of the Property that will impair or interfere with the conservation values of the Property. Grantor intends that this Conservation Easement will confine the use of the Property to such activities that are consistent with those purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats.

2. **Grantee's Rights.** To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee:

- (a) To preserve and protect the conservation values of the Property;
- (b) To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, and for scientific research and interpretive purposes by Grantee or its designees, provided that Grantee shall not unreasonably interfere with Grantor's authorized use and quiet enjoyment of the Property;
- (c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act of Grantor, or any use allowed by Grantor that is inconsistent with the purposes of this Conservation Easement;
- (d) All mineral, air and water rights necessary to protect and to sustain the biological resources of the Property; and
- (e) All present and future development rights allocated, implied, reserved or inherent in the Property; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties, are expressly prohibited:

(a) Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; or weed abatement activities; unless the aforementioned uses are part of the Department of Fish and Game approved Plan; incompatible fire protection activities (for the purposes of this agreement, water use for fire fighting is not incompatible); and any and all other activities and uses which may adversely affect the purposes of this Conservation Easement;

(b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways;

(c) Grazing, unless it is part of the Department of Fish and Game approved Plan, or other agricultural activity of any kind;

(d) Recreational activities including, but not limited to, horseback riding, biking, hunting or fishing, except as may be specifically permitted as part of the Department of Fish and Game approved Plan under this Conservation Easement;

(e) Commercial or industrial uses;

(f) Any legal or de facto division, subdivision or partitioning of the Property;

(g) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind unless it is part of the Department of Fish and Game approved Plan;

(h) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials;

(i) Planting, introduction or dispersal of non-native or exotic plant or animal species;

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property. Excavation and or recontouring of the lake bed may be allowed as part of the approved Plan to enhance wildlife values;

(k) Altering the surface or general topography of the Property, including building of roads unless it is part of the Department of Fish and Game approved Plan;

(l) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required (1) by law for fire breaks, (2) for maintenance of existing foot trails or

roads, or (3) for prevention or treatment of disease or as provided for in the approved Plan; and

(m) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, unless it is part of the Department of Fish and Game approved Plan to restore the historic Tolay Lake or the streams onsite; and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters.

4. **Grantor's Duties.** Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Property. In addition, Grantor shall undertake all necessary actions to perfect Grantee's rights under Section 2 of this Conservation Easement, including but not limited to, Grantee's water rights.

5. **Reserved Rights.** Grantor 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 to permit or invite others to engage in all uses of the Property that are not expressly prohibited or limited by, and are consistent with the purposes of, this Conservation Easement. Notwithstanding anything stated to the contrary herein, Grantor also reserves the right to lease the property for agricultural purposes. The term of the lease shall be limited to the term of the Agricultural Lease dated as of the recordation date of this document unless extended with the prior written approval of Grantee. Agricultural use may include activities necessary and associated with the harvesting of various crops, for example use of harvesting equipment or machinery, use of agricultural chemicals (in accordance with all applicable laws and regulations), and use of vehicles off roadways for agricultural purposes.

6. **Grantee's Remedies.** If Grantee determines that a violation of the terms of this Conservation Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. If Grantor fails to cure the violation within thirty (30) days after receipt of written notice and demand from Grantee, or if the cure reasonably requires more than thirty (30) days to complete and Grantor fails to begin the cure within the thirty (30) day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or for any injury to the conservation values of the Property, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury. Without limiting Grantor's liability therefor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If Grantee reasonably determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, Grantee

may pursue its remedies under this Section 6 without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement.

Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code Section 815, *et seq.*, inclusive. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

If at any time in the future Grantor or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, notwithstanding Civil Code Section 815.7, the California Attorney General or any entity or individual with a justiciable interest in the preservation of this Conservation Easement has standing as interested parties in any proceeding affecting this Conservation Easement.

**6.1. Grantee's Discretion.** Enforcement of the terms of this Conservation Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

**6.2. Acts Beyond Grantor's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from (i) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Grantee or its employees.

**7. Fence Installation and Maintenance.** Grantor shall install and maintain a fence reasonably satisfactory to Grantee around the Conservation Easement area to protect the conservation values of the Property, including but not limited to wildlife corridors if required as part of the approved management plan for the easement area.

**8. Access.** This Conservation Easement does not convey a general right of access to the public.

**9. Costs and Liabilities.**



9.1. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property. Grantor agrees that Grantee shall have no duty or responsibility for the operation, upkeep or maintenance of the Property, the monitoring of hazardous conditions thereon, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement Deed, and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements.

9.2. Indemnities.

(a) GRANTOR'S Indemnity. Grantor shall hold harmless, indemnify, and defend Grantee, its agents, employees, volunteers, successors and assigns, from and against all damages, liabilities, claims and expenses, including 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 resulting from any act, omission, condition or other matter related to or occurring on or about the Property, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of Grantee (it being the intent of this provision to limit Grantor's indemnity to the proportionate part of Grantee's damage, liability, claim or expense for which Grantor is responsible); and the obligations specified in Section 9.1. In the event of any claim, demand, or legal complaint against Grantee, the right to the indemnification provided by this Section 9.1 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to Grantee's written notice of such claim, demand, or legal complaint to Grantor, unless Grantor has acquired knowledge of the matter by other means, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by Grantor, which approval shall not be unreasonably withheld.

(b) GRANTEE'S Indemnity. To the extent authorized by Government Code Section 14662.5, Grantee shall hold harmless, indemnify, and defend Grantor, its heirs, devisees, successors and assigns, from and against all damages, liabilities, claims and expenses, including 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, resulting from any act of Grantee on or about the Property except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of Grantor (it being the intent of this provision to limit Grantee's indemnity to the proportionate part of Grantor's damage, liability, claim or expense for which the act of Grantee is responsible). In the event of any claim, demand, or legal complaint against Grantor, the right to the indemnification provided by this Section 9.2 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to Grantor's written notice of such claim, demand, or legal complaint to Grantee,

unless Grantor has acquired knowledge of the matter by other means.

9.3. Attorney's Fees. The prevailing Party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other Party.

9.4. Extinguishment. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

9.5. Condemnation. This Conservation Easement is a "wildlife conservation easement" acquired by a State agency, the condemnation of which is prohibited except as provided in Fish and Game Code Section 1348.3.

10. Transfer of Easement. This Conservation Easement is transferable by Grantee, but Grantee may assign this Conservation Easement only to an entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code Section 815.3 (or any successor provision then applicable) or the laws of the United States. Grantee shall require the assignee to record the assignment in the county where the Property is located.

11. Transfer of Property. Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the intent to transfer any interest at least thirty (30) days prior to the date of such transfer. Grantee shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor or Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

12. Anti-Deficiency. Nothing in this Conservation Easement shall be interpreted as a commitment or requirement that Grantee obligate or pay funds unless sufficient funds are made available to Grantee by appropriation for the purpose of this Conservation Easement.

13. **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 be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor: County of Sonoma  
Director of Regional Parks  
2300 County Center Drive, Suite 120A  
Santa Rosa, CA 95403

General Manager  
Sonoma County Agricultural Preservation  
and Open Space District  
747 Mendocino Avenue, Suite 100  
Santa Rosa, CA 95401

To Grantee: Department of Fish and Game  
Central Coast Region  
P.O. Box 47  
Yountville, CA 94599  
Attn: Regional Manager

With a copy to: Department of Fish and Game  
Office of the General Counsel  
1416 Ninth Street, 12th Floor  
Sacramento, CA 95814-2090  
Attn: General Counsel

or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

14. **Amendment.** This Conservation Easement may be amended by Grantor and Grantee only by mutual written agreement. Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Sonoma County, State of California.

15. **General Provisions.**

(a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.

(b) **Liberal Construction.** Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of Civil Code Section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement Deed, such action shall not affect the remainder of this Conservation Easement Deed. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement Deed to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 13.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.

(g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) **No Hazardous Materials Liability.** Except as disclosed in that certain Phase I Environmental Site Assessment dated February 2004, Report of Investigation dated September 2004 and Seller's Disclosures under that certain Option and Purchase Agreement, dated April 20, 2004, all of which have been provided to Grantee, Grantor represents and warrants to the best of its knowledge, that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on,

under, or from the Property, or transported to or from or affecting the Property. Without limiting the obligations of Grantor under Section 9.2, Grantor hereby releases and agrees to indemnify, protect and hold harmless Grantee (defined in Section 9.2) from and against any and all claims (defined in Section 9.2) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, or otherwise associated with the Property at any time, except any Hazardous Materials placed, disposed or released by Grantee, its employees or agents. This release and indemnification includes, without limitation, claims for (i) injury to or death of any person or physical damage to any property; and (ii) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against Grantee by reason of any such claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to Grantee or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement Deed, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee any of the following:

(1) The obligations or liability of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 *et seq.*; hereinafter, "CERCLA"); or

(2) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or

(3) The obligations of a responsible person under any applicable Environmental Laws; or

(4) The right to investigate and remediate any Hazardous Materials associated with the Property; or

(5) Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*; hereinafter "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 *et seq.*; hereinafter "HTA"); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 *et seq.*;

hereinafter "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement Deed.

The term "Environmental Laws" includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents, warrants and covenants to Grantee that activities upon and use of the Property by Grantor, its agents, employees, invitees and contractors will comply with all Environmental Laws:

(j) Warranty. Grantor represents and warrants that there are no outstanding mortgages, liens, encumbrances or other interests in the Property (including, without limitation, mineral interests) which have not been expressly subordinated to this Conservation Easement Deed, and that the Property is not subject to any other conservation easement.

(k) Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is subordinate to this Conservation Easement Deed), or grant or otherwise abandon or relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee. Grantee may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the conservation values of the Property. This Section 14(k) shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement Deed and complies with Section 11.

(l) Recording. Grantee shall record this Conservation Easement Deed in the Official Records of Sonoma County, California, and may re-record it at any time as Grantee deems necessary to preserve its rights in this Conservation Easement.

IN WITNESS WHEREOF Grantor has executed this Conservation Easement Deed  
the day and year first above written.

