

NOTE TO USERS

This checklist is intended to assist existing or prospective Sustainable Agricultural Lands Conservation Program (SALC Program) grant recipients (Grantee) in developing conservation easements that meet SALC Program standards. The content of the checklist is based on and linked to the SALC Program Easement Template (included below). Use of the SALC Program Easement Template will result in a faster review of your easement.

All modifications to the SALC Easement Template are subject to SALC Program staff review and approval. Where the checklist states "non-negotiable," the referenced text must be included as-is in the easement; limited exceptions to this are noted in the template. Where the checklist states "changes to this section will require additional review," the changes will be reviewed to ensure that the meaning and content remain unchanged. Any changes to meaning or content will require further review to ensure protection of the Conservation Values and the benefits funded by SALC. If bracketed italic text is included within a required item, such text may be revised to reflect project-specific characteristics. Where the checklist links to an example, the Grantee may use the example text or their own text to address that checklist item.

To facilitate review and document navigation, this checklist contains hyperlinks (colored, underlined text) to various locations within the document. To open a window containing an outline of the SALC Program Easement Template, select 'View' from the toolbar, then 'Navigation Pane.' Quickly toggle between the checklist and the model easement by clicking on various headings enumerated in the Navigation window. To show all text encompassed within a given statement or sample, right click on the blue text, then left click on 'Open Hyperlink.'

EASEMENT ELEMENTS CHECKLIST

Recitals	
A	Property Description (changes require review)
B	Baseline Report prepared (changes require review)
C, D, E	Public investment (non-negotiable)
F	Recognizing conservation purposes (non-negotiable) and Conservation Values - project dependent (changes require review)
G	[if applicable] Priority Population Benefits (non-negotiable)
H	Other Characteristics - optional (changes require review)
I	Governmental Conservation Policies (federal, state, local) (non-negotiable)
J	Nonprofit Grantee, include "qualified conservation organization" (non-negotiable)
Grant of Agricultural Conservation Easement	
	Granting of easement (non-negotiable)
1	Conservation Purpose (non-negotiable)
2	Right to Use Property for Agricultural Purposes (non-negotiable)
2	[if applicable] Restrictions on Agricultural Intensification (changes require review)
3	Definition of Agricultural Use and Purposes (changes require review)
4	Baseline Report Acknowledgement (changes require review)
5	Building Envelopes Definition (non-negotiable)
6	Prohibited Uses, Generally (non-negotiable)
Activity-oriented Restrictions and Rights	
Specifically Prohibited Uses	Permitted Uses
7a Buildings and Improvements (changes require review)	10a Agritourism Activities (changes require review)
7b Dumping and Trash (changes require review)	10b Climate Adaptation (changes require review)
7c Industrial and commercial uses (non-negotiable)	10f.i Agricultural Structures and Improvements (changes require review)
7d Surface Mining (non-negotiable) - add 3rd party interests as applicable	10f.ii Fences (changes require review)
7f Road Paving and Construction (changes require review)	10f.iv Single-Family Dwellings (changes require review)
7g Recreational Off-road Motorized Vehicle Use (non-negotiable)	10f.v Secondary Dwelling Units and Farm Worker Housing (changes require review)
7i; 10j Commercial Power Generation (changes require review)	10g Agricultural Roads (changes require review)
	10h Use and Storage of Agricultural Products and Equipment (changes require review)
	10i Motorized Vehicle Use (changes require review)

		10j	Utilities and Septic Systems (changes require review)
		10k	Wells and Irrigation Systems (changes require review)
Property Interest Restrictions and Rights			
Prohibited Uses			Permitted Uses
7e	Subdivision (non-negotiable)	9a	Granting Subsequent easements, Interest in Land, Use Restrictions (non-negotiable)
7e	Legal Parcels (non-negotiable)	9c	Lot Line Adjustments (changes require review)
7e	Treatment as a single parcel (non-negotiable)	12	Water Rights (changes require review)
11	Extinguishment of Development Rights required (non-negotiable)		
Procedural			
8a	Written Notice (changes require review)		
8b	Grantee Approval (changes require review)		
8b	Grantee's Failure to Respond deemed Constructive Denial (changes require review)		
19	Transfer of Property Interest (changes require review)		
19	Documents of conveyance reference the easement (non-negotiable)		
24	Delivery of Written Notices (changes require review)		
Non-Agricultural Restrictions and Rights			
7h	Commercial Signs (changes require review)		
9b	Non-agricultural Roads (changes require review)		
10c	Customary Rural Enterprises (changes require review)		
10d	Emergencies and Temporary Improvements (changes require review)		
10e	Resource Conservation Activities (changes require review)		
10fiii	Recreational Structures (changes require review)		
13	Landowner reserves all interests not conveyed (changes require review)		
13	Use of Property as Collateral (changes require review)		
Responsibilities of the Landowner and the Grantee Not Affected			
14a	Taxes (changes require review)		
14b	Property upkeep and maintenance (changes require review)		
14c	Acts Beyond Landowner's Control (changes require review)		
14d	Obligations and Restrictions Imposed by Law (non-negotiable)		
14e	Liability and Indemnification (non-negotiable)		
Monitoring			
15	Grantee's monitoring, record keeping, enforcement responsibilities (changes require review)		
15	Failure of the Grantee to carry out its responsibilities shall not impair the validity of this Easement or limit its enforceability in any way (changes require review)		

15	Grantee's right of access (changes require review)
15	Monitoring Reports to Council (non-negotiable)
15	[if applicable] Management Plans (non-negotiable)
Enforcement	
16	Grantee shall take all actions necessary to ensure compliance (changes require review)
16	Notification to Council of Uncured Violation (non-negotiable)
16	Grantee's remedies (changes require review)
16	Damages recovered applied to cost of corrective action (non-negotiable)
16	Council's right to enforce (non-negotiable)
16	Nonwaiver (non-negotiable)
Transfer of Easement	
17	Assignee qualifications (changes require review)
17	Written permission from the Council (changes require review)
17	Transfer by the Council if Grantee Ceases to Exist or Qualify (changes require review)
Perpetual Duration and No Merger of Title	
18	Perpetual Duration (non-negotiable)
18	No Merger of title (non-negotiable)
Amendment of Easement	
20	Written consent of all parties required (non-negotiable)
20	Amendment consistent with purpose of easement, Grantee's policies, and applicable laws (non-negotiable)
20	No diminishment or effect on the perpetual duration or the purpose of the easement, or the status or rights of Grantee (non-negotiable)
20	Amendments to be recorded, with copy to the Council (non-negotiable)
Extinguishment, Termination, And Eminent Domain	
21a	Termination (non-negotiable)
21b	Eminent Domain (non-negotiable)
21c	Compensation (non-negotiable) (possible modifications for bargain sales)
Additional Provisions	
22a	Interpretation (non-negotiable)
22b	References to legal provisions (non-negotiable)
23	[if applicable] No Effect of Government Jurisdiction (non-negotiable)
25	The Landowner's Environmental Warranty (non-negotiable)
26	The Landowner's Title Warranty; No Prior Conservation Easements (non-negotiable)
27	Severability (non-negotiable)
28	Tax Treatment shall not affect Easement Validity (non-negotiable)
29	Execution Before a Notary Public and Recordation (non-negotiable)
30	Counterparts (non-negotiable)
31	Effective Date (non-negotiable)
32	Entire Agreement and Exhibits (non-negotiable)
33	Grantee Acceptance of Conveyances and Consent to Recording.

