AGENDA ITEM: Resolution supporting the proposed easements supported by the California Department of Conservation’s Sustainable Agricultural Lands Conservation Program for the Hill and Potter Ranch Agricultural Conservation Easement projects.

SUPPORTIVE DOCUMENTS ATTACHED: □ Memo □ Resolution □ Agreement □ Other
Resolution, Draft Conservation Easement Deeds for Potter and Hill

BACKGROUND INFORMATION:

FUNDING SOURCE: N/A
GENERAL FUND IMPACT: General Fund Impact
OTHER FUND:
AMOUNT: $ N/A

ARE ADDITIONAL PERSONNEL REQUIRED? □ Yes, -- -- □ No

IS THIS ITEM ALLOCATED IN THE BUDGET? □ Yes □ No

IS A BUDGET TRANSFER REQUIRED? □ Yes □ No

BOARD ACTION:
□ Approved
□ Approved as amended
□ Adopted
□ Adopted as amended
□ Denied
□ Other
□ No Action Taken

☐ Set public hearing
   For: ______________________

☐ Direction to: _______________

☐ Referred to: _______________

☐ Continued to: _______________

☐ Authorization given to: _______________

Resolution 2019- _____________
Agreement 2019- _____________
Ordinance _________________

Vote:
   Ayes: _______________________
   Noes: _______________________
   Abstain: ____________________
   Absent: _____________________
   ☐ By Consensus

COMMENTS:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

CLERK TO THE BOARD
______________________ DATE ________________________
RESOLUTION SUPPORTING THE PROPOSED EASEMENTS SUPPORTED BY THE CALIFORNIA DEPARTMENT OF CONSERVATION'S CALIFORNIA SUSTAINABLE AGRICULTURAL LANDS CONSERVATION PROGRAM FOR THE HILL AND POTTER RANCH AGRICULTURAL CONSERVATION EASEMENT PROJECTS

Resolution No. ______

WHEREAS, the Sustainable Agricultural Lands Conservation Program is a component of the Strategic Growth Council’s Affordable Housing and Sustainability Program and is administered by the Department of Conservation in conjunction with the Natural Resources Agency, and through a grant program is providing assistance to conserve important agricultural land resources that are subject to conversion pressures; and

WHEREAS, the Feather River Land Trust intends to purchase permanent agricultural conservation easements on the Hill and Potter Ranches in Sierra County in Sierra Valley for the purpose of conserving priority agricultural land resources; and

WHEREAS, the Sierra County Board of Supervisors approves the easement proposal and certifies that the easement proposal meets the eligibility criteria set forth in Public Resources Code Section 10251, to wit:

(a) The parcels proposed for conservation are expected to continue to be used for, and are large enough to sustain, commercial agricultural production. These lands are also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.

(b) Sierra County has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment is reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of Sierra County where the easement acquisitions are proposed.

(c) Without conservation, the lands proposed for protection are likely to be converted to nonagricultural use in the foreseeable future.

NOW, THEREFORE, BE IT RESOLVED THAT THE GOVERNING BODY OF THE BOARD OF SUPERVISORS OF SIERRA COUNTY HEREBY: approves said proposal to purchase the agricultural conservation easements and certifies that the easement proposal meets the aforesaid eligibility requirements.
ADOPTED, by the Sierra County Board of Supervisors on the 23rd day of July, 2019 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  

COUNTY OF SIERRA

__________________________________________________________  
Paul Roen, Chair  
Board of Supervisors

ATTEST:  

Heather Foster  
Clerk of the Board

APPROVED AS TO FORM:

__________________________________________________________  
David Prentice  
County Counsel
RECITALS

A. Landowner is the sole owner in fee simple of that certain real property located in Sierra County (“County”), California, consisting of approximately 253 acres, also identified as Assessor Parcel Number 016-090-053, and more particularly described in Exhibit A (the “Property”). The Property is located as shown on the map attached hereto as Exhibit B-1. The Property contains the following areas, in which different restrictions and limitations apply, as further provided herein: (i) an “Upland Zone” (approximately 75 acres) and (ii) a “Quarry Zone” (approximately .2 acre), both of which are shown on Exhibit B-1; and (iii) a “Building Envelope” (approximately 8 acres) (as shown in the survey attached as Exhibit B-2). The existing roads and other improvements on the Property are also located as shown on Exhibit B-1 and are described in the Baseline Report referenced in Recital K, below. Except as shown in Exhibit B-1, the Property is open farmland, whose soils have been classified as prime farmland and farmland of statewide importance by the 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.
B. This Conservation Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (“ACEP” or “Program”), 16 U.S.C. section 3865 et seq. and 7 CFR Part 1468, for the purpose of protecting the agricultural use and future agricultural viability and related Conservation Values (as defined below) by limiting nonagricultural uses of the Property. Landowner, Easement Holder, and the United States, acting by and through the USDA NRCS on behalf of the CCC, acknowledge that the Easement is acquired by Easement Holder to further these purposes.