GRANTOR:

GRANTEE:

COUNTY OF SONOMA

STATE OF CALIFORNIA  
WILDLIFE CONSERVATION BOARD

BY: Mary E. Burns

BY: Al Wright

NAME: Mary E. Burns

NAME: Al Wright

TITLE: Director, Regional Parks

TITLE: Executive Director

DATE: 9/22/05

DATE: 9/23/05

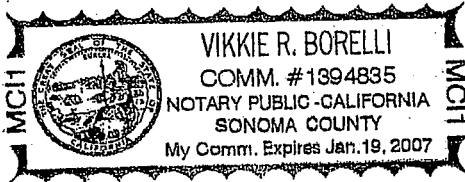
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Sonoma } ss.

On September 22, 2005 before me, Vikki Borelli, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Mary E. Burns  
Name(s) of Signer(s)

- personally known to me
- 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.



WITNESS my hand and official seal.

Vikki Borelli  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

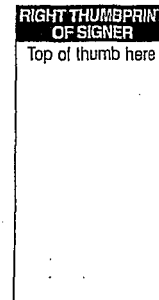
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_





**ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Sacramento } SS.

On 9-23-05 before me, TERRI L. MUZIK, Notary Public,  
(DATE) (NOTARY)

personally appeared Al Wright  
SIGNER(S)

personally known to me - OR -  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/hers/their authorized capacity(ies), and that by his/hers/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

TERRI L. MUZIK  
NOTARY'S SIGNATURE

**OPTIONAL INFORMATION**

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgment to an unauthorized document.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

\_\_\_\_\_ TITLE OR TYPE OF DOCUMENT

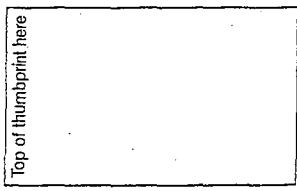
\_\_\_\_\_ NUMBER OF PAGES

\_\_\_\_\_ DATE OF DOCUMENT

\_\_\_\_\_ OTHER

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

RIGHT THUMBPRINT  
OF  
SIGNER



LAKEBED CONSERVATION EASEMENT  
EXHIBIT "A"  
LEGAL DESCRIPTION

Being a portion of the lands of Marvin G. Cardoza and Rita Cardoza, his wife as Joint Tenants as described in Parcel One of the Grant Deed recorded as Document No. 1982-0428360 of Official Records, Sonoma County Records and further being a portion of Lot 3 of Parcel Map No. 7704 as filed in Book 336 of Maps, at Pages 33-34, Sonoma County Records, also being a portion of the lands of Vera C. Cardoza, as Trustee of the Vera C. Cardoza Trust; the lands of John S. Cardoza, Jr. and Mary L. Cardoza Trust; Edward J. Cardoza and Cathleen L. Cardoza; Vera C. Cardoza, as Trustee under the Will of George S. Cardoza, deceased; and Marvin Cardoza and Rita Cardoza as described those deeds recorded as Document No. 1992-0077601, Book 3661 of Official Records, at Page 352, Document No. 1994-0045629, 1990-0125314, and 1986-006811 all of Official Records, Sonoma County Records, and being more particularly described as follows:

Commencing at a ½" iron pipe with illegible plastic plug marking the most easterly corner of Lot 4 of the aforementioned Parcel Map No. 7704; thence along the southerly line of said Lot 4 South 40 degrees 42 minutes 39 seconds West, 1094.40 feet (Map, South 40 degrees 21 minutes 59 seconds West, 1094.54 feet) to the southerly corner of Lot 3 and 4 of said Parcel Map from which a 1" iron pipe with brass cap stamped "RP25" bears North 45 degrees 53 minutes 37 seconds West, 5.00 feet (Map, North 46 degrees 14 minutes 16 seconds West); thence along the southerly line of Lot 3 of said Parcel Map South 75 degrees 20 minutes 45 seconds West, 1783.42 feet (Map, South 75 degrees 01 minutes 20 seconds West) to the **True Point of Beginning** of the herein described parcel; thence leaving said southerly line South 33 degrees 45 minutes 48 seconds East, 762.01 feet; thence South 09 degrees 08 minutes 40 seconds East, 1543.06 feet; thence South 51 degrees 20 minutes 06 seconds West, 131.00 feet; thence North 76 degrees 25 minutes 58 seconds West, 1014.77 feet; thence North 40 degrees 43 minutes 41 seconds West, 1701.72 feet to the aforementioned southerly line of Lot 3; thence continuing North 40 degrees 43 minutes 41 seconds West, 1.14 feet; thence North 34 degrees 57 minutes 51 seconds West, 707.43 feet; thence North 16 degrees 15 minutes 29 seconds West, 697.30 feet; thence North 50 degrees 03 minutes 52 seconds West, 494.23 feet; thence South 84 degrees 00 minutes 01 seconds West, 656.83 feet to a ½" iron pipe tagged "RCE 11226" marking an angle point in the

northwesterly line of said Lot 3; thence along said northwesterly line North 30 degrees 43 minutes 48 seconds East, 2856.63 feet (Map, North 30 degrees 23 minutes 24 seconds East) to a point; thence leaving said northwesterly line South 25 degrees 05 minutes 25 seconds East, 2557.08 feet; thence South 33 degrees 45 minutes 48 seconds East, 1115.31 feet to the Point of Beginning.

Containing 187.4 acres, more or less.

APN 068-060-057 ptn  
SCAPOSD – Tolay Lake Easement  
Job No. 2004-055  
July 29, 2005



Project: Tolay Lake Ranch  
Sonoma County

## CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by the deed or grant, dated September 22, 2005, from County of Sonoma to the STATE OF CALIFORNIA, is hereby accepted by the undersigned officer on behalf of the State of California, pursuant to authority conferred by authorization of the Wildlife Conservation Board, Department of Fish and Game, Resources Agency, State of California, adopted on February 24, 2005, and the grantee consents to the recordation thereof by its duly authorized officer.

STATE OF CALIFORNIA  
Resources Agency  
Department of Fish and Game

By: Al Wright  
Al Wright  
Executive Director  
Wildlife Conservation Board

Date: 9/23/05

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# SCAPOSD Conservation Easement Tolay Lake Ranch

Due to the nature and length of this appendix, this document is not available as an accessible document. If you need assistance accessing the contents of this document, please contact Victoria Willard, ADA Coordinator for Sonoma County, at (707) 565-2331, or through the California Relay Service by dialing 711. For an explanation of the contents of this document, please direct inquiries to Karen Davis-Brown, Park Planner II, Sonoma County Regional Parks Department at (707) 565-2041.





RECORDING REQUESTED BY AND  
RETURN TO:

Recorded: 9/29/05  
Doc # 2005-144645

Sonoma County Agricultural  
Preservation and Open Space District  
575 Administration Drive, Room 102A  
Santa Rosa, CA 95403

DEED AND AGREEMENT  
BY AND BETWEEN  
COUNTY OF SONOMA  
AND  
THE SONOMA COUNTY AGRICULTURAL PRESERVATION  
AND OPEN SPACE DISTRICT

The County of Sonoma, a political subdivision of the State of California (hereinafter referred to as GRANTOR), and the Sonoma County Agricultural Preservation and Open Space, a public agency formed pursuant to the provisions of Public Resources Code sections 5500 et seq. (hereinafter DISTRICT), its successors and assigns, agree as follows:

RECITALS

A. GRANTOR is the owner in fee simple of certain real property (hereinafter "the Property") located in Sonoma County and more particularly described in Exhibit "A," attached hereto and made a part of hereof.

B. In 1990 the voters of Sonoma County approved the creation of DISTRICT and the imposition of a transactions and use tax by the Sonoma County Open Space Authority ("the Authority"). The purpose for the creation of DISTRICT and the imposition of the tax by the Authority was to preserve agriculture and open space by acquiring interests in appropriate properties from willing sellers in order to meet the mandatory requirements imposed on the County and each of its cities by Government Code sections 65560 et seq. and by the open space elements of their respective general plans. In order to accomplish that purpose, DISTRICT entered into a contract with the Authority whereby, in consideration of that entity financing DISTRICT's acquisitions, DISTRICT agreed to and

did adopt an acquisition program that was in conformance with the Authority's voter approved Expenditure Plan.

C. On April 19, 2005 DISTRICT's Board of Directors, in its Resolution No. 05-0328 determined, pursuant to Government Code section 65402 and Sonoma County Ordinance No. 5180, that the acquisition was consistent with the 1989 Sonoma County General Plan (specifically the Plan's Agricultural Resources and Open Space elements) because limited agricultural uses could continue on the property without interfering with potential low intensity outdoor recreation uses; the proposed conservation easement will allow for such agricultural uses, and ensure protection of the property's scenic, biotic, sensitive habitat and cultural resource values, including Tolay Lake; the acquisition will limit development of the land to low-intensity public outdoor recreation, resource restoration and enhancement, and other uses consistent with preservation of the area's open and scenic character; acquisition of the property, including the proposed conservation easement, will protect critical habitat for species including red-legged frog and western pond turtle. Further, the Open Space Element Map identifies "Planned Future Park" sites to indicate general areas where a need exists for parks. Proposed park sites for the south county are shown on the Open Space Element map for both the Petaluma and Sonoma Valley planning areas. Policy PF-2e, Public Facilities Element, states in part, "In the event that a proposed park or school site is designated on the land use or open space map, consider the designation as applying to a general area rather than a particular parcel." This general location provision of the General Plan has been routinely and uniformly followed by the Board for prior park acquisitions. Acquisition of the Tolay Lake property for a regional park is consistent with the General Plan in that it will provide public recreation in an area of the county with a designated need and is considered a public benefit. On April 19, 2005 the Authority determined, in its Resolution No. 2005-004 that the acquisition was consistent with its Expenditure Plan.

D. DISTRICT has the authority to acquire conservation easements by virtue of Public Resources Code section 5540 and possesses the ability and intent to enforce the terms of this Agreement.