	(non-negotiable)
	Habendum (non-negotiable)
Exhibits	
Exh A	Legal Description
Exh B	Vicinity Map
Exh C	Building Envelopes and Existing Improvements (include linear dimensions of envelope)
Exh D	Prior Encumbrances

**Recording requested by and when
recorded please return to:**

[Grantee's name & address]

(Space above this line reserved for Recorder's use)

DEED OF AGRICULTURAL CONSERVATION EASEMENT

This Deed of Agricultural Conservation Easement is granted by [Landowner's name], [Ownership status], having an address at [Landowner's address] ("Landowner"), to [Grantee's name], a California nonprofit public benefit corporation, having an address at [Grantee's address] ("Grantee"), for the purpose of forever conserving the agricultural productive capacity and open space character of this property.

RECITALS

- A. The Landowner is the sole owner in fee simple of the property ("Property") legally described in Exhibit A ("Legal Description") and generally depicted in Exhibit B ("Vicinity Map"), attached to and made a part of this Agricultural Conservation Easement ("Easement"). The Property consists of approximately [acres] acres of land, is commonly known as the "[Farm/Ranch name]" together with buildings and other improvements, is located in [County name] County, California, and is identified by assessor's parcel number(s) [parcel numbers].
- B. The agricultural and other characteristics of the Property, its current use, and its state of improvement, are documented and described in a baseline documentation report prepared by the Grantee with the cooperation of the Landowner and incorporated herein by this reference ("Baseline Report").
- C. Beginning with the Budget Act of 2014, California has appropriated funds from the California Air Resources Board's California Climate Investment Fund, also known as the Greenhouse Gas Reduction Fund, to develop and implement the Affordable Housing and Sustainable Communities Program ("AHSC"), which is administered by the Strategic Growth Council ("Council"). The Sustainable Agricultural Lands Conservation Program ("SALC"), a sub-program of AHSC.

- D. The Department of Conservation ("Department") administers SALC on behalf of the Council and in conjunction with the California Natural Resources Agency. Acquisitions funded by SALC conserve agricultural land under pressure of being converted to nonagricultural uses, particularly those adjacent to areas most at risk of urban or suburban sprawl or those of special environmental significance to support infill development and avoid greenhouse gas emissions. These acquisitions contribute to a healthy agricultural economy, support the implementation of Sustainable Communities Strategies, provide food security, encourage smart growth, and ensure agricultural and open space remains available.
- E. The Council awarded a grant to the Grantee from the California Climate Investment Fund for the acquisition of this Easement. The grant represent a substantial investment by California in the long-term conservation of valuable agricultural land and the retention of agricultural land in perpetuity. The Property and this Easement have met the eligibility criteria, certain selection criteria, and multiple natural resource conservation objectives as identified in the [INSERT FISCAL YEAR] SALC Guidelines and Request for Grant Applications. The rights vested herein in the State of California arise out of its statutory role in fostering the conservation of agricultural land in California and its role as fiduciary for the public investment represented by the California Climate Investment Fund.
- F. Except as shown in Exhibit C, the Property is open farmland with soils classified as [*prime farmland, farmland of statewide importance, etc.*] by the U.S. Department of Agriculture's Natural Resources Conservation Service ("NRCS"), and by the California Department of Conservation's ("Department") Farmland Mapping and Monitoring Program, because this land has the soil quality, growing season, and water supply needed for sustained agricultural production. The Council's decision to fund the acquisition of this Easement is based on characteristics of the Property important to SALC and identified at the time of the application for funding. These characteristics include: the property's agricultural productive capacity, including its soils, water, and air, which are agriculture's basic resources; future agricultural viability; capacity for carbon sequestration; [*list characteristics of the Property that were important in project review and were included as part of approval, e.g., open space, scenic, habitat, biodiversity, natural, water quality, contributions to food security, tribal cultural resources, contributions to climate resilience, historic resources, etc.*] (these characteristics are referred to herein, collectively, as the "Conservation Values").
- G. [*Use this recital if the project provided a priority population benefit per CARB's requirements*] Health and Safety Code section 39713 directs state and local agencies to make significant investments that improve California's most vulnerable communities. In awarding funding for this Easement, the Council determined that this Easement would benefit residents of disadvantaged communities, low-income communities, and/or low-income households, specifically as follows: [*state the basis for priority population score*]

enhancement). In consideration of the priority provided to this project based on these benefits, it is the intent of this Easement to maintain and promote those benefits to the maximum extent possible throughout the perpetual duration of the Easement, while recognizing that the facts and circumstances giving rise to the score enhancement are subject to change over time.

- H. Other characteristics of the project that influenced the Council's decision to provide funding for this easement include ***[list additional characteristics of the project that were considered in the management practices that contribute to climate resilience or support healthy ecosystems, secure land tenure to new/Veteran farmers/ranchers or farmers/ranchers who are members of a priority population. These elements are not Conservation Values of the Property, but they can still be recited in the recitals as relevant to the funding decision.]***
- I. The purposes of this Easement are recognized by, and the grant of this Easement will serve, the following clearly delineated governmental conservation policies:

[Insert only if federal match funding is received: The federal Farmland Protection Policy Act, whose purpose is "to minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with state, unit of local government and private programs and policies to protect farmland;"]

Section 815 et seq. of the California Civil Code, which defines and authorizes perpetual conservation easements. The California Legislature declares that the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California, and further declares it to be the public policy and in the public interest of the state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations;

California Constitution Article XIII, section 8, California Revenue and Taxation Code sections 421.5 and 422.5, and California Civil Code section 815.10, which state that agricultural conservation easements are an enforceable restriction, requiring that a property's tax valuation be consistent with restriction of its use for purposes of food and fiber production and conservation of natural resources;

Section 75210 of California Public Resources Code, which lists the protection of "agricultural lands to support infill development" as a public policy objective supported by SALC to achieve the long-term goals of AB 32 (Chapter 488, Statutes of 2006) and related amendments;

Section 65041.1 of the California Government Code, which enumerates the protection of "environmental and agricultural resources by protecting, preserving, and enhancing the state's most valuable natural resources, including working landscapes such as farm, range, and forest lands" among the State's planning priorities;

Section 10200 et seq. of the California Public Resources Code, which creates the California Farmland Conservancy Program within the Department and informs eligibility for funding under SALC;

Section 51220 of the California Government Code, which declares a public interest in the preservation of agricultural lands, by providing that "agricultural lands have a definitive public value as open space" and "that the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest";

Section 821 of the California Food and Agriculture Code, which states that one of the major principles of California's agricultural policy is "to sustain the long-term productivity of the state's farms by conserving and protecting the soil, water, and air, which are agriculture's basic resources;" and

Section 65560 et seq. of the California Government Code, and the [County name] County General Plan, as updated on [Update date], which includes as one of its goals to protect farmlands, particularly those designated as prime, of statewide importance, unique, or of local importance, from conversion to and encroachment of non-agricultural uses; and,

- J. *[Include this recital if the grantee is a non-profit 501(c)(3):]* The Grantee is a California nonprofit organization within the meaning of California Civil Code section 815.3 and is a tax exempt and "qualified conservation organization" within the meaning of sections 501(c)(3) and 170(b)(1)(A)(vi) as defined by the United States Internal Revenue Code. Grantee is accredited by the Land Trust Accreditation Commission and is a member of the California Council of Land Trusts [state one or both, as applicable, or remove preceding sentence if not applicable.].

