

RECORDING REQUESTED BY AND RETURN TO:

Clerk of the Board of Directors
Sonoma County Agricultural
Preservation and Open Space District
575 Administration Drive, Room 102A
Santa Rosa, CA 95403

Free recording per Government Code Section 6103

WRIGHT HILL RANCH REGIONAL PARK & OPEN SPACE PRESERVE
RECREATION CONSERVATION COVENANT
(California Civil Code §§815 *et seq.*)

THIS AGREEMENT is entered into by and between the Sonoma County Agricultural Preservation and Open Space District, a public agency formed pursuant to the provisions of Public Resources Code sections 5500 *et seq.* (“the District”) and the County of Sonoma, a political subdivision of the State of California (“Owner”) pursuant to Government Code section 5540.6.

Recitals

A. The District was formed for the purpose of preserving open space in the County of Sonoma and is funded by a voter approved sales tax, the expenditure of which is directed and limited by the Sonoma County Agricultural Preservation & Open Space 2006 Expenditure Plan (“the 2006 Expenditure Plan” or “the Plan”) adopted in November 2006 as part of the Sonoma County Open Space, Clean Water and Farmland Protection Measure (Sonoma County Ordinance No. 5677R).

B. Among the categories of open space identified for protection in the 2006 Expenditure Plan are “fee interests for outdoor public recreation where the public use would not be inconsistent with the open space designations” listed in the Plan. In accordance with this

provision, the District acquired the fee interest in that certain real property, located in the unincorporated area of Sonoma County, more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference ("the Property").

C. The Sonoma County Board of Supervisors intends the Property to be used by the public, as reflected by actions taken on August 28, 2007, Resolution 07-0736.

D. In a companion transaction of even date, the District transferred the fee interest in the Property to the Owner pursuant to Public Resources Code section 5540.6.

E. In a companion transaction of even date, Owner has conveyed a conservation easement ("the Conservation Easement") to the District generally limiting the use of the Property to natural resource preservation, scenic preservation, and low-intensity public outdoor recreation and education consistent with identified Conservation Values. This Covenant is intended to complement the Conservation Easement by assuring the continued and perpetual recreational use of the Property consistent with the Conservation Easement.

F. In a companion transaction of even date, the Owner has granted to the District an irrevocable offer of dedication of the fee interest in the Property to secure the Owner's performance under this Covenant (the "Irrevocable Offer of Dedication").

Agreement

FOR VALUABLE CONSIDERATION, Owner hereby undertakes the following obligations for the benefit of the District:

1. *The Covenant.* Owner hereby conveys to the District a recreation conservation covenant ("Covenant") within the meaning of Restatement Third, Property (Servitudes) §1.6(1) and pursuant to the authority of Civil Code §§815 *et seq.* and the common law of California, to

assure that the Property will be continuously used, maintained, and operated by Owner and its successors in interest as a public park and open space preserve in perpetuity, available to the public for low-intensity public outdoor recreation and educational uses in a manner consistent with the Conservation Easement and the provisions herein.

2. Obligation to Provide Low-Intensity Public Outdoor Recreation and Educational Uses.

A. Owner hereby agrees to use, operate, and maintain the Property as a public park and open space preserve in perpetuity, available to the public for low-intensity outdoor public recreation and educational uses in a manner consistent with the Conservation Easement and the provisions herein. Such use, operation, and maintenance of the Property as a public park and open space preserve shall commence no later than three years from the date this Covenant is recorded in the Office of the Sonoma County Recorder and shall include, at a minimum, general availability of the Property for public hiking, picnicking, and nature study no less than six hours per day, seven days per week, except as otherwise provided in Section 5.6 of the Conservation Easement (Public Access Limitations). Owner's obligations hereunder shall not be enforceable by District until Owner has first completed its review, as may be required pursuant to the California Environmental Quality Act, of the potential environmental impacts, if any, associated with public recreational use of the Property.

B. Owner shall not engage in activities that impede public access to or public use of the Property for low-intensity outdoor public recreation and educational uses pursuant to this Covenant, except as otherwise provided in Section 5.6 of the Conservation Easement (Public Access Limitations) or as necessary on a temporary basis to protect public health or safety or the Property's natural resources and scenic values.

C. When a master plan is prepared and approved pursuant to Sections 5.1.8 and 6.1 of the Conservation Easement, Owner's use, operation, and maintenance of the Property as a public park and open space preserve shall be in accordance with such master plan.