E. As a condition of grant funds contributed to the acquisition of this Property, GRANTOR conveyed a conservation easement to the Department of Fish and Game that requires the creation of a Restoration and Management Plan for Tolay Lake.

NOW THEREFORE, in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions herein set forth and other valuable consideration receipt of which is hereby acknowledged, GRANTOR and DISTRICT agree as follows:



1. **Grant and Acceptance of Conservation Easement.** Pursuant to the common and statutory law of the State of California including the provisions of Civil Code sections 815 to 816, inclusive, GRANTOR hereby grants to DISTRICT and DISTRICT accepts a conservation easement (hereinafter "this Easement" or "the Easement") in the Property in perpetuity.

2. **Statement of Purpose.** The Property comprises 20% of the upper watershed of Tolay Creek, an important watershed that is part of the North San Pablo Bay and drains into the San Pablo Bay National Wildlife Refuge. It is hydrologically and ecologically connected to a large block of protected lands in the historic Sonoma Baylands wetlands stretching from the mouth of Tolay Creek to the Petaluma River. The Property provides important refuge habitat for several species, and particularly for a wide variety of raptors, ground nesters, passerine species, migratory shorebirds and waterfowl. As a key upland parcel in the Sonoma Baylands system, the Property, consisting of wetlands, riparian and upland habitat, open grasslands and a wide valley floor which is bisected by Tolay Creek, has significant restoration potential. In particular, restoration of natural hydrologic function to the ancient Tolay Lake will provide critical structural and functional habitat for numerous wildlife species and plant communities and will benefit species that travel the Pacific Flyway. The Property will also provide low-intensity public outdoor recreation that is compatible with the Conservation Values. The Property's features described above, comprise the natural resource, open space and scenic values of the Property and are generally referred to collectively herein as "the Conservation Values" of the Property. It is the purpose of this Easement to (a) conserve and protect, in perpetuity, the Conservation Values of the Property, (b) to enhance and restore the Conservation Values by specifically permitting the creation of an ecologically viable ecosystem capable of providing wetland habitat for endangered and threatened species, migratory shorebirds, and waterfowl, and (c) to prevent any uses of the Property that would significantly impair or interfere with these Conservation Values. This purpose, as further defined by the provisions of this Easement, is generally referred to collectively herein as "the Conservation Purpose of this Easement." (hereinafter "the Conservation Purpose of this Easement")

3. **Affirmative Rights Granted to the DISTRICT.** GRANTOR conveys the following rights to DISTRICT:

3.1 **Protecting Conservation Values.** DISTRICT shall have the right to identify, preserve and protect the Conservation Values of the Property; and

3.2 **Property Inspections.** DISTRICT shall have the right to enter upon the Property and to inspect, observe, and study the Property for the purposes of (i) identifying the current uses and practices thereon and the condition thereof, (ii) monitoring the uses and practices regarding the Property to determine whether they are consistent with this Easement, and (iii) enforcing the terms of this Easement pursuant to Section 13 below. Entry shall be permitted at least once a year at reasonable times, upon 24 hours' prior notice to GRANTOR, and shall be made in a manner that will not unreasonably interfere with GRANTOR's use and quiet enjoyment of the Property pursuant to the terms and conditions of this Easement. Each entry shall be for only so long a duration as is reasonably necessary to achieve the inspection, monitoring and subsequent enforcement, if applicable, but may not be limited to a single physical entry during a single twenty-four hour period.

3.3 **Approval of Certain Activities.** DISTRICT shall have the right to review and approve proposed uses and activities as more specifically set forth in Section 4 and Exhibit B herein, and in accordance with Section 7.

4. **Prohibited and Restricted Uses of the Property.** Any activity on the Property or use of the Property which is inconsistent with the Conservation Purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the activities and uses described in Exhibit B attached hereto are expressly prohibited or restricted.

5. **GRANTOR's Reserved Rights.** In addition to the express rights reserved in Exhibit B, GRANTOR reserves to Itself and to GRANTOR's personal representatives, heirs, successors and assigns, all rights accruing from their 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 restricted herein and are not inconsistent with the Conservation Purpose of this Easement. Without limiting the generality of the foregoing, and subject to the terms of Exhibit B, the following rights are expressly reserved:

5.1. **Recreational and Educational Use.** GRANTOR reserves the right to use the Property for low-intensity, recreational and/or educational purposes, so long as no significant surface alteration, significant impact to natural resources, or other development of the land occurs in connection with such use, and so long as such use is consistent with the terms, conditions and Conservation Purpose of this Easement, which rights include, but are not limited to, hiking, horseback riding, bike riding, and nature study. All recreational and educational activities shall be consistent with the Tolay Lake Park Management Plan and the Restoration and Management Plan for Tolay Lake.

5.2. **Habitat Enhancement:** GRANTOR reserves the right to conduct restoration activities in accordance with the Restoration and Management Plan for Tolay Lake which will be developed in partnership with the California Department of Fish and Game subject to the approval of the DISTRICT in accordance with the provisions of Paragraph 7 of this Easement. To undertake conservation and restoration activities including, but not limited to, bank and soil stabilization, practices to reduce erosion, enhancement of plant and wildlife habitat; and activities which promote biodiversity in accordance with sound, generally accepted practices and all applicable laws, ordinances and regulations. All restoration and enhancement activities shall be consistent with the Restoration and Management Plan for Tolay Lake and the Tolay Lake Park Management Plan.

5.3 **Fire Management.** To undertake fire management plans for the purpose of fire control and/or natural resource management. Such methods may include prescriptive burning, limited brush removal, and grazing of the Property consistent with a Rangeland Management Plan prepared by GRANTOR or a qualified professional. DISTRICT shall receive prior notification of such plans which shall be approved by the California Department of Forestry and Fire Protection and appropriate local fire protection and permitting agencies.

5.4 **Plant Collection.** GRANTOR reserves the right to permit limited supervised collection of plant materials for cultural interpretive uses at a level that is consistent with the Conservation Purpose of this Easement.

The allowed uses, practices and rights to improve the Property which are not retained by GRANTOR under Sections 5.1, 5.2, 5.3, and 5.4 above or allowed under Exhibit B are hereby extinguished. In the event that such extinguishment is determined to be unlawful or otherwise unenforceable, then those uses, practices and rights contributing to the improvement of the Property are hereby assigned by GRANTOR to DISTRICT. Neither GRANTOR nor DISTRICT shall use or receive the benefit from any increase in allowable uses, practices and rights to improve the Property, that are inconsistent with this Easement, resulting from any change in applicable governmental land use regulations.

6. **Merger of Parcels.** GRANTOR acknowledges that the Property currently consists of separate parcels as shown on the current Sonoma County Assessment Roll. GRANTOR further acknowledges that one or more additional parcels may exist on the Property through the recognition of previously unrecognized parcels created by patent or deed conveyances, subdivisions, lot line adjustments, surveys, recorded or unrecorded maps or other documents and, that existing or future land use regulations might permit

these parcels to be sold or otherwise conveyed separately from one another as separate legal parcels. It is the intent of GRANTOR and DISTRICT to prevent the separate conveyance of any of these parcels. To the extent not already accomplished as a condition precedent to the acceptance by DISTRICT of this Easement, GRANTOR shall apply for and pursue to completion an application to the County of Sonoma, or, such other governmental agency having jurisdiction, for the consolidation or merger of any existing parcels or claimed parcels of the Property into a single parcel. If the parcels cannot be merged because of their lack of contiguity or for any other reason, GRANTOR shall pursue and secure such other applicable legal restrictions so that no such existing parcels or claimed parcels may be separately sold or conveyed from the others or the property as a whole.

7. **Notice and Approval Procedures.** Some uses permitted by this Easement require that prior written notice be given by GRANTOR to DISTRICT, while other uses permitted by this Easement require the prior written approval of DISTRICT. Any activity proposed to be done or undertaken by GRANTOR which requires prior notice or the prior approval of DISTRICT shall be commenced only after satisfaction of the requirements of this Section and of Section 18. Notice shall be given or approval requested by using the appropriate form available at DISTRICT's offices. DISTRICT may consider notices and requests for approval in different forms, provided that all necessary information is provided to permit DISTRICT to make an informed judgment as to the consistency of the GRANTOR's request with the terms of this Easement.

7.1 **Uses/Activities Requiring Notice to DISTRICT.** GRANTOR shall deliver the notice to DISTRICT at least forty-five (45) days prior to the commencement of any use or practice requiring notification.

7.2 **Uses/Activities Requiring Prior Approval from DISTRICT.** DISTRICT shall have forty-five (45) days from the receipt of a complete request for approval to review the proposed use or practice and to approve, conditionally approve, approve with modifications, disapprove or otherwise respond to the request. If the request for approval is approved, conditionally approved or approved with modifications, the requested use or practice may only be undertaken in accordance with the terms, conditions and modifications of the approval. DISTRICT's decision to disapprove a request for approval shall be supported by a finding that the requested use or practice is inconsistent with the Conservation Purpose of this Easement or that the request for approval is incomplete or inaccurate. The approval of the DISTRICT obtained in one circumstance shall not be deemed or construed to be a waiver by DISTRICT of any subsequent change in use or practice.

7.3 **DISTRICT's Failure to Respond.** Should DISTRICT fail to post its response to GRANTOR's request for approval within forty-five (45) days of the receipt of said notice, GRANTOR shall send a second notice by registered or certified mail. Should DISTRICT fail to respond to the second notice within ten (10) days of the receipt thereof, GRANTOR may appeal to DISTRICT's Board of Directors.

7.4 **Non-Permitted Uses; DISTRICT's Approval.** In the event GRANTOR desires to commence a use or practice on the Property which is not expressly reserved or prohibited in Exhibit B or Section 5, GRANTOR shall seek DISTRICT's prior written approval of such use or practice in accordance with the procedure set forth in Section 7.2 above. The exercise of any use or practice pursuant to a right not expressly reserved in Exhibit B or Section 5 may constitute a breach of this Easement and be subject to the provisions of Section 13.