GRANT OF AGRICULTURAL CONSERVATION EASEMENT

Now, therefore, for the reasons given, and in consideration of their mutual promises and covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Landowner voluntarily grants and conveys to the Grantee, and the Grantee voluntarily accepts, a perpetual conservation easement, as defined by sections 815.1 and 815.2 of the California Civil Code [if a CFCP easement: and section 10211 of the California Public Resources Code], and of the nature and character described in this Easement for the purpose described below, and agree as follows:

1. CONSERVATION PURPOSE.

The purpose of this Easement is to protect the Conservation Values of the Property, and the primary purpose of the easement is to enable the Property to remain in productive agricultural use in perpetuity, ("Conservation Purposes").

2. RIGHT TO USE PROPERTY FOR AGRICULTURAL PURPOSES.

The Landowner retains the right to use the Property for agricultural purposes, or to permit others to use the Property for agricultural purposes, in accordance with applicable laws and this Easement.

[For projects where restrictions on agricultural intensification are approved) Restrictions on Agricultural Intensification. Notwithstanding the forgoing, [Insert restrictions approved in application.]

3. DEFINITION OF AGRICULTURAL USE AND PURPOSES.

For the purposes of this easement, agricultural use and purposes shall include the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including viticulture, apiculture, or horticulture, the raising of livestock, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation market, so long as such activities are conducted in a manner that does not impair the Property's soil quality.

4. BASELINE REPORT

The Landowner and the Grantee acknowledge that the Baseline Report is complete and accurate as of the Effective Date (as defined in section 31). Both the Landowner and the Grantee should retain duplicate original copies of the Baseline Report. The Baseline Report may be used to establish whether a change in the use or condition of the Property has occurred, but its existence shall not preclude the use of other evidence to establish the condition of the Property as of the Effective Date. In case of any conflict or inconsistency between the terms of this Easement and the Baseline Report, the terms of this Easement shall prevail.

5. BUILDING ENVELOPES.

For the purposes of this Easement, the term "building envelope" refers to the areas of the easement where residential and other uses and activities incidental or ancillary to the primary agricultural use may occur, as allowed in this easement. For this reason, the restrictions on the uses and activities within

the building envelope are less than those on the area outside of the building envelope. As depicted in Exhibit C, there [are/is number] Building Envelope[s] permitted by this Easement: [include Building Envelope name and acreage details for each envelope].

6. PROHIBITED USES, GENERALLY.

The Landowner shall not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with this Easement. Any use or activity that would diminish or impair the Conservation Values of the Property, or that is otherwise inconsistent with the Conservation Purpose of this Easement is prohibited ("Prohibited Uses"). Additional Prohibited Uses are set forth in section 7.

7. SPECIFICALLY PROHIBITED USES.

In addition to the generally Prohibited Uses described in section 6 and except as otherwise explicitly permitted in this section, the following uses and activities are specifically Prohibited Uses:

- a. *Buildings and Improvements.* Except as expressly permitted in this Easement, all construction, erection, installation, or placement of buildings, structures, or other improvements on the Property is prohibited.

For purposes of this section, the term "improvements" does not refer to, and specifically excludes, crops, plants, trees, vines, or other living improvements planted for agricultural purposes, and does not refer to irrigation improvements necessary or desirable to irrigate the Property for agricultural purposes, all of which may be made without notice or permission of the Grantee.

- b. *Dumping and Trash.* Except as permitted in Section 10(h), no trash, refuse, vehicle bodies or parts, rubbish, debris, junk, waste or "Hazardous Materials," as defined in section 25, shall be dumped, buried, or permitted on the Property. Temporary storage of waste generated on the Property for periodic removal off-site is permitted. Composting of organic materials from the Property is permitted.
- c. *Industrial and Commercial Uses.* Industrial and commercial uses are prohibited except for those uses expressly permitted for agricultural purposes or for customary rural enterprises incidental or ancillary to the primary agricultural activities permitted on the Property. Notwithstanding the foregoing, commercial feedlots are prohibited.
- d. *General Prohibition on Surface Mining.* Except as specifically authorized herein, the mining, removal, or extraction on or from the area subject to this Easement of soil, sand, gravel, aggregate, rock, oil, natural gas, fuel, or any other mineral substance, through a surface mining, removal, or extraction method or from above a depth of 150 feet below the surface of the Property is prohibited. This section is not intended to interfere with the

Landowners' right to remove cobble and hardpan from farm areas to prepare the land for agricultural purposes.

(NOTE: For properties with existing mineral development activities, where the mineral rights are under control of a third party, or where borrow pits are used to support ranch operations, this section may be modified.)

- e. *Subdivision.* The division, subdivision, defacto subdivision, or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process, is prohibited. Landowner will not sell, exchange, convert, transfer, assign, mortgage or otherwise encumber, alienate or convey any parcel associated with the Property or portion of any parcel of the Property separately or apart from the Property as a whole.

The Landowner and Grantee acknowledge and understand that the Property is currently comprised of and is described in Exhibit A as [number] legal parcel(s), and that no additional, separate legal parcels currently exist within the Property that may be recognized by a certificate of compliance or conditional certificate of compliance pursuant to California Government Code section 66499.35 based on previous patent or deed conveyances, subdivisions, or surveys. The Landowner will not apply for or otherwise seek recognition of additional legal parcels within the Property based on certificates of compliance or any other authority.

Landowner will at all times treat all parcels of the Property as a single integrated economic unit of property, provided, however, that a lease of a portion of the Property for agricultural or other permitted uses (subject to this Easement) is not prohibited.

- f. *Road Paving and Road Construction.* No portion of the Property's roads presently unpaved shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, unless such measures are required by laws or regulations applicable to the Property. Notwithstanding the foregoing, paving of roads may be allowed with Grantee Approval and in the Grantee's sole and absolute discretion, if such paving can be shown to enhance the Conservation Values (for example, by reducing soil erosion). Roads that exist as of the Effective Date may be maintained or repaired at their current locations.
- g. *Off-road Motorized Vehicle Use.* Use of motorized vehicles that results in vehicular damage to the Property off roadways is prohibited.
- h. *Commercial Signs.* Commercial signs (including billboards) unrelated to permitted activities conducted on the Property or the sale of the Property are prohibited.
- i. *Commercial Power Generation and Collection.* Commercial power generation, collection, or transmission facilities, including solar or wind farms or facilities, and the conveyance of any rights-of-way over, under or on the Property for any such purpose, are prohibited.