C. The Budget Act of 2014 appropriated $130 million from the California Air Resources Board’s California Climate Investment Fund, also known as the Greenhouse Reduction Fund, to develop and implement the Affordable Housing and Sustainable Communities Program (“Program”). Beginning in FY 2015-16, 20 percent of California Climate Investment Fund’s annual proceeds go to the Program. The goal of the Program, which is administered by the Strategic Growth Council (“Council”), is to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development. Projects eligible for funding include the acquisition of agricultural conservation easements to protect agricultural lands that are under pressure of conversion to nonagricultural uses.

D. On behalf of the Council and the Natural Resources Agency, the Department administers the Sustainable Agricultural Lands Conservation Program (“SALCP”). SALCP supports the Program’s goal by investing in the acquisition of agricultural conservation easements on properties at risk of conversion to non-agricultural uses, thereby reducing greenhouse gas emissions. These acquisitions can support a healthy agricultural economy, provide food security, encourage smart growth, and ensure agricultural and open space remains available.

E. As administrator of SALCP and on behalf of the Council, the Department has made a grant of funds to the Easement Holder from the California Climate Investment Fund to support the acquisition of this Easement. These funds represent a substantial investment by the people of the State of 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 identified in the 2016-17 Sustainable Agricultural Lands Conservation Program 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. NRCS and Department may be referred to in this Easement, collectively, as the “Funding Agencies.”

G. Easement Holder 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 of 1986, as amended (“Code”). Easement Holder, as certified by a resolution of
Easement Holder’s Board of Directors, accepts the responsibility of enforcing the terms of this
Easement and upholding its conservation purposes forever. Easement Holder’s primary purpose
is the preservation, protection, and enhancement of natural landscapes and their associated
agricultural, open-space, wildlife habitat, and/or scenic values. Easement Holder’s purpose
includes the rehabilitation, restoration, acquisition and protection of habitat that promotes
recovery of threatened and endangered species, protects habitat corridors, and protects
significant natural landscapes and ecosystems.

H. In 2015, Easement Holder, the Northern Sierra Partnership and The Nature Conservancy
formed the Sierra Valley Conservation Partnership Project (“SVCPP”) to secure funding to
conserve working ranches in Sierra Valley. The three nonprofit partners responded to a national
call for proposals from the USDA Natural Resources Conservation Service (“NRCS”) and
submitted a request to fund the acquisition of conservation easements in Sierra Valley. In early
2016, NRCS approved the SVCPP request for funding for Agricultural Land Easements in Sierra
Valley.

The SVCPP identified certain conservation goals to be met by the acquisition of conservation
easements and the development of associated land management plans in Sierra Valley.

Conservation of the Property was determined to meet each of the following goals:

1. Conserve and enhance landscape connectivity and climate resilience, including the free
   movement and dispersal of native wildlife and fishes.
2. Achieve and maintain sustainable groundwater use and function within the massive
   Sierra Valley Groundwater Basin.
3. Conserve and enhance important upland habitats in Sierra Valley, with an emphasis on
   native biodiversity and fawning, migratory, and winter range for pronghorn and the
   Doyle, Sloat, and Truckee-Loyalton mule deer herds.
4. Halt further fragmentation of economically viable, sustainable ranches and farms within
   Sierra Valley.

I. The Property possesses significant natural, scenic, open-space, wildlife habitat, and
agricultural values, including but not limited to agricultural productive capacity, landscape
connectivity, wildlife movement, wildlife habitat, and groundwater recharge (collectively,
“Conservation Values”), of great importance to Easement Holder, the people of Sierra County
and the people of the State of California. The Property’s location, near the Antelope Valley and
Smithneck Creek Wildlife Areas, and between Sierra Brooks and Loyalton, make it important for
landscape connectivity and wildlife movement. Its conservation is also strategically important to
stopping rural sprawl and halting further fragmentation of economically viable, sustainable
ranches and farms within Sierra Valley. The Property is also located within an important
groundwater recharge area for Sierra Valley. The Potter Ranch provides habitat for the following
special-status wildlife species: Golden Eagle, Swainson’s Hawk, Ferruginous Hawk, Northern
Harrier, Prairie Falcon, Mule Deer, Pronghorn, and American Badger.
Protecting, preserving, and restoring these Conservation Values are recognized by the State of California and the people of Sierra County as being of significant public benefit. These Conservation Values are further described in the “Baseline Report” referred to in Recital K below.