D. The Owner shall place and maintain one entry sign at the primary access point from Highway One and at least one trailhead sign on the Property, each recognizing the District's contribution. The design of such signs shall be consistent with the Hybrid Sign Graphics Style Guide ("Style Guide") dated November 9, 2012, available at the District office or the most current version of the Style Guide at the time such signs are installed.

3. *Enforcement.*

A. Concurrently with the recordation of this Covenant, Owner will have recorded an offer to dedicate the fee interest in the Property to the District pursuant to Public Resources Code section 5565.5, which may only be accepted by the District or its assignees in the event of an uncured breach of Owner's obligations under this Covenant. In the event of an uncured breach by the Owner of any of its obligations under this Covenant, the District may (1) institute a suit for appropriate equitable relief; (2) institute a suit to recover damages; (3) accept the offer of dedication; or (4) pursue any combination of the foregoing.

B. Prior to taking any action under Subparagraph 3.A, the District shall provide Owner with a notice to cure ("Notice"). The Notice shall be a written notification generally describing the condition or event claimed by the District to be a breach of Owner's obligations that is either mailed or otherwise delivered by the District to Owner. The Notice shall include a reasonable period in which the breach must be cured to the reasonable satisfaction of the District. The remedies provided by Subparagraph 3.A shall be available to the District immediately upon expiration of the cure period.

C. Enforcement of the obligations created by this Covenant shall be at the sole

discretion of the District. Any forbearance by the District to exercise its rights under this Covenant shall not be deemed or construed to be a waiver or forfeiture by the District.

D. The actual damages incurred by the District and allowed by Civil Code Section 815.7(c) resulting from Owner's breach of the obligations imposed by this Covenant are uncertain and would be impractical or extremely difficult to measure. Accordingly, the parties agree that the District's damages shall be measured by the fair market value of the Property, unencumbered and without regard to the Conservation Easement or this Covenant, multiplied by the length of time in years, including fractions thereof, during which the breach remains uncured after Notice was given by the District, multiplied by the then-current annual interest rate for post judgment interest, provided however that:

(i) No action for liquidated damages under this Paragraph 3(D) shall be filed without the consent of the District's Board of Directors or the governing Board of any successor agency to the District; and

(ii) No liquidated damages shall be assessed during any period for which Owner's governing body has, based upon substantial evidence, declared a fiscal emergency rendering it financially unable to perform its obligations under this Covenant; and

(iii) In no case shall liquidated damages exceed Two-Million Dollars (\$2,000,000), as adjusted for inflation from the date of recordation of this Covenant, for any single breach.

The Owner's liability for damages is discharged if the Owner cures the breach within the time specified in the District's Notice.

E. The remedies set forth in this Paragraph 3 are in addition to and not intended

to displace any other remedy available to either party as provided by this Covenant, the Conservation Easement, Civil Code Section 815 et seq., the common law or any other applicable local, state or federal law.

F. Nothing contained in this Paragraph 3 shall be construed to entitle the District to bring any action against Owner for any failure to perform resulting from causes beyond Owner's control, including, without limitation, wildfire, flood, storm, and earth movement, or from any prudent action taken by Owner under emergency conditions to prevent, abate, or mitigate a failure to perform resulting from such causes, so long as such action, to the extent that Owner has control, is designed and carried out in such a way as to further the purpose of this Covenant.

4. *Subordinate Instruments.* All instruments granting any lease or other real property interest in the Property to third parties are subject to the limitations on transfers set forth in the Conservation Easement. Any such lease or other real property interest so created by Owner and all of the rights granted thereunder shall be and shall at all times remain subject, subordinate, and inferior to the District's rights under this Covenant and the Conservation Easement. Owner's power to create such third-party estates is limited by and subordinate to the irrevocable offer herein referenced and, as such, District may terminate any or all estates so created upon its acceptance of said irrevocable offer.

5. *Inspection.* The District may, within its sole discretion and from time to time, inspect the Property to determine if Owner is in compliance with this Covenant.

6. *Third Party Beneficiaries.* The District and Owner do not intend and this Covenant shall not be construed to create any rights in third parties.

7. *Integration.* This Agreement is the final and complete expression of the agreement between the parties and any and all prior or contemporaneous agreements written or oral have

been merged into this written instrument, other than the Conservation Easement which remains in full force and effect.