8. WRITTEN NOTICE; GRANTEE APPROVAL.

- a. *Written Notice.* As described in this subsection and as set forth elsewhere in this Easement, certain actions by the Landowner require "Written Notice" to the Grantee. Where Written Notice is required, the Landowner shall give at least sixty (60) days' advance notice to the Grantee in writing in accordance with the notice provisions of section 24. The Written Notice must provide the Grantee with adequate information, documents and plans so as to enable the Grantee to confirm compliance with this Easement and enable the Grantee to keep its records current. Written Notice is required (i) where expressly required in this Easement; (ii) prior to undertaking any activity or improvement on the Property as permitted herein requiring a building, grading, or zoning permit or environmental regulatory review or permit; and (iii) prior to exercising any reserved right on the Property that may diminish or impair the Conservation Values.
- b. *Grantee Approval.* Where the Landowner is expressly required to obtain the Grantee's approval for a proposed use or action ("Grantee Approval"), said approval (i) shall not be unreasonably delayed or withheld by the Grantee, (ii) shall be sought and given in writing in accordance with the notice provisions of section 24, (iii) shall in all cases be obtained by the Landowner prior to the Landowner's undertaking of the proposed use or action, and (iv) shall only be granted where the Grantee, acting in the Grantee's sole and reasonable discretion and in good faith, determines that the proposed use or action is not prohibited by this Easement and is not inconsistent with the Purpose of this Easement. The Grantee shall grant approval in writing within sixty (60) days of receipt of Landowner's written request. Grantee's failure to respond to a request for approval within the sixty (60) day period shall be deemed a constructive denial. Because a constructive denial is not a decision by Grantee based on the merits of the Landowner's request, it is not final or binding on the Grantee and the Landowner may resubmit the same or a similar request for approval.

9. USES AND ACTIONS PERMITTED WITH GRANTEE APPROVAL

The following uses and practices may be consistent with this Easement depending on the manner in which they are carried out. Grantee Approval is required for all such activities and shall be sought by the Landowner in accordance with **Section 8.**

- a. *Granting Subsequent Easements, Interests in Real Property, or Use Restrictions.* The Landowner may grant subsequent easements, including conservation easements, interests in real property, or use restrictions on the Property. Under no circumstances shall the Grantee approve the granting of subsequent easements, interests in land, or use restrictions that would impair the Conservation Purpose or be otherwise inconsistent with this Easement.

- i. Any subsequent easements, interests in real property, and use restrictions shall make reference to and be subordinate to this Easement.
 - ii. The Grantee must notify the Council promptly upon receipt of request by the Landowner to grant a subsequent easement on the Property, and provide copies of documents associated with such a request to the Council.
 - iii. The Grantee must notify the Council once it has approved the grant of any subsequent easement, interest in land, or use restriction on the Property, and provided copies of the recorded documents in that year's annual monitoring report unless otherwise requested.
- b. *Construction of Unpaved Farm Roads for Purposes other than Agriculture.* The construction of unpaved roads for any purpose other than agriculture.
 - c. *Lot line Adjustment.* Lot line adjustments within the boundary lines of the Easement may be permitted for purposes of maintaining, enhancing, or expanding agricultural practices or productivity on the Property. Landowner shall take no actions to carry out a lot line adjustment unless and until the Grantee approves the request. Such lot line adjustments shall not increase or decrease the total acreage of the Easement.
10. PERMITTED USES AND ACTIONS; ACTIONS PERMITTED WITHOUT GRANTEE APPROVAL IF CONDUCTED IN A MANNER CONSISTENT WITH THE CONSERVATION PURPOSE OF THIS EASEMENT.

The following uses and actions set forth in this section are permitted without Grantee Approval, except where any part of the use or action requires notice and/or approval, and provided they are conducted in a manner consistent with the Conservation Purpose of this Easement:

- a. *Agritourism Activities.* Low impact, nonpermanent, agritourism activities, such as farm tours, work experiences, historic displays, field trips, petting zoos, corn mazes, and hay rides, are permitted, provided that: (i) all parking related to the Agritourism Activities is within a Building Envelope; and (ii) all such uses and activities are incidental or ancillary to the primary agricultural activities permitted on the Property.
- b. *Climate Adaptation.* The Landowner may engage in activities to reduce the greenhouse gas emissions from the Property's agricultural operations, or to improve, promote, or enhance the land's adaptation and resilience to climate change so long as such activities do not significantly impair the long-term agricultural use of the Property.
- c. *Customary Rural Enterprises.* The Landowner may use the Property for customary part time or off-season rural enterprises or activities, including, but not limited to, hunting and fishing, wildlife habitat improvement, predator control, timber harvesting, and firewood production, provided that all such uses and activities are incidental or ancillary to the primary agricultural activities permitted on the Property. With Written Notice,

buildings for customary rural enterprises, such as management office, may be constructed, placed, repaired, replaced, and maintained, but only within the Building Envelope.

- d. *Emergencies and Construction of Temporary Improvements.* In an emergency, the Landowner may take such limited and temporary actions as are reasonably necessary to protect physical safety of persons and property on the Property and the Property itself, including any dwellings, agricultural improvements, and agricultural products, only to the limited extent necessary for such protection and provided such actions are in compliance with applicable laws. The construction, placement, or use of limited, temporary living quarters, temporary farm management quarters, or mobile homes on the Property during limited periods of single-family dwelling and/or farm worker housing construction or during or immediately following an emergency rendering the single-family dwelling and/or farm worker housing uninhabitable, is permitted, provided such construction or use is in compliance with applicable laws and such temporary improvements are removed immediately after the period of emergency is over or construction is completed, as determined by the Grantee. The Landowner shall give the Grantee prompt notice of any emergency actions taken under this section.

If emergency actions taken in accordance with this subsection continue for more than sixty (60) days, the Landowner shall seek Grantee Approval for the continuation of the action pursuant to **section 4** of this Easement.

- e. *Resource Conservation Activities.* Provided such activities are otherwise consistent with the terms of this Easement, the Landowner may engage in activities to support water conservation and protection, improved air quality, and fuels reduction and management, including to protect the Property and neighboring properties from catastrophic wildfire. The Landowner may also engage in activities to restore, enhance, maintain, protect, and conserve natural resources on the Property and neighboring properties if those activities are carried out in accordance with generally accepted best management practices, are compatible with agricultural uses where feasible, and do not significantly impair the long-term agricultural use of the Property.
- f. *Structures and Improvements.*
 - i. *Agricultural Structures and Improvements*
 - i. Within the designated Building Envelopes:
 - 1. Existing agricultural structures and improvements within the designated Building Envelope(s) may be repaired, reasonably enlarged, or replaced for agricultural purposes either at their existing locations or at a new location, so long as that new location is entirely within a designated Building Envelope.