J. The conservation purposes of this Easement are recognized by, and the grant of this Easement will serve, the following clearly delineated governmental conservation policies:

Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. section 4201 et seq., 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;”

California Civil Code at Part 2, Chapter 4, (commencing with section 815), which defines and authorizes perpetual conservation easements. The California Legislature declares in section 815 of the California Civil Code 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, under which this Agricultural Conservation Easement is an enforceable restriction, requiring that the Property’s tax valuation be consistent with restriction of its use for purposes of food and fiber production and conservation of natural resources.

Section 2780 of the California Fish and Game Code, in which the California Legislature declares that “Protection, enhancement, and restoration of wildlife habitat and fisheries are vital to maintaining the quality of life in California as the state’s human population increases, there is an urgent need to protect the rapidly disappearing wildlife habitats that support California’s unique and varied wildlife 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 the Program 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, provides the Department authority for agricultural land protection, and informs eligibility for funding under SALCP;

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”;

California Food and Agriculture Code section 821 states that one of the major principles of the State'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;"

The California General Plan law section 65300 et seq. and section 65400 et seq. of the California Government Code, and the Sierra County General Plan, as updated in 2012, which includes as one of its goals to protect farmlands designated as prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses; and

Resolution No. [Resolution number], approved by the Board of Supervisors of Sierra County on the [day] of [month], [year], which expresses support for the acquisition of this Easement and finds that the acquisition is consistent with the County’s General Plan and the Resolution’s findings.

K. The Conservation Values of the Property are further described in an inventory of relevant features of the Property contained in the baseline documentation report, dated __________ (“Baseline Report”), which the Parties hereto have jointly prepared, is incorporated herein by this reference, and a copy of which is maintained in the files of Easement Holder. The Parties agree that the Baseline Report provides an accurate representation of the condition of the Property as of the Effective Date of this Easement and is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement. A signed acknowledgment and certification by the Parties of the condition of the Property as set forth in the Baseline Report is attached hereto as Exhibit C. The Parties have provided each of the Funding Agencies (defined in Recital F, above) with a copy of the Baseline Report, as certified in Exhibit C.

L. In order to ensure the conservation of the Property, Landowner desires to grant to Easement Holder this Easement for valuable consideration, providing affirmative rights to Easement Holder and imposing restrictions on the Property. Landowner intends to convey this
M.  Landowner grants this Easement for valuable consideration to Easement Holder for the purpose of assuring that, under Easement’s Holder’s perpetual stewardship, the Conservation Values of the Property will be conserved and maintained forever, and that uses of the Property that are inconsistent with the protection of these Conservation Values and the Conservation Purpose (as defined and described below) will be prevented or corrected.

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, Landowner voluntarily grants and conveys to Easement Holder, and Easement Holder voluntarily accepts, a perpetual conservation easement, as defined by sections 815.1 and 815.2 of the California Civil Code 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 conservation purpose of this Easement is to enable the Property to remain in productive agricultural use in perpetuity by preventing and correcting uses of the Property prohibited by the provisions of this Easement; and, to the extent that the preservation of the other Conservation Values of the Property is consistent with such use, it is within the purpose of this Easement to protect those values (collectively, the “Conservation Purpose”). In particular, the Conservation Purpose shall include the following:

   (a)  to restrict development of the Property and prevent any use of the Property that will impair the Conservation Values;

   (b)  to enable and cause the Property to remain in agricultural use by preserving and protecting in perpetuity its agricultural values, character, use, and utility including, the Property’s agricultural productivity and future agricultural viability, soil, vegetation, and water quality;

   (c)  to protect and manage the Property for wildlife habitat and wildlife passage consistent with the provisions in Section 7;

   (d)  to provide for scientific research and education respecting wildlife, including range, habitat, food sources and movements;

   (e)  to preserve the open-space character and scenic qualities of the Property, including the protection of the scenic views from public roads and existing protected lands; and
(f) to protect and manage the Middle Fork of the Feather River and its tributaries for watershed protection and as a source of cold, clean water for fish and other species.

The Parties agree that Landowner’s retention of certain rights expressly permitted in this Easement, including specified agricultural, residential, recreational, and limited commercial uses, is consistent with the Conservation Purpose, provided that those rights are exercised in accordance with the terms of this Easement.