8. **Costs and Liabilities Related to the Property.**

8.1 **Maintenance of the Property.** GRANTOR agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property and does hereby indemnify and hold DISTRICT harmless therefrom. Without limiting the foregoing, GRANTOR agrees to pay any and all real property taxes, fees, exactions and assessments and each of them levied or imposed by local, state or federal authorities on the Property. GRANTOR shall be solely responsible for any costs related to the maintenance of general liability insurance covering acts on the Property. Except as specifically set forth in Section 9.2 below, DISTRICT shall have no responsibility whatever for the operation of the Property, the monitoring of hazardous conditions thereon, or the protection of GRANTOR, the public, or any third parties from risks relating to conditions on the Property. GRANTOR hereby agrees to indemnify and hold DISTRICT harmless from and against any damage, liability, claim, or expense (including attorneys' fees) relating to such matters. Without limiting the foregoing, DISTRICT shall not be liable to GRANTOR or any other person or entity in connection with consents given or withheld hereunder, or in connection with any entry upon the Property occurring pursuant to this Easement, or on account of any claim, liability, damage, or expense suffered or incurred by or threatened against GRANTOR or any other person or entity, except as such claim, liability, damage, or expense is the result of DISTRICT'S negligence, gross negligence, or intentional misconduct.

8.2 **Hazardous Materials.** Notwithstanding any other provision of this Easement to the contrary, the parties do not intend and this Easement shall not be construed such that (1) it creates in DISTRICT the obligations or liabilities of an "owner" or "operator" as those words are defined and used in environmental laws, as defined

below, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 United States Code, sections 9601 et seq. and hereinafter "CERCLA") or (2) it creates in DISTRICT the obligations or liabilities of a person described in 42 United States Code section 9607(a)(3) or (3) DISTRICT has the right to investigate and remediate any hazardous materials, as defined below, associated with the Property or (4) DISTRICT has any control over GRANTOR'S ability to investigate and remediate any hazardous materials associated with the Property. GRANTOR represents, warrants and covenants to DISTRICT that GRANTOR'S use of the Property shall comply with all environmental laws as that phrase is defined below. For the purposes of this Easement:

i. The term "hazardous materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 United States Code sections 1801 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 United States Code sections 6901 et seq.), sections 25117 and 25316 of the California Health & Safety Code, and in the regulations adopted and publications promulgated pursuant to them, or any other federal, state, or local environmental laws, ordinances, rules, or regulations concerning the environment, industrial hygiene or public health or safety now in effect or enacted after this date of this Easement.

ii. 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 materials.

## 9. Indemnities.

9.1 GRANTOR'S Indemnity. GRANTOR shall hold harmless, indemnify, and defend DISTRICT, its agents, employees, volunteers, successors and assigns, from and against damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with (i) injury to or the death of any person, or physical damage to property resulting from any act, omission, condition or other matter related to or occurring on or about the Property, except as such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of DISTRICT (it being the intent of this provision to limit GRANTOR'S indemnity to the proportionate part of DISTRICT'S damage, liability, claim or expense for which GRANTOR is responsible); and (ii) the obligations specified in Section 8. In the event of any claim, demand, or legal complaint against DISTRICT, the right to the indemnification provided by this Section 9.1 shall not apply to any cost, expense, penalty,

settlement payment, or judgment, including attorneys' fees, incurred prior to DISTRICT'S written notice of such claim, demand, or legal complaint to GRANTOR, unless GRANTOR has acquired knowledge of the matter by other means, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by GRANTOR, which approval shall not be unreasonably withheld.

9.2 **DISTRICT'S Indemnity.** DISTRICT shall hold harmless, indemnify, and defend GRANTOR, its heirs, devisees, successors and assigns, from and against all damages, liabilities, claims and expenses, including 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, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property and attributable to DISTRICT, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of GRANTOR (it being the intent of this provision to limit DISTRICT'S indemnity to the proportionate part of GRANTOR'S damage, liability, claim or expense for which DISTRICT is responsible). In the event of any claim, demand, or legal complaint against GRANTOR, the right to the indemnification provided by this Section 9.2 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to GRANTOR'S written notice of such claim, demand, or legal complaint to DISTRICT, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by DISTRICT, which approval shall be in DISTRICT'S sole discretion. DISTRICT hereby also agrees to hold harmless, indemnify and defend GRANTOR from and against all damages, liabilities, claims and expenses, including attorneys' fees, asserted against GRANTOR by any officer, agent, employee, or volunteer of DISTRICT, for personal injury and/or property damage arising out of any inspection or visit to the Property by any such officer, agent, employee or volunteer of DISTRICT, except to the extent that such injury is attributable to the negligence, intentional act or willful misconduct of GRANTOR.

10. **Public Access to the Property.** Nothing in this Easement shall be construed to preclude GRANTOR's right to grant access to third parties across the Property, provided that such access is allowed in a reasonable manner and is consistent with the Conservation Purpose of this Easement and so long as such activity is undertaken subject to the terms and conditions of this Easement.

11. **Interpretation and Construction.** To the extent that this Easement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be

interpreted and construed in such a way that meets the Conservation Purpose of this Easement. It is the intention of the parties that any interpretation or construction shall promote the Conservation Purpose of this Easement.

12. **Baseline Documentation for Enforcement.** District acknowledges that the present uses of the Property are consistent with the Conservation Purpose of this Easement. In order to establish the present condition of the Property, DISTRICT, in consultation with GRANTOR will prepare a Baseline Documentation Report within three (3) months of the execution of this Easement which will be maintained on file with DISTRICT and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement. The parties agree that the Baseline Documentation Report is intended to provide an accurate representation of the Property at the time of the execution of this Easement. GRANTOR and DISTRICT recognize that changes in natural resource management practices and management of the recreational uses of the property may dictate an evolution of the management of the Property, consistent with the Conservation Purpose of this Easement.

13. **Remedies for Breach.**

13.1 **DISTRICT's Remedies.** In the event of a violation or threatened violation of any term, condition, covenant, or restriction contained in this Easement, DISTRICT may, following notice to GRANTOR, which notice shall contain a reasonable and specific cure period, institute a suit to enjoin and/or recover damages for such violation and/or to require the restoration of the Property to the condition that existed prior to such violation. The notice shall be a general written notification of the condition claimed by the DISTRICT to be a violation that is either mailed or otherwise delivered by DISTRICT to GRANTOR. If DISTRICT reasonably determines that circumstances require immediate action to prevent or mitigate damage to the values protected by this Easement, DISTRICT may pursue its remedies under this paragraph without waiting for the cure period to expire, and shall have the right, upon the giving of 24 hours' notice, to enter the Property for the purpose of assessing damage or threat to the Conservation Values protected by this Easement and determining the nature of curative or mitigation actions that should be taken. DISTRICT's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Easement, and GRANTOR agrees that DISTRICT's remedies at law for any violation of the terms of this Easement are inadequate and that DISTRICT shall be entitled to the injunctive relief described herein, both prohibitive and mandatory, in addition to such other relief, including damages, to which DISTRICT 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.



13.2 **DISTRICT'S Discretion.** Enforcement of the terms of this Easement shall be at the sole discretion of DISTRICT, and any forbearance by DISTRICT to exercise its rights under this Easement in the event of any breach of any term of this Easement by GRANTOR shall not be deemed or construed to be a waiver by DISTRICT of such term or of any subsequent breach of the same or any other term of this Easement. Any failure by DISTRICT to act shall not be deemed a waiver or forfeiture of DISTRICT'S right to enforce any term, condition, covenant, or purpose of this Easement in the future.

13.3 **Liquidated Damages.** Inasmuch as the actual damages resulting from the loss [or depreciation] of the Conservation Values of the Property and caused by its breach by GRANTOR are uncertain and would be impractical or extremely difficult to measure, the parties agree that the damages allowed by Civil Code section 815.7(c) shall be measured as follows:

(a) For an improvement prohibited by this Easement, an amount equal to the product of (i) the market value of the improvement, (ii) the length of time that the improvement exists on the Property (in terms of years), and (iii) the then current annual interest rate for post judgment interest; and

(b) For an activity or change in use prohibited by this Easement, whether or not it involves an improvement, an amount equal to any economic gain realized by GRANTOR because of the activity or change in use; and (c) For an activity or change in use prohibited by this Easement, whether or not it involves an improvement and where there is no measurable economic gain realized by GRANTOR, the product of (i) the cost of restoration, as set forth in a written estimate by a qualified person selected by DISTRICT, (ii) the length of time that the prohibited activity or use continues (in terms of years) and (iii) the then current annual interest rate for post judgment interest.

13.4 **GRANTOR'S Compliance.** If DISTRICT, in the notice to GRANTOR, demands that GRANTOR remove an improvement, discontinue a use or both and claims the damages allowed by Civil Code section 815.7(c), then GRANTOR may mitigate damages by fully complying with DISTRICT'S notice within the cure period provided therein. In the event of litigation arising out of the notice, brought either by GRANTOR or by DISTRICT, in which GRANTOR prevails, then GRANTOR shall be entitled to economic damages; provided, however, that neither DISTRICT nor GRANTOR shall be entitled to damages where DISTRICT has not claimed damages in its notice.

13.5 **Remedies Nonexclusive.** The remedies set forth in this Section 13 are not intended to displace any other remedy available to either party as provided by this Easement, Civil Code sections 815 et seq. or any other applicable local, state or federal law.

14. **Acts Beyond GRANTOR'S Control.** Nothing contained in this Easement shall be construed to entitle DISTRICT to bring any action against GRANTOR for any injury to or change in the Property resulting from causes beyond GRANTOR'S control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by GRANTOR under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes so long as such action, to the extent that GRANTOR has control, is designed and carried out in such a way as to further the Conservation Purpose of this Easement.

15. **Condemnation.** In the event that the Property or some portion thereof is condemned for public use by an entity other than DISTRICT, the market value for purposes of just compensation shall be determined as though this Easement did not exist and GRANTOR and DISTRICT shall share the compensation on the following basis: GRANTOR 38% and DISTRICT 62%. In the apportionment of the proceeds from an eminent domain proceeding, an adjustment shall be made in GRANTOR's favor for any increase in value after the date of this Easement that is attributable to improvements; provided such increase in value is earned through GRANTOR's efforts and is not the result of value added by this easement, the passage of time or other passive means; and provided, further, that such increase in value is not the result of activities constituting a breach of this Easement.