2. Minor agricultural structures such as pump houses, solar panels or wind generators that exclusively supply power for irrigation on the Property, and temporary shade structures, as well as improvements for agricultural purposes, such as corrals, are allowed.
 3. With Written Notice, new buildings or major structures to be used solely for agricultural production on the Property, such as such barns or equipment sheds, or sale of farm products predominantly grown or raised on the Property may be built, repaired, reasonably enlarged, and replaced.
- ii. Outside of designated Building Envelopes:
1. existing agricultural structures and improvements may be repaired, reasonably enlarged, and replaced at their existing locations for agricultural purposes.
 2. New agricultural improvements such as corrals and hoophouses may be built, repaired, or replaced so long as the soil resource remains viable for agricultural cultivation or grazing.
 3. With Written Notice, minor agricultural structures, such as pump houses, solar panels or wind generators that exclusively supply power for irrigation on the Property, and temporary shade structures are allowed.
- ii. *Fences*. Existing fences may be repaired and replaced without Written Notice. With Written Notice to the Grantee, new fences may be built anywhere on the property for purposes of reasonable and customary agricultural management, and for security of farm produce, livestock, equipment, and improvements on the Property.
- iii. *Recreational Structures*. Recreational structures or improvements to support allowed non-commercial recreational uses are permitted only within the Building Envelope.
- iv. *Single-Family Dwellings*. As of the Effective Date, [insert number and size] single-family dwelling(s) [is/are] present on the property as shown in Exhibit C. With Written Notice, the single-family dwelling may be enlarged or replaced only at its current location entirely within the Building Envelope. Said single-family dwelling is limited to a maximum living area that is consistent with applicable laws, and the surrounding neighborhood. [If applicable due to the project reserving Landowner a right to conduct a new SFR] New Single-Family Dwelling(s). Landowner has a reserved right to construct or place [X] new single-family dwelling(s) entirely within the Building Envelope. The placement and/or construction of said single-family dwelling(s) may occur with Written Notice.

- v. *Secondary Dwelling Units and Farm Worker Housing.* Secondary dwelling units and farm worker housing may be constructed entirely within the Building Envelope, and repaired, replaced, or enlarged with Written Notice. Notwithstanding the foregoing, all such units and housing shall conform to applicable laws.
- g. *Unpaved Roads for Agricultural Purposes.* Unpaved farm roads that exist as of the Effective Date may be maintained or repaired at their current locations. The construction of new unpaved farm roads and the relocation of all or a portion of existing unpaved farm roads, as necessary or desirable for agricultural purposes or to promote the Conservation Purpose, is authorized with Written Notice.
- h. *Use and Storage of Agricultural Products and Equipment.* The use and storage of the following is permitted if carried out in accordance with applicable laws and labeling requirements: agricultural products, agricultural chemicals, agricultural byproducts, and agricultural equipment. This includes herbicides, pesticides, fungicides, fertilizers, and other materials commonly used in farming operations even though they may be "Hazardous Materials" as defined in section 25.
- i. *Use of Motorized Vehicles Off Roadways.* Outside of the Building Envelope, the use of motorized vehicles off roadways is limited to use for agricultural production, property maintenance and security, emergencies for protection of persons and property, or for the purpose of monitoring this Easement.
- j. *Utilities and Septic Systems.* Wires, lines, pipes, cables, or other facilities providing electrical, gas, water, sewer, communications, energy generation, or other utility services solely to serve the uses and improvements permitted herein, may be installed, maintained, repaired, removed, relocated, and replaced in accordance with section 10(f) of this easement. In addition, septic or other underground sanitary systems serving the improvements permitted herein may be installed, maintained, repaired, replaced, relocated or improved, but must be located within the Building Envelope where reasonably feasible.
- k. *Wells and Irrigation Systems.* The Landowner may construct wells and irrigation improvements, including replacement or new wells and associated irrigation systems such as pump houses, control structures, filtering equipment, irrigation pipelines, and related structures, as needed for irrigation for agricultural production on the Property. Permitted irrigation improvements include the installation of power lines, gas lines, wind, and solar facilities as reasonably necessary to operate irrigation systems, and water pipelines and turnouts as necessary for the farming use of the Property.

11. DEVELOPMENT RIGHTS.

The Landowner hereby grants to the Grantee all development rights, except

as specifically reserved in this Easement, that were previously, are now or may hereafter be allocated to, implied, reserved, appurtenant to, or inherent in the Property, and the parties agree that such rights are released, terminated, and extinguished, and may not be used on or transferred by either party to any portion of the Property as it now or later may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property.

This Easement does not create any development rights.

12. WATER RIGHTS.

The Landowner must retain and does reserve all ground water, and all appropriative, prescriptive, contractual or other water rights appurtenant to the Property as of Effective Date. With Grantee Approval, water may be temporarily distributed from the Property only if, in the Grantee's sole determination, all of the following conditions are met: (i) the quantity of water to be distributed is not necessary for present or future agricultural production on the Property; (ii) the temporary distribution is not inconsistent with the Conservation Purpose or terms of this Easement; and (iii) the agreement to distribute has a term of one year or less, and Grantee has reviewed the terms of such agreement. Any renewal, if any, must be approved in advance by the Grantee. The Landowner shall give at least thirty (30) days' advance notice to the Grantee of any intent to distribute pursuant to this Section, in writing in accordance with section 24, providing the Grantee with adequate information, documents and plans so as to enable the Grantee to confirm compliance with this Easement.

13. RIGHTS RETAINED BY THE LANDOWNER.

Subject to the terms of this Easement, as owner of the Property, the Landowner reserves all interests in the Property not transferred, conveyed, restricted, prohibited or extinguished by this Easement. These ownership rights include, but are not limited to, the right to sell, lease, devise or otherwise transfer the Property to anyone the Landowner chooses, as well as the right to privacy, and the right to exclude any member of the public from trespassing on the Property and any other rights consistent with the Conservation Purpose of this Easement. Nothing contained herein shall be construed as a grant to the general public of any right to enter upon any part of the Property. *[NOTE: do not include the last sentence of this paragraph for easements that applied for funding as providing public access to priority populations.]*

The Landowner may use the Property as collateral for subsequent borrowing, provided any subsequent obligations secured by the Property are subordinate to this Easement, generally, and all of the beneficiary's rights, interests, claims, remedies and privileges under any security instrument (including, but not limited to, any right of the beneficiary to insurance proceeds or proceeds in a

condemnation proceeding), specifically, are, and at all times shall continue to be, subject and subordinate in all respects to the Easement and the interest of the Grantee.

14. RESPONSIBILITIES OF THE LANDOWNER AND THE GRANTEE NOT AFFECTED.

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Landowner as owner of the Property. Among other things, this shall apply to:

- a. *Taxes.* The Landowner shall be solely responsible for payment of all taxes and assessments levied against the Property. If the Grantee ever pays any taxes or assessments on the Property, or if the Grantee pays levies on the Landowner's interest in order to protect Grantee's interests in the Property, the Landowner will reimburse the Grantee for the same.
- b. *Upkeep and Maintenance.* The Landowner shall be solely responsible for the upkeep and maintenance of the Property, to the extent it may be required by law. The Grantee shall have no obligation for the upkeep or maintenance of the Property. If the Grantee acts to maintain the Property in order to protect the Grantee's interest in the Property, the Landowner will reimburse the Grantee for any such costs.
- c. *Acts Beyond the Landowner's Control.* Unless otherwise specified, nothing in this Easement shall require the Landowner to take any action to restore the condition of the Property after any event over which the Landowner had no control.
- d. *Obligations and Restrictions Imposed by Law.* The Landowner understands that nothing in this Easement relieves it of any obligation or restriction on the use of the Property imposed by law.
- e. *Liability and Indemnification.*
 - i. Landowners. In view of the Grantee's negative rights, limited access, to the land, and lack of active involvement in the day-to-day management activities on the Property, the Landowners shall hold harmless, indemnify, and defend, Grantee and its officers, directors, employees, contractors, legal representatives, agents, heirs, personal representatives, successors and assigns, and each of them (collectively, "Grantee Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with any 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, regardless of cause, except that this indemnification shall be

inapplicable to any Claim due to the negligence or willful misconduct of Grantee or any other Grantee Indemnified Party while acting under the authority of Grantee. The Grantee shall be named as an additional insured on Landowner's general liability insurance policy.