2. Agricultural Activities. Landowner retains the right to use the Property for agricultural activities, or to permit others to use the Property for agricultural activities, in accordance with Applicable Law (as defined below) and the terms of this Easement. In addition to the other permitted uses of the Property expressly provided herein, the following activities are permitted or required, as applicable, subject to the qualifications and conditions stated below:

   (a) Agricultural Production. The (i) production of livestock and agricultural products and practices compatible with protection and conservation of agricultural use and future agricultural viability and other Conservation Values of the Property; and (ii) processing, packaging, marketing, or sale of ranch products produced on the Property and other properties owned by Landowner are permitted, provided that such activities are conducted in a manner consistent with the terms of this Easement and the Agricultural Land Easement (“ALE”) Plan (as defined and described below). The provisions of this Easement and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Property, so long as the agricultural operations are consistent with the long-term viability of the Property, ALE Plan, and Conservation Purpose, and do not violate federal laws, including federal drug laws.

   Such agricultural activities shall be conducted in a manner consistent with the terms of the ALE Plan and with the following provisions:

   i. Agricultural practices involving plowing, discing, and/or cultivation may be conducted on the entirety of the Property other than within the Upland Zone;

   ii. Grazing practices shall be conducted in compliance with all Applicable Law and may not cause significant deterioration of stream banks, riparian vegetation, or water quality or cause significant degradation of topsoil quality;

   iii. Salt licks, minerals, food supplements or supplemental hay for livestock shall not be located within two hundred (200) feet of the highwater mark of any spring, stream, or other natural watercourse or water body;

   iv. Grazing within each zone shown in Exhibit B-1 shall occur only during the periods specified in the ALE Plan for each respective zone. Once grazing dates are established in the ALE Plan, said dates may be revised (I) during regular updates to the ALE Plan,
or (II) in the event of drought or other shortage of water, or excess water, as applicable, over a single or multiple grazing seasons; provided that the aforementioned grazing dates shall not be changed or deviated from without Easement Holder’s prior written approval. Easement Holder will not unreasonably withhold approval of grazing date modifications due to drought, shortage of water, or unusually wet conditions;

v. Grazing practices shall not result in excessive bare ground in any zone as shown on Exhibit B-1. Average percent bare ground allowances shall be defined in the ALE Plan and shall be based on the best available science at the time said percentages are established.

(b) Grassland Uses of the Property. Subject to the restrictions contained in this Conservation Easement, Landowner is permitted to hay, mow, and harvest as provided in the ALE Plan. Notwithstanding the foregoing, Landowner shall not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified in the ALE Plan. Determinations of nesting seasons for birds whose populations are in significant decline and the areas of the Property affected by this restriction will be set forth within the ALE Plan for the Property.

(c) Agricultural Land Easement Plan. As required by 16 U.S.C. section 3865a, agricultural production and related uses of the Property are subject to an “Agricultural Land Easement Plan” (or “ALE Plan”) that promotes the long-term viability of the Property to meet the Conservation Purpose. The ALE Plan and any revisions thereto must be approved by Landowner, Easement Holder, and NRCS. Landowner agrees that the use of the Property will be subject to the ALE Plan and that the terms of the ALE Plan shall be enforceable by Easement Holder and NRCS to the same extent as any other terms or condition of this Easement. The ALE Plan, which has been signed by Landowner and Easement Holder to indicate their respective agreement to its terms, is incorporated herein by reference. In the unlikely event that the terms of the ALE Plan conflict with the terms of this Easement, the terms of this Easement shall prevail. Easement Holder will monitor the effectiveness of the ALE Plan at least annually. In addition, in the event that the agricultural uses and/or environmental conditions of the Property materially change, or if the ownership of the Property changes, Easement Holder and Landowner shall update the ALE Plan via mutual agreement by both Parties, provided that no update shall cause a net decrease in the ALE Plan’s level of protection of the agricultural use and future agricultural viability and other Conservation Values (as determined in Easement Holder’s sole and absolute discretion). All aspects of the original ALE Plan (or then-current ALE Plan if the original ALE Plan has been updated) shall remain in full effect until both Parties agree in writing to an update. Copies of the current ALE Plan will be kept on file with Easement Holder and Landowner.

Easement Holder must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the ALE Plan, NRCS may notify Easement Holder of such noncompliance. NRCS will give Easement Holder and Landowner a reasonable amount of time, not to exceed 180 days, to take corrective action. If Easement Holder fails to enforce the terms of the Easement, including, but not
limited to compliance with the ALE Plan, the United States may exercise its right of enforcement hereunder.