16. **Agreement to Bind Successors.** The Easement herein granted shall be a burden upon and shall continue as a restrictive covenant and equitable servitude running in perpetuity with the Property and shall bind GRANTOR, GRANTOR'S heirs, personal representatives, lessees, executors, all persons claiming under GRANTOR, successors, including but not limited to purchasers at tax sales, and assigns forever. The parties intend that this Easement shall benefit and burden, as the case may be, their respective successors, assigns, heirs, executors, administrators, agents, employees, and all other persons claiming by or through them pursuant to the common and statutory law of the State of California, including, *inter alia*, Civil Code sections 815-816.

17. **Subsequent Deeds and Leases.** GRANTOR agrees that a clear reference to this Easement will be made in any subsequent deed, or other legal instrument, by means of which any interest in the Property (including, but not limited to, a leasehold interest) is conveyed, that GRANTOR will attach a copy of this Easement to any such instrument,

and that GRANTOR will notify DISTRICT in writing ten (10) days prior to any such conveyance. These obligations of GRANTOR shall not be construed as a waiver or relinquishment by DISTRICT of rights created in favor of DISTRICT by this Easement.

18. **Notices.** All notices, (including requests, demands, approvals, or communications) under this Easement shall be in writing.

18.1 **Method of Delivery.** Notice shall be sufficiently given for all purposes as follows:

(a) When personally delivered to the recipient, notice is effective on delivery.

(b) When mailed first class to the last address of the recipient known to the party giving notice, notice is effective on delivery.

(c) When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.

(d) When delivered by overnight delivery with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.

(e) When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt as long as (1) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery or (2) the receiving party delivers a written confirmation of receipt. Subject to the foregoing requirements, any notice given by telex or fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a non-business day.

18.2 **Refused, Unclaimed, or Undeliverable Notices.** Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

18.3 **Addresses.** Addresses for purposes of giving notice are set forth below:

**To GRANTOR:** Director of Regional Parks  
County of Sonoma  
2300 County Center Drive, 120A  
Santa Rosa, CA 95403

**To DISTRICT:** General Manager  
Sonoma County Agricultural Preservation  
and Open Space District  
747 Mendocino Avenue  
Santa Rosa, CA 95401

19. **Entire Agreement; Severability.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supercedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment executed by GRANTOR and DISTRICT and recorded by the Sonoma County Recorder. In the event any provision of this Easement is determined by the appropriate court to be void and unenforceable, all remaining terms and conditions will remain valid and binding.

20. **Estoppel Certificates.** DISTRICT shall, at any time during the existence of the Easement, upon not less than thirty (30) days' prior written notice from GRANTOR, execute and deliver to GRANTOR a statement in writing certifying that the Easement is unmodified and in full force and effect (or, if modified, stating the date of execution and date of recording of the respective amendment) and acknowledging that there is not, to DISTRICT'S knowledge, any default by GRANTOR hereunder, or, if DISTRICT alleges a default by GRANTOR, specifying such default. DISTRICT'S obligation to deliver the statement of certification is conditioned on GRANTOR'S reimbursing DISTRICT for all costs and expenses reasonably and necessarily incurred in its preparation as determined by DISTRICT'S General Manager.

IN WITNESS WHEREOF, GRANTOR and DISTRICT have executed this Easement this 27<sup>th</sup> day of September, 2005.

GRANTOR:  
COUNTY OF SONOMA

By:   
Chair of the Board of Supervisors  
Tim Smith

DISTRICT:

SONOMA COUNTY AGRICULTURAL  
PRESERVATION AND OPEN SPACE  
DISTRICT

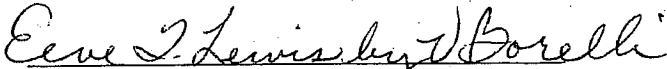
By



\_\_\_\_\_  
President of the Board of Directors

*Tim Smith*

ATTEST:



EEVE T. LEWIS, County Clerk and  
ex-officio Clerk of the Board of Directors

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

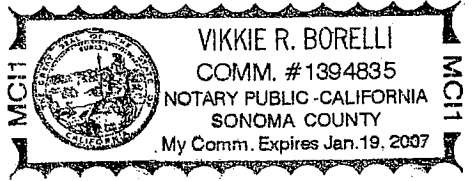
State of California }  
County of Sonoma } ss.

On September 27, 2005 before me, Vikkie Borelli, Notary Public,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jim Smith, Chair Board Supervisors  
Jim Smith, President Ag + Open Space Dist.  
Name(s) of Signer(s)

personally known to me  
 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.



WITNESS my hand and official seal.  
Vikkie R. Borelli  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

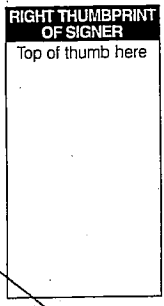
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



(RITA & MARVIN PARCEL)

**EXHIBIT A**

**The Real property**

The land referred to is situated in the unincorporated area of the County of Sonoma, State of California, and is described as follows:

**TRACT ONE:**

**PARCEL ONE:**

LOT 3, as said lot is shown and delineated upon that certain Parcel Map No. 7704, filed August 10, 1982 in Book 336 of Maps, Pages 33 and 34, Sonoma County Records.

A.P. No. 068-060-057

**PARCEL TWO:**

AN EASEMENT for road and utility purposes, 50 feet in width, over and across Lot 2, as said Lot and easement are shown on the map referred to herein.

**TRACT TWO:**

**PARCEL ONE:**

LOT 4, as said lot is shown and delineated upon that certain Parcel Map No. 7704, filed August 10, 1982 in Book 336 of Maps, Pages 33 and 34, Sonoma County Records.

A.P. No. 068-060-058

**PARCEL TWO:**

AN EASEMENT for road and utility purposes, 50 feet in width, over and across Lot 2, as said Lot and easement are shown on the map referred to herein.

**PARCEL THREE:**

AN EASEMENT for pedestrian and vehicular ingress and egress more particularly described as follows:

A RIGHT-OF-WAY easement, a uniform strip of land 12 feet in width, across the lands of Martinelli as said lands are described by Deed recorded in Book 1512 of Official Records, Page 45, Sonoma County Records, the center line of which is more particularly described as follows:

BEGINNING at a point in the centerline of an existing road on the Northerly boundary line of the lands of Gilardi as said lands are described by Deed recorded

in Book 3538 of Official Records, Page 835, Sonoma County Records, from which a set 3/4" iron pipe, on the Northerly line of said lands of Gilardi, tagged LS 5092, bears South 67° 03' 53" West 10.00 feet and also from said point of beginning a set 3/4" iron pipe, tagged LS 5092, at an existing 6" x 8" fence corner post, at the Northwestern corner of said lands of Gilardi, bears South 67° 03' 53" West 2856.53 feet; thence Northerly from said point of beginning the following courses along the center line of an existing road: North 23° 05' West 105.67 feet to a curve concave Easterly having a radius of 200.00 feet, Northerly along said curve through a central angle of 8° 04' for a distance of 28.16 feet, North 15° 01' West 407.05 feet to an angle point, North 6° 16' West 171.60 feet to a curve concave Easterly having a radius of 380.00 feet, Northerly along said curve through a central angle of 11° 45' for a distance of 77.93 feet, North 5° 29' East 227.7 feet to an angle point, North 8° 08' East 89.00 feet to a curve concave Westerly having a radius of 205.00 feet, Northerly along said curve through a central angle of 27° 18' for a distance of 97.68 feet, North 19° 10' West 36.00 feet to a curve concave Easterly having a radius of 810.00 feet, Northerly along said curve through a central angle of 8° 03' for a distance of 113.80 feet, North 11° 07' West 220.00 feet to a curve concave Westerly having a radius of 390.00 feet, Northerly along said curve through a central angle of 37° 10' for a distance of 252.99 feet, North 48° 17' West 74.40 feet to a curve concave Easterly having a radius of 270.00 feet, Northerly along said curve through a central angle of 27° 37' for a distance of 130.14 feet, North 20° 40' West 60.60 feet to an angle point, North 28° 44' West 50.05 feet to a curve concave Easterly having a radius of 450.00 feet, Northerly along said curve through a central angle of 18° 32' for a distance of 145.56 feet, North 10° 12' West 78.00 feet to a curve concave Westerly having a radius of 170.00 feet, Northerly along said curve through a central angle of 42° 22' for a distance of 125.70 feet, North 52° 34' West 67.99 feet to a curve concave Northeasterly having a radius of 130.00 feet, Northerly along said curve through a central angle of 20° 04' for a distance of 45.53 feet, North 32° 30' West 88.00 feet to an angle point, North 35° 00' West 95.00 feet to an angle point and North 28° 00' West 41 feet more or less to the Southerly line of State Highway 116 (Stage Gulch Road).