8. *Irrevocable Offer of Dedication.* Pursuant to Public Resources Code section 5565.5, Owner hereby grants to the District and its assignees an irrevocable offer of dedication of the fee interest in the Property, in the form and substance acceptable to District. Said offer of dedication shall, at all times, be subject, subordinate, and inferior to District's rights under this Covenant and the Conservation Easement. This offer of dedication may only be accepted by the District, or its assignees, in the event of an uncured breach of Owner's obligations under this Covenant.

9. *Covenant to Bind Successors.* This Covenant shall be a burden upon and shall continue as a restrictive covenant and equitable servitude running in perpetuity with the Property and shall bind Owner and its successors in interest, including but not limited to purchasers at tax sales, assigns, and all persons claiming under them forever. The parties intend that this Covenant shall benefit and burden, as the case may be, their respective successors, assigns, heirs, executors, administrators, agents, officers, employees, and all other persons claiming by or through them pursuant to the common and statutory law of the State of California. Further, the parties agree and intend that this Covenant creates an easement encompassed within the meaning of the phrase "easements constituting servitudes upon or burdens to the property," and irrevocable offers of dedication encompassed within the meaning of the phrase "unaccepted, recorded, irrevocable offers of dedication," as those phrases are used in California Revenue & Taxation Code section 3712(d) and (e), or any successor statute then in effect, such that a purchaser at a tax sale will take title to the Property subject to this Covenant.

[SIGNATURES AND ACKNOWLEDGEMENTS]

IN WITNESS WHEREOF, OWNER has executed this Irrevocable Offer of Dedication this
10th day of August, 2021.

OWNER: THE COUNTY OF SONOMA

By: 
Lynda Hopkins, Chair, Board of Supervisors

ATTEST:


Deputy Clerk of the Board

NOTE: ACKNOWLEDGMENTS MUST BE ATTACHED FOR ALL SIGNATORIES.

Exhibit A

LEGAL DESCRIPTION OF PROPERTY

Real property in the unincorporated area of the County of Sonoma, State of California, described as follows:

PARCEL ONE:

LOT 5, AS NUMBERED AND DESIGNATED UPON THAT CERTAIN MAP ENTITLED, "MAP OF W.S.M. WRIGHT BODEGA RANCH," RECORDED DECEMBER 4, 1893, IN BOOK 10 OF MAPS, PAGE 23, SONOMA COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION CONVEYED BY JARENA D. WRIGHT TO HOLLIS HITCHCOCK, BY DEED DATED NOVEMBER 4, 1893, AND RECORDED IN LIBER 151 OF DEEDS, PAGE 220.

PARCEL TWO:

A RIGHT OF WAY 20 FEET IN WIDTH, DESCRIBED AS FOLLOWS:

OVER THE ROAD AS IT NOW EXISTS, ACROSS LOT 4, FROM A POINT SOUTH OF FURLONG GULCH WHERE SAID ROAD INTERSECTS WITH COAST HIGHWAY TO THE WESTERLY BOUNDARY OF LOT 5, AND THE RIGHT TO ERECT POLES ALONG SAID RIGHT OF WAY FOR TELEPHONE AND THE TRANSMISSION OF ELECTRICITY.

PARCEL THREE:

THE RIGHT OF INGRESS AND EGRESS TO THAT CERTAIN SPRING LOCATED NEAR THE SOUTHERLY LINE OF LOT 2 OF SAID "MAP OF W.S.M. WRIGHT BODEGA RANCH", FOR THE PURPOSE OF LAYING AND REPAIRING PIPE LINE AND CLEANING SAID SPRING.

PARCEL FOUR:

RIGHT TO USE 1/2 OF THE WATER FROM THAT CERTAIN SPRING LOCATED NEAR SOUTHERLY LINE OF LOT 2.

APN(s): 101-150-005-000 and 101-150-006-000

ACKNOWLEDGMENT

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

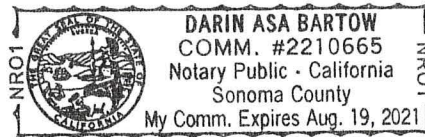
State of California
County of Sonoma)


On August 10, 2021 before me, Darin Asa Bartow, Notary Public,

personally appeared Lynda Hopkins,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~
subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in
~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.





Signature of Notary Public