- ii. Grantee. Grantee shall hold harmless, indemnify, and defend Landowners and their respective employees, contractors, legal representatives, agents, heirs, personal representatives, successors and assigns, and each of them (collectively "Landowners Indemnified Parties") from and against any and all Claims arising from or in any way connected with any 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 resulting from the negligence or willful misconduct of Grantee or any other Grantee Indemnified Party while acting under the authority of Grantee in connection with Grantee's entry on the Property, unless caused by a violation of the Easement by Landowner or by Landowner's negligence or willful misconduct.
- iii. Council. In view of the Council's negative rights, limited access to the Property, and lack of active involvement in the day-to-day management activities on the Property, neither the Council, nor its agents and assigns, shall have responsibility for the operation of the Property, monitoring of hazardous conditions on it, or the protection of Landowners, the public, or any third parties from risks relating to conditions on the Property. Without limiting the foregoing, neither the Council nor its agents and assigns shall be liable to Landowners or other person or entity in connection with consents given or withheld, 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 Landowners or any other person or entity, except as the Claim, liability, damage, or expense is the result of the negligence or willful misconduct of the Council and/or its agents and assigns.

15. MONITORING.

The Grantee shall manage its responsibilities as holder of this Easement to uphold the Conservation Purpose of this Easement. The Grantee's responsibilities include, but are not limited to, annual monitoring, such additional monitoring as circumstances may require, record keeping, and enforcement of this Easement, for the purpose of preserving the Conservation Values of the Property in perpetuity. Failure of the Grantee to carry out these responsibilities shall not impair the validity of this Easement or limit its enforceability in any way. With reasonable advance notice (except in the event of an emergency circumstance or prevention of a threatened breach), Grantee shall have the right to enter upon, inspect, observe, monitor and evaluate the Property to identify the current condition of, and uses and practices on the Property and to determine whether the condition, uses and

practices are consistent with this Easement.

The Grantee shall report to the Council by June 30 of each year after the annual monitoring visit, describing method of monitoring, condition of the Property, stating whether any violations were found during the period, describing any corrective actions taken, the resolution of any violation, any requested or approved actions, and any transfer of interest in the Property (the "Monitoring Report"). Grantee shall make a reasonable effort to provide the Council with the Monitoring Report within ninety (90) days of the annual monitoring visit. Failure to do so shall not impair the validity of this Easement or limit its enforceability in any way.

[Additional language to be included for properties subject to a management plan:

The Property is subject to a Management Plan which describes the existing management activities that promote the long-term viability of the Property and identifies required and recommended practices that address the Conservation Purpose for which this Easement was acquired. Grantee shall report the Landowner's implementation of the Management Plan and any significant changes to the agricultural operation or ownership of the Property in the Monitoring Report. If a change in operations or ownership is reported, Grantee shall instruct the Landowner to obtain an updated Management Plan prepared by a qualified planner. If, at the time of the next Monitoring Report, the Landowner has not obtained an updated Management Plan (and it is not due to inaction by the Council), then the Landowner is in violation of the provisions of this Easement and Grantee is responsible to bring the Landowner into compliance. A copy of the Management Plan shall be kept on file with both the Landowner and Grantee.]

With reasonable notice and no more frequently than annually, Council or its designee may enter the property to verify compliance with the terms of the Easement. Landowner agrees to provide such access as is reasonable to verify compliance. As appropriate, Council will coordinate any site visits with any other funders or Grantee.

16. ENFORCEMENT.

This Easement authorizes the Grantee to enforce these covenants in the manner described herein. The Grantee will take all actions that it deems necessary to ensure compliance with the terms, conditions, covenants, and Conservation Purpose. The Grantee shall have the right to prevent and correct violations of the terms, conditions, covenants, and Conservation Purpose. If the Grantee finds what it believes is a violation or potential violation, it may at its discretion take appropriate legal action to ensure compliance with the terms, conditions, covenants, and Conservation Purpose and shall have the right to correct violations and prevent the threat of violations. Except when an

ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Property, the Grantee shall give the Landowner written notice of the violation or potential violation, and thirty (30) days to correct it, before filing any legal action. If a violation is not cured, or the Landowner has not developed and begun to implement a plan to cure the violation that is acceptable to the Grantee, within sixty (60) days of the original notice of violation, the Grantee will send a copy of the notice of violation to the Council, along with the Grantee's plan of action to address the violation. Notwithstanding the foregoing, the Grantee need not notify the Council of administrative violations until they submit their next monitoring report.

The Grantee may obtain an injunction, specific performance, or any other appropriate equitable or legal remedy, including (i) money damages, including damages for the loss of the agricultural conservation values protected by this Easement, (ii) restoration of the Property to its condition existing prior to such violation, and (iii) an award for all of the Grantee's expenses incurred in stopping and correcting the violation, including but not limited to reasonable attorney's fees. The failure of the Grantee to discover a violation or potential violation, or to take immediate legal action to prevent or correct a violation or potential violation known to the Grantee, shall not bar the Grantee from taking subsequent legal action. The Grantee's remedies under this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

Without limiting the Landowner's liability, the Grantee shall apply damages recovered to the cost of undertaking any corrective action on the Property. Should the restoration of lost Conservation Values be impossible or impractical for whatever reason, the Grantee shall return to the Council its proportionate share of any and all damages recovered and not applied to corrective action to enhance or restore the Property.

In the event the Grantee fails to enforce any term, condition, covenant or Conservation Purpose, as determined by the Council's Executive Director, the Executive Director and successors and assigns shall have the right to enforce the Easement after giving notice to the Grantee and the Landowner and providing a reasonable opportunity under the circumstances for the Grantee to enforce any term, condition, covenant, or Conservation Purpose of the Easement. In the event that the Council's Executive Director has reasonable cause to suspect that the Grantee has failed to enforce any of the terms, conditions, covenants, or Conservation Purpose of the Easement, the Council's Executive Director and successors and assigns shall be entitled to exercise the same right to enter the Property granted to the Grantee, including right of immediate entry in the event of an emergency or suspected emergency where the Council's Executive Director or successor or assign determines that immediate entry is required to prevent, terminate or mitigate a violation of this Easement.

Failure or refusal to exercise any rights under the terms of this Easement by the Grantee in the event of a violation by the Landowner of any term herein shall not constitute a waiver or forfeiture of the Grantee's right to enforce any term, condition, covenant, or Conservation Purpose.

17. TRANSFER OF EASEMENT.

This Easement may only be assigned or transferred to an entity authorized to hold such Easement as specified under section 815.3 of the California Civil Code and that has similar purposes to preserve agricultural lands and open space. Such an assignment or transfer may proceed only if the entity expressly agrees to assume the responsibility imposed on the Grantee by the terms of this Easement and is expressly willing and able to hold this Easement for the Conservation Purpose for which it was created. All assignment and assumption agreements transferring the Easement shall be duly recorded in <County name> County within thirty (30) days.

If the Grantee should desire to assign or transfer this Easement, the Grantee must obtain written permission from the Council, which permission shall not be unreasonably withheld.