**PARCEL FOUR:**

AN EASEMENT for pedestrian and vehicular ingress and egress more particularly described as follows:

A RIGHT-OF-WAY easement, a uniform strip of land 12 feet in width, across the lands of Gilardi as described in that Deed recorded in Book 3538 of Official Records, Page 835, Sonoma County Records, the centerline of which is more particularly described as follows:



COMMENCING at a found 1/2" iron pipe, tagged L.S. 5092, at a fence corner, the Southwesterly corner of said lands of Gilardi; thence North 66° 59' 40" East, 2334.15 feet along the Southerly line of said lands of Gilardi, to the point of beginning of said centerline at the centerline of an existing road and a point on a curve concave Westerly having a radius of 300.00 feet from which a radial line of said curve bears South 76° 33' 43" West; thence Northerly the following courses along said existing road; Northerly along said curve through a central angle of 4° 33' 43" for a distance of 23.89 feet, North 18° 00' 00" West 54.35 feet, North 11° 30' 00" West 201.40 feet, North 13° 45' 00" West 126.10 feet to a curve concave Easterly having a radius of 300.00 feet, Northerly along said curve through a central angle of 20° 55' 00" for a distance of 109.52 feet, North 7° 10' 00" East, 186.00 feet to a curve concave Easterly having a radius of 400.00 feet, Northerly along said curve through a central angle of 16° 50' 00" for a distance of 117.52 feet to a curve concave Southeasterly having a radius of 210.00 feet, Northerly and Northeasterly along said curve through a central angle of 37° 00' 00" for a distance of 135.61 feet, North 61° 00' 00" East 146.68 feet to a curve concave Northwesterly having a radius of 310.00 feet, Northeasterly and Northerly along said curve through a central angle of 71° 15' 00" for a distance of 385.50 feet, North 10° 15' 00" West 81.75 feet, North 18° 00' 00" West 152.50 feet, North 31° 30' 00" West 186.32 feet to a curve concave Westerly having a radius of 250.00 feet, Northerly along said curve through a central angle of 28° 20' 00" for a distance of 114.90 feet, North 57° 50' 00" West 172.74 feet to a curve concave Easterly having a radius of 620.00 feet, Northerly along said curve through a central angle of 18° 52' 00" for a distance of 204.16 feet, North 38° 58' 00" West 180.00 feet to a curve concave Easterly having a radius of 180.00 feet, Northerly along said curve through a central angle of 29° 18' 00" for a distance of 92.05 feet, North 9° 40' 00" West 133.04 feet to a curve concave Easterly having a radius of 940.00 feet, Northerly along said curve through a central angle of 7° 28' 00" for a distance of 122.50 feet, North 2° 12' 00" West 74.14 feet to a curve concave Westerly having a radius of 415.00 feet, Northerly along said curve through a central angle of 20° 53' 00" for a distance of 151.26 feet and North 23° 05' 00" West 2.32 feet to the Northerly line of said lands of Gilardi, from which a set 3/4" iron pipe tagged L.S. 5092 bears South 67° 03' 53" West 10.00 feet.

PARCEL FIVE:

A 40 FOOT easement for road and utility purposes over Lot 2 as shown upon Parcel Map No. 5085-A filed October 14, 1976 in Book 240 of Maps at Pages 23, 24 and 25, Sonoma County Records and as further described in a deed recorded May 21, 1985 as Document No. 1985- 31917, Official Records.

**Exhibit B**  
**Prohibited and Restricted Uses of the Property**

1. **Subdivision/Development Rights.** The legal or de facto subdivision of the Property or any of its constituent parcels for any purpose, including but not limited to gaining recognition of previously unrecognized parcels created by patent or deed, conveyance, subdivision or survey; the seeking of a partition remedy in a lawsuit; the transfer of development rights within or outside the ownership of the Property; and/or the sale, alienation, finance or conveyance of one parcel of the Property apart from the sale of the entire Property is prohibited, except through the power of Eminent Domain. Notwithstanding anything stated to the contrary in the previous sentence, GRANTOR may, subject to DISTRICT's prior written approval, undertake the following actions:

1.1 **Conveyance for Conservation Purposes.** GRANTOR may voluntarily convey a portion of the Property to a government or non-profit entity exclusively for conservation or public access purposes.

1.2 **Boundary Line Adjustments.** GRANTOR may relocate one or more boundary lines between two or more of the existing contiguous parcels on the Property, where the land taken from one parcel is added to a contiguous parcel and neither a greater number of parcels nor a greater number of buildable parcels than originally existed are thereby created.

2. **Commercial Uses.** Any commercial use of or activity on the Property is prohibited, except for the following rights reserved by GRANTOR:

2.1 **Recreational Use.** Recreational concessions or short-term special events may be operated on the Property in accordance with the Tolay Lake Park Management Plan and at a level that is consistent with the Conservation Purpose of this Easement.

2.2 **Park Complex/Visitor Center.** GRANTOR may develop visitor-serving uses within the Park Complex Area in accordance with the Tolay Lake Park Management Plan and at a level that is consistent with the Conservation Purpose of this Easement.

2.3 **Agricultural Use.** In addition to the rights reserved in Paragraph 5.3 of this Easement, GRANTOR reserves the right to engage in limited agricultural use of the Property in accordance with the Tolay Lake Park Management Plan and at a level that is consistent with the Conservation Purpose of this easement, subject to approval by the District, Wildlife Conservation Board and State Coastal Conservancy.

3. **Recreational Use.** Any recreational use of the property that would adversely impact the conservation values of the property is prohibited, including the following:

3.1 Camping. The use of the Property for limited or supervised camping by permit is allowed at a level that is consistent with the Conservation Purpose of this Easement. Any other camping on the Property shall be consistent with the Conservation Purpose of this Easement and shall be subject to approval by the District, Wildlife Conservation Board and State Coastal Conservancy.

3.2 Water based recreation on lake and ponds. Any public use of existing or restored water bodies for motorized watercraft is prohibited. Any use of non-motorized watercraft must be consistent with the Lake Restoration and Management Plan and Conservation Easement held by the Department of Fish and Game and must be consistent with the Conservation Purpose of this Easement.

3.3 Ball fields. The development of ball fields is prohibited.

3.4 Night lighting. The development or installation of lighting to allow for public recreational uses outside of a Park Complex/Visitor Center Area past sunset is prohibited.

4. **Residential Use.** Any residential use of or activity on the Property is prohibited, except for the following rights reserved by the GRANTOR relating to residential use of the Property.

4.1 To lease one or more of the residences on the Property consistent with the terms, conditions, and purpose of this Easement.

5. **Structures and Improvements.** No residences, buildings or other structural improvements, shall be placed, constructed or reconstructed on the Property, other than as provided for in the Park Management Plan.

5.1 Maintenance, Repair or Replacement of Existing Structural Improvements. GRANTOR may maintain, renovate, or replace agricultural, residential, and related buildings, structures and improvements, whether existing at the date hereof or constructed subsequently pursuant to the provisions of this Easement, in their present location as described in the Baseline Report and shown on the Baseline Site Map; provided that any renovation, or replacement of an existing building, structure, or improvement may not substantially alter its character or function or increase its present height, or the land surface area it occupies.

5.2 New Structural Improvements for Recreational, Educational or Interpretive Uses. GRANTOR may place or construct, after prior written approval of the DISTRICT, additional buildings, structures and improvements necessary for the permitted recreational, educational, or interpretive use of the Property, provided that any additional buildings, structures and improvements are located within the Park Complex Area as more particularly described in the Baseline Report and shown on the Baseline Site Map.

5.3 Roads. Construction of new roads, reconstruction or expansion of existing roads is subject to the DISTRICT's prior written approval, and are restricted to roads as may be directly required for uses and activities permitted herein, so long as such road construction, expansion or reconstruction is otherwise consistent with the purposes, terms and conditions of this Easement. Roads 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. Forest Service, California Department of Forestry & Fire Protection or other similar or successor entity. Roads may not be paved with asphalt, concrete or other impervious surface unless such paving is identified in and consistent with the Park Management Plan or required by any law, code, ordinance or regulation. Roads that are abandoned, permanently closed and/or decommissioned shall be restored, stabilized and ensured of proper drainage.

5.4 Fences. Construction of new fences is restricted to fencing only as necessary for agricultural uses, natural resources protection or other uses accessory to the residential or recreational use of the Property. Such fencing must be the minimum necessary for such uses. In the event of destruction or deterioration of any fences, whether existing at the date hereof or constructed subsequently pursuant to the provisions of this Agreement, GRANTOR may replace such fencing with a fence of similar size (i.e., no greater in height or length), function, capacity and location, without prior notice to or approval by DISTRICT, provided, however, that such replacement: (i) is consistent with the conservation purpose of this Agreement, including the preservation of scenic values; (ii) does not impede wildlife movement; and (iii) complies with the DISTRICT'S current standards for fences on conservation lands. In the event any fence, or portion thereof, becomes unnecessary for the uses described in this paragraph, GRANTOR shall remove such fencing from the Property.

5.5 Utilities. Expansion, development or construction of utilities, including but not limited to electric power, septic or sewer, communication lines, and water storage and delivery systems ("Utility Systems") is prohibited, provided however, that, upon written notification to DISTRICT, GRANTOR may reconstruct, replace and maintain the current Utility Systems, and subject to DISTRICT's approval, develop and expand the Utility Systems when directly required for the uses permitted in Paragraphs 4 and 5 of this Easement, so long as such expansion is constructed in a manner that is otherwise consistent with the purposes, terms and conditions herein.

5.6 **Signs.** The construction of outdoor advertising structures such as signs and billboards is prohibited, provided however, that GRANTOR reserves the right to construct signs on the Property which are necessary to accomplish the permitted uses herein, so long as such signs are constructed, placed or utilized in a manner that is otherwise consistent with the purposes, terms and conditions of this Easement, and that no sign other than Park Entry signs exceed thirty-two (32) square feet in size and/or be artificially illuminated without prior written approval of the DISTRICT. Any signs to be placed on the property must comply with the Matching Grant Agreement between GRANTOR and DISTRICT.

6. **Water Resources.** Except as may be necessary to implement the Lake Restoration and Management Plan as described in Paragraph 5.2 of this Agreement, relating to the maintenance, replacement, development and expansion of water storage and delivery systems, the draining, filling, dredging, diking, damming or other alteration, development or manipulation of watercourses, springs and wetlands is prohibited; provided, however, that GRANTOR may conserve riparian, wetland and instream habitats for fish and wildlife, and may take necessary actions in the event of an emergency situation.

7. **Easements.** The granting of new temporary or permanent easements, and the modification or amendment of existing easements is prohibited without the approval of the DISTRICT. New easements or easement modifications shall only be granted where they will remove or significantly lessen the impact of existing easements of record on the Conservation Values set forth in this Easement or if such new or modified easement furthers the Conservation Purpose of this Easement. It is the duty of GRANTOR to prevent the use of the Property by third parties which may result in the creation of prescriptive rights which may be inconsistent with the conservation purpose of this Easement.