(d) **Landowner Fencing Obligation.** In order to effectuate the protection of the Property’s Conservation Values, Landowner agrees, upon consultation with Easement Holder, to erect and maintain fencing to restrict livestock access to the Upland Zone, as expressly prescribed and further described in the ALE Plan. All such fencing shall comply with the specifications provided in the ALE Plan, and the precise location(s) of any such fencing shall be determined by consultation between Easement Holder and Landowner, neither of which may unreasonably withhold approval of a proposed location. Easement Holder agrees to assist Landowner with securing funding necessary to erect and maintain fencing required by this section.

(e) **Landowner Water Source Obligation.** Landowner shall construct water sources for cattle away from the established Upland Zone when such activities are expressly prescribed, and as described, in the ALE Plan.

3. **Rights of Easement Holder.** To accomplish the Conservation Purpose of this Easement, the following rights are conveyed to Easement Holder:

(a) To identify, preserve, and protect in perpetuity the Conservation Values of the Property, including review and approval of improvements and activities that may be permitted under this Easement pursuant to the terms hereof.

(b) To enter upon, inspect, observe, and study the Property, along with Easement Holder’s employees, agents, consultants and contractors, and the employees, agents, consultants and contractors of the Funding Agencies, in accordance with the terms of this Easement, including but not limited to Section 8 (Monitoring) below, for the purposes of (i) identifying the current uses and practices thereon; and (ii) monitoring the current uses and practices and, where applicable, evaluating notices of proposed uses and practices to determine whether they are consistent with the terms of this Easement.

(c) To access and enter upon the Property, along with Easement Holder’s employees, agents, consultants and contractors, and the employees, agents, consultants and contractors of the Funding Agencies, to undertake Easement Holder’s Permitted Activities as defined in, and pursuant to, Section 7; provided that any restoration and research activities shall be carried out in consultation with Landowner and in a manner that will not interfere unreasonably with the permitted uses or quiet enjoyment of the Property by Landowner.

(d) To investigate, review, and approve, approve with conditions, or disapprove, in accordance with the terms of this Easement, those activities under this Easement requiring notice to or approval of Easement Holder in accordance with Section 9 (Notice and Approval). A chart illustrating for reference purposes only the activities requiring Written Advisement/notice to or Written Advisement/notice to and approval of Easement Holder is attached hereto as Exhibit E.
(e) To enforce the terms of this Easement, including but not limited to preventing and correcting violations of the terms, conditions, covenants, and Purpose of this Easement, in accordance with Section 10 (Easement Holder’s Remedies).

(f) To use existing roads and trails across the Property to allow Easement Holder, and Easement Holder’s employees, agents, consultants and contractors and the employees, agents, consultants and contractors of the Funding Agencies, to enter and access all portions of the Property for all of the purposes allowed by this Easement, subject to any limitations set forth in this Easement.

(g) Subject to compliance with all Applicable Law, Easement Holder has the right and obligation pursuant to the terms of its NRCS Grant, at its discretion, to place, maintain, and remove one or more signs or other appropriate markers as described below at the expense of Easement Holder, provided that Easement Holder will consult with Landowner as to the number, size and location of the signs. The signs or other appropriate markers may be located in prominent locations on the Property, visible from public roads or, at Easement Holder’s option, other adjoining property owned by Landowner, bearing information indicating: (i) the Property is protected by the Easement; (ii) the participation of Easement Holder; and (iii) the participation of the Funding Agencies in the acquisition of the Easement; the wording of which shall be decided upon by Easement Holder and the Funding Agencies (as applicable), exercising their reasonable discretion, but which shall in any case include such applicable logos as the Funding Agencies may reasonably require.

4. Landowner’s Reserved Rights. Landowner reserves unto itself and to its successors and assigns all rights accruing from its fee simple ownership of the Property that (i) are not extinguished, transferred, or conveyed hereby; (ii) are not expressly restricted or prohibited herein; (iii) are not, or do not become, inconsistent with the Conservation Purpose of this Easement; and (iv) do not impair the Conservation Values of the Property. Without limiting the generality of the foregoing, the following rights relating to the Property are expressly reserved by Landowner:

(a) Water Rights. Subject to the prohibition on transfer or severance as provided in Section 5(p) below, Landowner reserves the right to hold and use all existing water rights on the Property as of the Effective Date for the benefit of the Property, the right to apply for appropriative rights as necessary for the permitted uses of the Property, including agricultural, residential, and ecological uses, and to obtain water supplies from any source permitted by Applicable Law.