If the Grantee or its successors ever ceases to exist or no longer qualifies under section 170(h) of the U.S. Internal Revenue Code, or applicable state law, the Council, in consultation with any other funders, shall identify and select an appropriate private or public entity to whom this Easement shall be transferred.

18. PERPETUAL DURATION AND NO MERGER OF TITLE.

Pursuant to California Civil Code at Part 2, Chapter 4, (commencing with section 815), which defines and authorizes perpetual conservation easements; this Easement shall run with the land in perpetuity. Every provision of this Easement that applies to the Landowner or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear.

No merger of title, estate or interest shall be deemed effected by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the Property, or any portion thereof, to the Grantee, or its successors or assigns. It is the express intent of the parties that this Easement is not extinguished by, merged into, modified, or otherwise deemed affected by any other interest or estate in the Property now or hereafter held by the Grantee or its successors or assigns.

19. TRANSFER OF PROPERTY INTEREST.

Any time the Property itself, or any interest in it, is transferred by the Landowner to any third party, the Landowner shall notify the Grantee in writing at least thirty (30) days prior to the transfer of the Property or interest, and the

document of conveyance shall expressly incorporate by reference this Easement. Any document conveying a lease of the Property shall expressly incorporate by reference this Easement. Failure of the Landowner to do so shall not impair the validity of this Easement or limit its enforceability in any way.

20. AMENDMENT OF EASEMENT.

This Easement may be amended only with the written consent of the Landowner, the Grantee, and the Council's Executive Director. The Grantee must provide timely written notice to the Council's Executive Director of any proposed amendment(s). Any such amendment shall be consistent with the Conservation Purpose of this Easement and with the Grantee's easement amendment policies, and shall comply with all applicable laws, including section 170(h) of the Internal Revenue Code, or any regulations promulgated in accordance with that section, and with section 815 et seq. of the California Civil Code. No amendment shall diminish or affect the perpetual duration or the Conservation Purpose of this Easement, nor the status or rights of the Grantee under the terms of this Easement.

A copy of the recorded amendment shall be provided to the Council within thirty (30) days of recordation. Any purported amendment that is recorded without the prior approval of the Council is null and void.

21. EXTINGUISHMENT, TERMINATION, EMINENT DOMAIN, AND PROCEEDS

a. *Termination.*

- i. It is the intention of the parties that the Conservation Purpose of this Easement shall be carried out forever as provided in the section 815 et seq. of the California Civil Code and SALC.
- ii. If circumstances arise in the future that render the Conservation Purpose of this Easement impossible to accomplish, this Easement may be terminated or extinguished, whether in whole or in part, on the initiative of the Grantee or the Landowner, but only by judicial proceedings in a court of competent jurisdiction. The Grantee shall give notice to the Council of any prospective termination or extinguishment of this Easement not less than 60 business days before initiating such proceedings. The Council may intervene in any such judicial proceedings to protect or retain this Easement.
- iii. No inaction or silence by the Grantee shall be construed as abandonment of the Easement. The fact that the Property is not in agricultural use, or that agricultural use is no longer possible, is not reason for termination or extinguishment of this Easement so long as the Conservation Purpose of this Easement remains possible to accomplish. Other than pursuant to eminent domain or an involuntary acquisition for a necessary public use by public agency, corporation, or other entity or

individual with the power of eminent domain ("Acquiring Entity"), no other voluntary or involuntary sale, exchange, conversion, transfer, assignment, lease, mortgage or other encumbrance, alienation or conveyance of any kind of all or part of the Property, or of any interest in it, shall limit, terminate or extinguish the provisions of this Easement.

b. *Eminent Domain*

- i. Should all or part of the Property or any interest in it be proposed for acquisition for a necessary public use by an Acquiring Entity, the Landowner and the Grantee shall join in appropriate actions to recover the full value of the proposed acquisition and all incidental or direct damages resulting from the proposed acquisition as well as all other payments to which they may be entitled by law ("Compensation"). The Acquiring Entity shall pay Compensation directly to the Landowner and the Grantee. The Compensation of such proceeding of the Landowner, Council, and the Grantee shall be divided in accordance with the proportionate values of the Landowner's, Council's, and the Grantee's interests as specified in **section 21(c)**, unless otherwise provided by applicable laws.
- ii. If the Landowner receives notice, formal or informal, that any Acquiring Entity intends to exercise its power of eminent domain as to the Property or any portion thereof or any interest therein, Landowner shall promptly, and in any event not less than fifteen (15) business days after receipt of such notice, give written notice to the Grantee and the Council of such receipt together with a copy of any and all communications related to such prospective eminent domain proceedings. The Landowner shall thereafter promptly provide to the Grantee and the Council copies of all further communications related to such proceedings and cooperate with the Grantee and the Council in responding to such proceedings.
- iii. This Easement was acquired in whole or in part with government funds. The acquisition of the Easement through the power of eminent domain must comply with the eminent domain laws of the State of California, including section 1240.220, 1240.510 and section 1240.610 of the Code of Civil Procedure, federal law, and this Easement. Purchase in lieu of condemnation, or settlement of an eminent domain proceeding, shall occur pursuant to applicable laws and procedures, including to California Government Code sections 7267.1 and 7267.2, and shall require approval of the Grantee, and the Council. The Grantee and the Council shall have an opportunity to accompany the appraiser for the Acquiring Entity when the appraiser goes on the Property with Landowner.
- iv. Should this Easement be condemned or otherwise terminated on any portion of the Property, the balance of the Property shall remain subject

to this Easement and reimbursement shall be pro-rated. In this event, all relevant related documents shall be updated and re-recorded by the Grantee to reflect the modified easement area. Encumbrances junior to this Easement shall remain subordinate to the Easement as amended.

c. *Compensation.*

- i. The grant of this Easement gives rise to a property right immediately vested in Grantee.
- ii. Compensation of the Grantee and the Council shall proceed as follows.
 - a. The value of the Easement terminated or extinguished shall be determined in accordance with this section 21(c), and the Grantee and Council shall receive the entire value of the Easement to the extent terminated or extinguished.
 - b. Any compensation or proceeds paid to the Grantee for extinguishment, termination, or the taking by eminent domain or by purchase in lieu of eminent domain of all or any portion of this Easement, whether by agreement, by court order or otherwise, shall be allocated between the Grantee and the Council proportionately to the contribution each made to the purchase of this Easement as specified below:

The proportionate shares for this Easement are:

[X]% Grantee and [X]% Council.

- c. Until such compensation is paid to the Grantee and Council in full, the amount of that compensation shall be a first priority lien on the Property with the same seniority as this Easement. This Easement shall not be deemed terminated or extinguished until such payment of the Council's proportionate share is received by the State of California, Sustainable Agricultural Lands Conservation Program.
- d. As of the Effective Date and based on the appraisal relied upon to fund the acquisition of this Easement, "Easement Percentage" is hereby defined and established as the ratio of the value of the Easement at the time of this acquisition to the value of the Property, unencumbered by the Easement, at the time of this acquisition. This Easement Percentage shall remain constant.

The Easement Percentage on this Property is: [X]%.

- e. For the purposes of calculating compensation due in the event of termination, extinguishment, or the taking by eminent domain

or by purchase in lieu of eminent domain of all or any portion of this Easement, the Parties stipulate and agree that the Easement shall have a fair market value determined as the greater of:

The fair market value of the Property, as though unencumbered by this Easement, at the time of the proposed termination, multiplied by the Easement Percentage; or

The fair market value of the Easement at the time of the proposed termination.