8. **Motorized Vehicles.** Motorized vehicles shall not be used off roads, except in an emergency, or directly in connection with permitted agricultural, conservation, wildlife or recreation management activities and when otherwise consistent with the purposes, terms and conditions herein.

9. **Soil Degradation.** Any use or activity that causes soil degradation, loss of productivity, or erosion, or contributes to the pollution of any surface or sub-surface waters is prohibited.

10. **Mineral Exploration.** The exploration for, or development and extraction of, geothermal resources, minerals and hydrocarbons by any surface or sub-surface mining or any other method is prohibited; provided however, that GRANTOR may use rock material from the existing quarry site, as designated on the Baseline Site Map, on site and in connection with the permitted uses under the terms of this Easement.

11. **Storage/Dumping.** The dumping, release, burning, permanent storage, or other disposal of wastes, refuse, debris, motorized vehicles or hazardous substances is prohibited; except for the

following rights reserved by GRANTOR in connection with the permitted uses under the terms of this Easement:

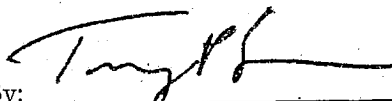
- 11.1 Storage of Materials Related to Permitted Uses. The storage of vehicles, building materials, machinery or agricultural supplies required for permitted uses may be stored in existing agricultural structures as delineated on the Baseline Site Map, so long as such storage is consistent with law, public health and sound agricultural practices.
- 11.2 Storage of Construction Materials. Construction and other work materials which are visible from public roadways may be stored outside while work is in progress for a period not to exceed ninety (90) days.
12. **Surface Alteration or Excavation.** Any alteration of the contour of the Property in any manner whatsoever including, but not limited to, excavating or removing soil, sand, gravel, rock, peat or sod is prohibited, except as necessary in connection with the permitted uses as provided in this Easement.
13. **Tree Removal.** The harvesting, cutting, removal, or destruction of any trees is prohibited, provided, however, that GRANTOR reserves the right to cut or remove trees as reasonably necessary for personal, non-commercial use on the Property, including without limitation (a) to control insects and disease, (b) to prevent personal injury and property damage, (c) to allow construction or repair of residential, recreational, educational, or agricultural structures and improvements, (d) to allow for habitat restoration activities, and (e) as necessary for the purpose of fire control and/or natural resource management as more specifically defined in Section 5.3 of the Easement.

**CERTIFICATE OF ACCEPTANCE**  
(Government Code Section 27281)  
**OF REAL PROPERTY BY THE**  
**BOARD OF DIRECTORS OF THE**  
**SONOMA COUNTY AGRICULTURAL PRESERVATION**  
**AND OPEN SPACE DISTRICT**

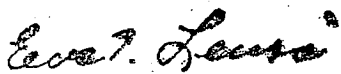
This is to certify that the interests in real property conveyed by the Conservation Easement Agreement dated September 22, 2005, from the County of Sonoma to the Sonoma County Agricultural Preservation and Open Space District, a governmental agency formed pursuant to the provisions of Public Resources Code Section 5506.5, is hereby accepted by the President of the Board of Directors on behalf of the District pursuant to the authority conferred by Resolution No. 05-0840 of the Board of Directors, Dated September 27, 2005, and the District consents to the recording thereof by its duly recognized officer.

Sonoma County Agricultural  
Preservation and Open Space District

Dated: 9/27/05

By:   
Tim Smith, President  
Board of Directors

ATTEST:

  
\_\_\_\_\_  
Eeve T. Lewis, County Clerk and  
ex-officio clerk of the Board of Directors

# California State Parks Accessibility Guidelines

Due to the nature and length of this appendix, this document is not available as an accessible document. If you need assistance accessing the contents of this document, please contact Victoria Willard, ADA Coordinator for Sonoma County, at (707) 565-2331, or through the California Relay Service by dialing 711. For an explanation of the contents of this document, please direct inquiries to Karen Davis-Brown, Park Planner II, Sonoma County Regional Parks Department at (707) 565-2041.







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## Capital Investments, Revenue Stream, Expenditures, and Phasing

Due to the nature and length of this appendix, this document is not available as an accessible document. If you need assistance accessing the contents of this document, please contact Victoria Willard, ADA Coordinator for Sonoma County, at (707) 565-2331, or through the California Relay Service by dialing 711. For an explanation of the contents of this document, please direct inquiries to Karen Davis-Brown, Park Planner II, Sonoma County Regional Parks Department at (707) 565-2041.





PHASING											
Trails / Camping / Picnic	Cost	Buildings	Cost	Roads	Cost	Interpretive	Cost	Enviro Restoration	Cost	FIGR Cultural Gathering Area	TOTALS
TCR Entry to WR	\$80,000	New equipment shop	insurance	Maint exist cond. for opening	\$10,000	Park Center at Open	\$18,000	Various wetland restor w/partners			
Bridge #1/TCR Entry - Vehicde Bridge	\$150,000	Screen plantings	\$4,822	Park center service yard road	O&M						
S Springs Service	4,500	Overflow parking	O&M								
Lake Vista	\$20,000	Old dairy barn - partial preserve	\$75,000			Lake Vista	\$6,000				
Burrowing Owl	\$15,000	Equestrian parking	\$7,000	Equestrian entry road	\$15,000						
Fish Pond to Lakeville	Vol O&M	Park Center Lndscp & Culinary Garden	\$15,000								
Equestrian Park Center	Vol/O&M										
Oak Knoll hike	Vol O&M										
West Ridge Interpret hike (sm Vol/O&M)	\$31,500										
West Ridge Loop (sm Vol/O&M)	15,000										
Ghost Rock	\$20,000										
Picnic tables and benches	O&M / Frndn										
<b>Decom</b>	<b>\$60,000</b>										
Burrowing Owl east of farm bridge		Well and water system	\$750,000	Cannon Ln	\$2,000,000						
S West Ridge				Pave Entry Road	\$50,000						
first 5 years	<b>\$396,000</b>		<b>\$851,822</b>		<b>\$2,075,000</b>		<b>\$24,000</b>				<b>\$3,346,822</b>
Middle Ridge hike	\$60,000	Move historical corral	\$2,000			Comprehensive plan	\$80,000			Cultural gathering area	\$624,000
S - East Ridge	\$60,000	Develop additional Parking	O&M			Entry Rd vista	\$6,000			Cost & Timing TBD FIGR	
Group Camping Park Center	\$150,000	Sales/ Group picnic shelter	\$10,000			East ridge View Point	\$6,000				
Historic Lakeville eastside link	\$14,500	Park office	\$952,000			Oakwoodland	\$18,000				
Bridge #4/Lakevill Rd - Vehicde Bridge	\$150,000	Vera/Green House - DEMO	\$50,000			Park Center Interp Programs	\$36,000				
TCR East Creek hike	\$25,000	New ranger residence	\$500,000			Ghost Rock	\$6,000				
Camp Access	\$16,000	Ranch Manager residence	\$500,000			Ag	\$12,000	Lake Restoration	\$2,800,000		
Camp Backpack ind. site	\$20,000	South parking lot	neighbor			Petaluma Marsh	\$6,000				
West Creek Hike (sm Vol/O&M)	\$30,000										
Group picnic	\$10,000			South entry road - A/C Pave	neighbor	South Entrance	\$10,000				
				South intersection signal	neighbor						
5-10 Years	<b>\$535,500</b>		<b>\$2,014,000</b>				<b>\$180,000</b>	<b>\$2,800,000</b>			<b>\$5,529,500</b>
East Ridge Canyon	\$32,000	Waste water facility	\$750,000			Central Ponds	\$18,000	Various wetland restor	\$3,327,000		
Bridge #2/Near Mengel Rd - trail bridge	\$75,000	Visitor center w/restroom	\$7,000,000			Middle Rach	\$12,000				
Bridge #3/replacement - trail bridge	\$75,000	Boardwalk	\$50,000			Historical Route	\$18,000				
Meadow	22,000	Visitor Center Parking	\$18,500			Tolay Ck	\$18,000				
NW springs	Vol O&M	Stormwater & drainage for Parking	\$250,000			Bayview Point	\$6,000				
Group Camping Ponds	\$150,000	Outdoor class stage	\$50,000			portable interpret	\$10,000				
							<b>\$82,000</b>				
10-20 years	<b>\$554,000</b>		<b>\$8,119,500</b>				<b>\$82,000</b>	<b>\$3,327,000</b>			<b>\$11,882,500</b>
Assess Additional Trail need		Hay Barn/Stone floor barn - preserve	\$2,742,900								
One Tree Knoll hike	\$15,000	Animal pen	O&M								
South Creek hike	\$25,000	Temporary residence/Artist	MIG ???								
MR Connect hike	Vol/O&M	Kitchen and dining	\$620,000								
		New bunk house	\$850,000								
		Showers	\$30,000								
		Restroom	\$20,000								
		Creamery - preserve	\$500,000								
		Old shop - preserve	\$326,000								
		Equipment Shed - preserve	\$395,000								
		Slaughter house - preserve	\$425,000								
		Scotts house - preserve	\$500,000								
20-35 years	<b>\$40,000</b>		<b>\$6,458,900</b>								<b>\$6,498,900</b>
											<b>\$27,257,722</b>