(b) Future Conveyances. Subject to the restrictions prohibiting subdivision set forth in Section 5(t), Landowner reserves the right to sell, lease, devise or otherwise transfer the Property as a whole, subject to this Easement, to anyone Landowner chooses. Landowner may also use the Property as collateral for subsequent borrowing, provided any subsequent obligation secured by the Property is 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 this Easement and the interest of Easement Holder therein.

(c) Privacy. Subject to Easement Holder’s rights to access the Property to monitor and enforce this Easement, and to conduct wildlife and habitat management, research, and restoration, all in accordance with the terms of this Easement, Landowner reserves the right to privacy and the right to exclude any member of the public from trespassing on the Property. Nothing contained herein shall be construed as a grant to the general public of any right to enter upon any part of the Property.

(d) Carbon Credits. Subject to the restrictions set forth herein and subject to the prior written approval of Easement Holder and the Funding Agencies, Landowner reserves the right to have issued or granted, and to authorize, create, own, hold, sell, exchange, transfer, trade, gift or retire, any or all of the rights to carbon offset credits, issued by a third party entity, or other ecosystem carbon offset service providers, or any or all similar rights that may exist now or in the future, that are appurtenant to the Property and attributable to the absorption by plants of carbon dioxide from the atmosphere and its conversion to carbon stored in trees and other vegetation and associated roots, surface duff, and organic elements in the soil on the Property (“Carbon Credits”); provided, however, that Landowner shall ensure that the terms and conditions of the Conservation Easement are incorporated into the project baseline and taken into account as an existing legal/financial constraint for purposes of establishing Carbon Credits or other emissions offsets that Landowner or Easement Holder propose to sell, exchange, transfer, or retire with respect to the Property. This Conservation Easement shall not be eligible to support the generation or issuance of Carbon Credits, and any Carbon Credits attributable to this Conservation Easement are hereby extinguished. Landowner may, however, claim ownership and disposition rights to any Carbon Credits that may result from any future encumbrances and restrictions voluntarily imposed on the Property that are permitted by, and consistent with the purposes of this Conservation Easement and result in the sequestration of additional carbon on the Property. Landowner shall be allocated only that percentage of any Carbon Credits attributable to such future encumbrances and restrictions and may retain, retire, exchange, sell, or transfer such credits. Landowner shall notify Easement Holder at least sixty (60) days prior to any establishment of Carbon Credits, a copy of which notice Easement Holder shall promptly furnish to the Funding Agencies.

In addition, consistent with the provisions of Exhibit D (Easement Monitoring Protocols), Easement Holder agrees to include in the required annual monitoring report to the Funding Agencies a summary of any activity to establish Carbon Credits with respect to the Property and to provide the Funding Agencies with such further information as the Funding Agencies may request regarding such activity. In the event that Easement Holder proposes to authorize, create, sell, exchange, transfer, trade or gift such Carbon Credits (which shall occur only with Landowner’s advance written approval, which may be granted or denied in Landowner’s sole and absolute discretion), Easement Holder shall be subject to all the provisions of this section.

Potter Conservation Easement
Version 5
5. **Activities, Uses, Structures and Improvements.** Landowner shall confine its use of the Property to such activities and uses that: (1) are consistent with the Conservation Purpose of this Easement; (2) do not impair the Conservation Values; and (3) are not expressly prohibited under the terms of this Easement. Without limiting the generality of the foregoing, the uses, practices, and activities described in this Section 5, though not an exhaustive list, are permitted, conditionally permitted, or prohibited on the Property, as applicable. These uses, practices, and activities also serve to provide Landowner and Easement Holder with guidance in determining whether other activities and uses are inconsistent with the Conservation Purpose or might impair the Conservation Values. Notwithstanding the foregoing, any activities inconsistent with the Conservation Purpose of this Easement are prohibited.

(a) **General Prohibition.** No use will be allowed that decreases the Easement’s protection of the agricultural productive capacity, agricultural use, and future agricultural viability and other Conservation Values of the Property; that adversely impacts the restoration or conservation of the grassland and related Conservation Values of the Property; that would cause significant soil degradation or erosion on the Property; or that is inconsistent with the terms of the Easement.

The term “impair” (or any derivation thereof, as applicable) shall mean a material adverse effect on the quality or character of the Conservation Values of the Property that are intended to be protected.

(b) **Agricultural Activities.** Landowner retains the right to use the Property for agricultural purposes in accordance with Section 2 of this Conservation Easement and the ALE Plan. Landowner is not limited to those ranching, grazing, and pasture management techniques currently known or foreseeable, but rather may use new or different techniques that are consistent with Section 2, the Conservation Purpose and other terms and conditions of this Conservation Easement, and an approved ALE Plan.