- The fair market value of the Easement at the time of the proposed termination shall be considered the fair market value of the Property as if unencumbered by the Easement minus the fair market value of the Property as if encumbered by the Easement, both as of the time of the termination and as determined by an appraisal performed by a qualified appraiser jointly selected by the Landowner, the Grantee, and the Council. Appraisals shall conform to the Uniform Standards of Professional Appraisal Practices.
 - If the Landowner has initiated termination of the Easement through a judicial proceeding, the Landowner shall pay the cost of the appraisal, and the appraisal is subject to approval by the Council. Nothing herein shall prevent the Landowner, the Grantee, or the Council from having an appraisal prepared at its own expense.
- iii. If the Grantee obtains payment on a claim under a title insurance policy insuring this Easement, payment shall be distributed as set forth this Section.

22. INTERPRETATION.

- a. This Easement shall be interpreted under the laws of the State of California, resolving any ambiguities and questions of the validity of specific provisions to give maximum effect to its Conservation Purpose.
- b. References to specific authorities in this Easement shall be to the statute, rule, regulation, ordinance, or other legal provision that is in effect at the Effective Date.

23. NO EFFECT OF GOVERNMENT JURISDICTION.

No provision of this Easement shall constitute governmental approval of any improvements, construction or other activities that may be permitted under this Easement. *[Include for projects where State Lands Commission has provided a finding of 'undetermined.' Otherwise, delete: Further, this Easement does not extinguish any potential underlying property interests by the State of*

California, which the State of California, acting by and through the California State Lands Commission, reserves the right to assert at a later date.]

24. DELIVERY OF WRITTEN NOTICES.

All notices to be given to any party by another party shall be in writing, addressed to such party at its address set forth below, and shall be deemed to have been given: a) when delivered in person to an officer of the other party or parties, or b) when delivered by Federal Express or other similar overnight delivery service, or c) when received by electronic mail, if confirmed and followed within (1) business day by mailing the original by overnight delivery service. Any notice given in any other fashion shall be deemed to have been given when actually received by the addressee. Any party may change its address by giving written notice to all other parties. The addresses of the parties are as follows:

To the Landowner:

To the Grantee:

To the Council:

Via email to: salcp@conservation.ca.gov and info@sgc.ca.gov
and

Via postal service to:

Strategic Growth Council

C/O California Department of Conservation, Division of Land Resource
Protection

Attn: Sustainable Agricultural Lands Conservation Program

715 P St., MS 1904

Sacramento, CA 95814

With a copy sent to:

Strategic Growth Council

Attn: Sustainable Agricultural Land Conservation Program

1400 Tenth Street

Sacramento, CA 95814

25. THE LANDOWNER'S ENVIRONMENTAL WARRANTY.

- a. Nothing in this Easement shall be construed as giving rise to any right or ability in the Grantee or the Council to exercise physical or management control over the day-to-day operations of the Property, or any of the Landowner's activities on the Property, or otherwise to become an "owner" or "operator" with respect to the Property as those words are defined and used in Environmental Laws, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended or any corresponding state and local statute or ordinance.
- b. The Landowner warrants that it has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Property. Moreover, the Landowner hereby promises to defend and indemnify the Grantee and the Council and its agents and assigns against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by the Landowner or any other prior owner of the Property. The Landowner's indemnification obligation will not be affected by any authorizations provided by the Grantee to the Landowner with respect to the Property or any restoration activities carried out by the Grantee at the Property; provided, however, that the Grantee will be responsible for any Hazardous Materials contributed after the Effective Date to the Property by the Grantee.
- c. The Landowner warrants that it is in compliance with, will remain in compliance with, all applicable Environmental Laws. The Landowner warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with or any liability under any Environmental Law relating to the operations or conditions of the Property.
- d. "Environmental Law" or "Environmental Laws" means any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, Hazardous Materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and

similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

- e. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment or any other material defined and regulated by Environmental Laws.
- f. If at any time after the Effective Date there occurs a release, discharge or other incident in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, the Landowner agrees to take any steps that are required of the Landowner with respect thereto under federal, state, or local law necessary to ensure its containment and remediation, including any cleanup.

26. THE LANDOWNER'S TITLE WARRANTY; NO PRIOR CONSERVATION EASEMENTS.

- a. The Landowner represents and warrants that it owns the entire fee simple interest in the Property, including the entire mineral estate except as otherwise identified in this Easement, and hereby promises to defend this Easement against all claims that may be made against it.
- b. Any and all financial liens or financial encumbrances with priority over this Easement existing as of the date of the recording of this Easement have been subordinated. Exhibit D (Prior Encumbrances) sets forth all prior encumbrances.
- c. The Landowner represents and warrants that the Property is not subject to any restrictions or easements other than what is identified in in Exhibit D.

27. SEVERABILITY.

If any term, provision, covenant, condition, or restriction of this Easement is held by a court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not effective the remainder of this Easement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

28. TAX TREATMENT SHALL NOT AFFECT EASEMENT VALIDITY.

This Easement shall in no way be affected, impaired, or invalidated by any implications of state or federal tax laws.

29. EXECUTION BEFORE A NOTARY PUBLIC AND RECORDATION.

All signatures of the parties and all documents executed pursuant to this Easement and any amendments shall be acknowledged before a Notary Public, and a certificate of acknowledgement shall be attached to allow documents to be recorded.

This Easement and any amendment and related documents shall be recorded in in the Office of the Recorder of < County> County, California.

30. COUNTERPARTS.

This Easement may be executed in any number of counterparts and each executed counterpart shall have the same force and effect as an original and as if all of the parties to the aggregate counterparts had signed the same instrument.

31. EFFECTIVE DATE.

The Effective Date is the date of the signature of the final party to sign.

32. ENTIRE AGREEMENT.

This Easement, including the attached exhibits and the Baseline Report, is the final and complete expression of the agreement between the parties with respect to the subject matter contained herein. Any and all prior or contemporaneous agreements with respect to this subject matter, written or oral, are merged into and superseded by this written instrument.

The exhibits attached to and included in this Easement are:

Exhibit A - Legal Description

Exhibit B - Vicinity Map

Exhibit C - Building Envelope and Existing Improvements

Exhibit D - Prior Encumbrances

33. GRANTEE ACCEPTANCE OF CONVEYANCES AND CONSENT TO RECORDING.

By execution of this Agreement, the Grantee acknowledges it is authorized by the Grantee's Board of Directors/Trustees, and the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Agricultural Conservation Easement and consents to the recording of the conveyances and other documents executed pursuant to this Easement.

By their respective signatures below each party has caused this Easement to be

executed.

LANDOWNER

[Landowner's Name].

By: _____

Name: _____

Title: _____

Date: _____

GRANTEE

[Grantee's Name],

a California nonprofit public benefit corporation

By: _____

Name: _____

Title: _____

Date: _____

ACKNOWLEDGMENT

Exhibit A
(Legal Description)

Exhibit B
(Vicinity Map)

Exhibit C
(Building Envelope and Existing Improvements)

Exhibit D
(Prior Encumbrances)