PARK FEATURES	
Blue Cost RDB Est. - MIG Please edit as needed	
<b>Trails</b>	
Bridge	
Bridge #1/TCR Entry - Vehicde Bridge	\$150,000
Bridge #2/Near Mengel Rd - trail bridge	\$75,000
Bridge #3/replacement - trail bridge	\$75,000
Bridge #4/Lakevill Rd - Vehicde Bridge	\$150,000
<b>Decom</b>	
Park office	\$60,000
Pond Access from Farm Bridge	
All old ranch roads not being used	
Burrowing Owl	
West Ridge Access from South	
<b>New</b>	<b>\$290,400</b>
Causeway	lake restore
TCR Entry to WR	\$80,000
West Ridge Loop (sm Vol/O&M)	\$15,000
S - East Ridge	\$80,000
Middle Ridge Hike	\$60,000
Burrowing Owl	\$15,000
Camp Access	\$16,000
Lake Vista	\$20,000
Historic Lakeville eastside link	\$14,500
East Ridge Canyon	\$32,000
Equestrian Park Center	Vol/O&M
West Creek Hike (sm Vol/O&M)	\$30,000
West Ridge Interpret hike (sm Vol/O&M)	\$31,500
Ghost Rock	\$20,000
Meadow	\$22,000
Oak Knoll hike	Vol O&M
NW springs	Vol O&M
Fish Pond to Lakeville	Vol O&M
S Springs Service	\$4,500
TCR East Creek hike	\$25,000
<b>Existing</b>	
Cardza	
West Ridge	
West Ridge Viewpoint	
Historic Lakeville	
Oak Knoll	
Vista Pond Loop	
Vista Pond Access	
Oak Knoll Access	
South Lake to Farm Bridge	
<b>TBD</b>	
One Tree Knoll hike	\$15,000
South Creek hike	\$25,000
MR Connect hike	Vol/O&M
<b>Infrastructure</b>	
2 Scotts house - preserve	\$500,000
4 Vera/Green House - DEMO	\$50,000
6 Hay Barn/Stone floor barn - preserve	\$2,742,900
7 Old dairy barn - partial preserve	\$75,000
8 Creamery - preserve	\$550,000
12 Old shop - preserve	\$326,000
14 Equipment Shed - preserve	\$395,000
15 Slaughter house - preserve	\$425,000
A Cultural gathering area	FIGR
C New equipment shop	insurance
D Screen plantings	\$4,822
E Ranch Manager residence	\$500,000
F Pave Entry Road	\$50,000
G Group Camping Park Center	\$150,000
H Overflow parking	O&M
I Animal pen	O&M
J Move Historical corral	\$2,000
K Visitor center w/restaurant	\$7,000,000
M New bunk house	\$850,000
N Park office	\$952,000
O Group picnic	\$10,000
P Park Center Lndscp & Culinary Garden	\$15,000
R Temporary residence/Artist	MIG ???
S Sales/ Group picnic shelter	\$10,000
T New ranger residence	\$500,000
U Showers	\$10,000
V Restroom	\$20,000
X Kitchen and dining	\$620,000
Z Equestrian parking	\$7,000
AA Boardwalk	\$50,000
BB Outdoor class stage	\$50,000
<b>Additional Facilities</b>	
Waste water facility	\$750,000
Well and water system	\$750,000
Camp Backpack ind. site	\$20,000
Picnic tables and benches	O&M / Frndn
<b>Parking</b>	
Stormwater & drainage for Parking	\$250,000
Visitor Center Parking	\$18,500
Overflow parking	O&M
<b>Roads</b>	
Maint exist cond. for opening	\$10,000
Cannon Ln	\$2,000,000
Equestrian entry road	\$15,000
Park center service yard road	O&M
South entry road - A/C Pave	neighbor
South parking lot	neighbor
South intersection signal	neighbor
<b>Interpret</b>	
Comprehensive plan	\$80,000
Ghost Rock	\$8,000
Entry Rd vista	\$6,000
1 Park Center at Open	\$18,000
Park Center Interp Programs	\$36,000
2 Lake Vista	\$6,000
3 Petaluma Marsh	\$6,000
4 Ag	\$12,000
5 Oakwoodland	\$18,000

6 East ridge View Point	\$6,000
7 Central Ponds	\$18,000
8 Middle Reach	\$12,000
9 Historical Route	\$18,000
10 Tolay Ck	\$18,000
11 Bayview Point	\$6,000
12 South Entrance portable interpret	\$10,000
<b>Restoration</b>	
Various wetland restoration	\$3,327,000
Various wetland restoration w/partners	
Lake Restoration	\$2,800,000

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# Operations and Maintenance Checklist

Due to the nature and length of this appendix, this document is not available as an accessible document. If you need assistance accessing the contents of this document, please contact Victoria Willard, ADA Coordinator for Sonoma County, at (707) 565-2331, or through the California Relay Service by dialing 711. For an explanation of the contents of this document, please direct inquiries to Karen Davis-Brown, Park Planner II, Sonoma County Regional Parks Department at (707) 565-2041.





**Table 9-1. Tolay Lake Regional Park Master Plan (Operations and Maintenance Checklist)**

O&M Item	How often performed (As-needed, Daily, Weekly, Etc.)	Level of Effort required*	Notes
<b>Park Operations</b>			
<b><i>Patrol / Opening and Closing</i></b>			
Vehicular and Foot Patrols (Day and Night)	Daily	2	
Opening/Closing Gates	Daily	1	
Public Interaction	Daily	1	
Supporting Volunteers	Daily	1	
Enforce Dog Regulations	Daily	1	
Permit Orientation Sessions	N/A		
<b><i>Fee Collection</i></b>			
Fee Booth / Iron Ranger(s)	Weekly	1	
Financial Management (Cash Handling, Accounting Practices)	Weekly	1	
<b><i>Light Maintenance</i></b>			
Removal of Graffiti	Monthly	1	
Manage Vandalism	Monthly	1	
<b><i>Public Safety (Law Enforcement and Emergency Response)</i></b>			
Coordination with Lakeville Volunteer Fire Department		1	
Fish and Wildlife Regulations	Daily	1	
Park Access for Law Enforcement	N/A		(Ranger Staff)
Parking Regulations and Enforcement	Daily	2	
Emergency Response/Evacuation	As Needed	2	Seasonal Variability
Search and Rescue	As Needed	2	
Identification of Helipads and water sources	Annually	1	
<b><i>Sanitation</i></b>			
Restroom Cleaning / Restocking	Daily	1	
Litter Pick-up	Daily	1	



O&M Item	How often performed (As-needed, Daily, Weekly, Etc.)	Level of Effort required*	Notes
Restrooms-flush	Daily	1	
Restrooms-backcountry	Daily	1	
Potable and non-Potable Water	Weekly	1	
Wastewater Treatment	Weekly	1	
Solid Waste Management (Trash, Recycling, Compost)	Weekly	1	
Use of Portable Toilets for Special Events	Annually	1	Fall Festival
<b>Public Outreach</b>			
Docent Led Tours	Monthly	1	
Environmental education sessions	Weekly	2	
Special Events	Seasonally	3	Fall Festival
School Groups	Weekly	2	
Cooperation with Community Partners	As Needed	1	
<b>Park Maintenance</b>			
<b>Bridges</b>			
General Maintenance and Upkeep	Annually	1	
<b>Buildings</b>			
Maintenance of Park Buildings	As Needed/Monthly	2	
<b>Infrastructure</b>			
Fence maintenance/repair	As Needed	1	
Replacement of Damaged Facilities	As Needed	1	
Wastewater Treatment Plant / Septic Systems	As Needed	1	
Stormwater Management	Seasonally	2	
Irrigation Systems	Seasonally	2	
Water Supply/water quality testing	As Needed	1	
Plumbing	As Needed	1	
Electrical Systems / PG&E lines	As Needed	1	
Cleaning (Pressure Washing) or Painting	Seasonally	1	
Signage	As Needed	1	
Lighting	As Needed	1	
<b>Non-Paved Surfaces</b>			

O&M Item	How often performed (As-needed, Daily, Weekly, Etc.)	Level of Effort required*	Notes
Grading	Seasonally	2	
Management of Fugitive Dust (Watering)	Seasonally	1	
Water Bars	Seasonally	1	
Drainage structure maintenance/improvement	Seasonally	2	
Temporary Trail Closures Due to Environmental Conditions	Seasonally	1	
Trail decommissioning	As Needed	2	
Multiple-Use Trails	As Needed	2	
<b>Park Amenities</b>			
Maintenance of park amenities including: BBQs, fire rings, tables, benches, drinking fountains and hose bibs	Monthly	2	
Disposal of coals from BBQs and fire rings	Seasonally/Weekly	1	
<b>Paved Surfaces</b>			
Paved trails	As Needed/Annually	1	
Grading	As Needed/Annually	1	
Drainage structure maintenance/improvement	As Needed/Annually	1	
Parking Lots	As Needed/Annually	1	
Sealing and Striping	As Needed/Annually	1	
<b>Pest Management</b>			
Beaver control	As Needed/Annually		
Feral pigs	As Needed/Annually		
<b>Vegetation / Landscape Management</b>			
Mowing / Weeding	Seasonally/Weekly	3	
Sodding / Re-sodding / Mulching	As Needed	2	
Irrigation of Fields and Vegetation	Seasonally	2	
Seeding / Planting	Seasonally	2	
Use of Herbicides and Pesticides (Star thistle management in backcountry)	Seasonally	2	Staff/Contract
Pruning	As Needed	1	
Priority Fuels Management	As Needed	1	

O&M Item	How often performed (As-needed, Daily, Weekly, Etc.)	Level of Effort required*	Notes
Management of Ethno-Botanical Garden	Monthly	2	
<b>Other O&amp;M Items</b>			
<b>Wildfire Management</b>			
Management of Fires for Fire Pits and BBQs	As Needed/Seasonally	1	
Removal of Hazardous Fuels	As Needed/Seasonally	1	
Use of Power Tools/Vehicles during high risk conditions	As Needed/Seasonally	1	
<b>Agricultural Practices</b>			
Cattle Grazing	N/A		
Management of farm animals	Daily	2	Ranger Staff/Contract
Marvin's Garden	Monthly	2	
Haying – Special Use Permit	Seasonally	1	
Farm equipment repair	As Needed	1	
Orchard Fruit Tree Management	As Needed/Seasonally	2	
Animal Handling	Weekly	2	
Collaboration with Farmers	As Needed	1	
<b>Items Requiring Coordination/Support with Other Agencies</b>			
Historic Building Maintenance and Upgrades	As Needed	1	
Resource Monitoring (Soil Analysis, Visitor Use)	As Needed	1	
Habitat Restoration	As Needed	2	
Cultural resource protection	Daily	2	Ranger Staff
Mosquito Abatement	Seasonally	1	
Access Roads and Directional Signage	As Needed	1	

\*1=mild/light, 2=moderate/medium, 3=intense/heavy