(c) **Storage and Use of Agricultural Products and Equipment.** Storage and use of the following items are permitted as long as any such item is intended to be used on the Property and shall be stored as permitted herein: agricultural products, agricultural chemicals, agricultural byproducts and agricultural equipment. The term “agricultural chemicals” includes herbicides, pesticides, fungicides, fertilizers, and other materials commonly used in farming and ecological restoration operations even though they may be classified as hazardous materials. Any such use and storage must be in accordance with Applicable Law and labeling requirements, and storage of any such items shall occur only within the Building Envelope.

(d) **Structures and Improvements.** All structures and improvements shall be subject to the impervious surface limitation described in Section 6 below (for those items that create or constitute an impervious surface) and shall comply with the following requirements:

(i) **Existing Structures and Improvements.** As of the Effective Date of this Easement, one single-family dwelling (___________ square feet) and one guest house

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(_________________ square feet) exist on the Property. Landowner may maintain, repair,
reasonably enlarge, and replace any of the Property’s existing structures and improvements, as
shown in Exhibit B-1 and more fully described in the Baseline Report, including but not limited
to existing buildings, sheds, fences, utilities, and other improvements, in their current locations,
subject to Easement Holder’s prior written approval for any enlargement that is more than 150
percent of the square footage of the existing improvement as documented in the Baseline
Documentation Report as of the Effective Date of the Easement and for any replacement that is
not within the same general location or within the same general size and functionality of the
replaced structure. Notwithstanding the foregoing, the single-family residence existing as of the
Effective Date of this Easement shall not exceed 150% of its existing square footage as of the
Effective Date of this Easement.

(ii) New Residential Improvements. Construction or placement of new single-
family dwellings anywhere on the Property is prohibited. Construction or placement of
residential dwellings secondary, ancillary, or accessory to the existing single-family dwelling is
allowed subject to Applicable Law, including but not limited to California Government Code
section 65852.2, entirely within the Building Envelope.

(iii) New Agricultural Improvements within the Building Envelope. New
structures, buildings, and improvements to be used solely for agricultural production on the
Property or sale of farm products predominantly grown or raised on the Property, including barns
and equipment sheds, but not including any dwelling or farm-labor housing, may be built,
repaired, reasonably enlarged, and replaced on the Property (other than within the Upland Zone)
with prior Written Advisement (as defined in Section 9 below) to Easement Holder. Farm-labor
housing and agricultural structures to house horses may be constructed, repaired, reasonably
enlarged, and replaced entirely within the Building Envelope so long as such structures are
consistent with Applicable Law, including California Health and Safety Code section 17021.6.
Underground utilities and no more than one (1) new septic system on the Property (other than
within the Upland Zone) may be constructed, maintained, repaired or replaced in substantially
the same location. Any disturbance or other permitted activity shall be located in areas that have
been previously disturbed, if applicable, and/or shall otherwise be conducted in a manner that
minimizes damage to the Conservation Values.

(iv) Adjustment of the Building Envelope Boundaries (with prior approval).
The parties acknowledge that the boundaries and location of the Building Envelope have been
designated as of the Effective Date of this Easement and are depicted on Exhibit B-1 and further
described in the Baseline Report; however, if the location of such designated Building Envelope
is not reasonably feasible for permitted residential or other permitted development because of
County or other agency requirements, then, prior to the commencement of any construction or
alteration of the land, the adjusted boundaries and location of the Building Envelope shall be
proposed by Landowner pursuant to the terms of Section 9 of this Easement for review and
approval by Easement Holder, the Director of the Department, and the Chief of NRCS.
The adjusted Building Envelope may not increase in size and must provide equal or greater protection of the agricultural use and future agricultural viability and other Conservation Values of the Property. In addition, the adjusted Building Envelope shall not be located within the Upland Zone and shall be sited, to the extent reasonably practicable, in close proximity to a public road(s) and in an area of the Property that minimizes damage to the Conservation Values.

Upon approval, Landowner shall have a legal description prepared by a licensed land surveyor (LLS) and the boundaries marked in the field using standard signage supplied by Easement Holder. Landowner shall bear the cost of identifying, describing and marking such adjusted Building Envelope, including reimbursing Easement Holder for all reasonable costs associated with adjusting the boundaries and location of the Building Envelope. Once established pursuant to the terms hereof, the boundaries of the Building Envelope may not be changed except pursuant to the terms of this section.

(v) Structures and Improvements outside the Building Envelope (with prior Written Advisement). Any agricultural-related structure or improvement to be located outside the Building Envelope may be constructed only with prior Written Advisement to Easement Holder; provided that, notwithstanding the foregoing, no structure or improvement shall be located within the Upland Zone, as shown on Exhibit B-1, except for such structures necessary to complete approved conservation and restoration activities or as otherwise described in the ALE Plan.

(vi) Outdoor Lighting. Outdoor lighting may be installed and used within the Building Envelope, provided that all of the following requirements are met: (i) it is motion-detecting lighting; and (ii) all outdoor lights must be shielded or directed in such a manner as to minimize light shining into significant wildlife habitat (i.e., lights must be pointed down or shielded). Except for lighting reasonably necessary for permitted agricultural uses, all lighting on the Property shall minimize light pollution to the maximum extent practicable.

(vii) Other Construction Prohibited. Except as expressly provided in this Easement, the construction or placement of any residential buildings, dwellings, permanent camping accommodations, temporary living quarters of any sort, mobile homes; signs, billboards or other advertising materials; utility towers or other facilities; resort structures, athletic fields, golf courses, non-residential swimming pools, non-residential tennis courts, commercial equestrian facilities, playing fields, airstrips, helicopter pads or any other commercial recreational structure; and all other construction, erection, installation or placement of buildings, structures, or other improvements on the Property is prohibited.

(e) Fencing.

(i) Temporary Fencing. Landowner may install temporary fences (i.e., of a type and style that is intended to be transitory, such as thread-in or step-on posts, etc.) for purposes of reasonable and customary management and protection of livestock, wildlife, and the reasonable and customary security of the residences and other improvements on the Property.
(ii) New Fences. With prior Written Advisement to Easement Holder, new fences may be built for purposes of permitted agricultural operations; reasonable and customary management of livestock and wildlife; and the reasonable and customary security of the residences and other improvements on the Property, including but not limited to construction of a fence(s) around the perimeter of the Property or portions of the perimeter to prevent trespass. Except where the exclusive purpose of such fencing is to exclude wildlife to protect persons or permitted improvements (such as permitted structures or gardens) or as otherwise specified in the ALE Plan or approved by Easement Holder, all new fencing shall comply with the wildlife friendly fencing standards specified in the ALE Plan, shall be installed only in accordance with the ALE Plan.

(f) Roads and Trails.

(i) Existing and Unpaved Roads and Trails. Landowner may (i) access, use, maintain and repair the existing roads (all located as shown on Exhibit B-1 and as further shown and described in the Baseline Report) in their current locations; and (ii) access, use, maintain and repair existing pathways and trails on the Property (all located as shown on Exhibit B-1 and as further shown and described in the Baseline Report) in their current locations.

(ii) Paving and New Roads and Trails (with prior approval). Except for existing paved surfaces, no portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, unless prior written approval is obtained from Easement Holder. Acceptable reasons for use of paving material include that paving is required by a law or regulation related to air quality, fire safety, accessibility for disabled persons, or is otherwise required for activities permitted on the Property. The construction of new roads and trails and any widening, improvement, or relocation of the existing roads and trails on the Property to support permitted uses may be permitted with Easement Holder’s prior written approval, in its sole and absolute discretion, provided that such new roads and trails shall be constructed within the impervious surface limitation referenced in Section 6 below and must be necessary to carry out the agricultural operations or other allowed uses on the Property. New and relocated roads and trails shall be constructed and maintained so as to reasonably minimize erosion and sedimentation and ensure proper drainage, utilizing Best Management Practices as recommended by the NRCS or similar or successor entity, but this section shall not be construed to require that existing roads be reconstructed to meet these standards. As a condition of road or trail removal or relocation, Easement Holder may require the restoration of the removed or relocated road or trail.

(g) Motorized Vehicle Use. Motorized vehicles are permitted on the existing roads shown on Exhibit B-1 or permitted new or relocated roads as reasonably necessary to conduct activities that are expressly permitted herein. The use of motorized vehicles off roads is permitted only as necessary for Property maintenance and security, agricultural production and forest management, emergency purposes for the protection of persons or property, ecological restoration and enhancement, hunting and other low-impact recreational activities, and monitoring and enforcing this Easement, provided that any such off-road vehicle use shall not
impair the Property’s Conservation Values. Tractors and mowers may be used and stored on the Property as long as they are used in conjunction with an activity permitted in this Easement. Landowner shall take all reasonable actions to prevent unauthorized third parties from using motorized vehicles for recreational purposes on the Property; provided, however, that Landowner shall not be responsible for injuries or changes to the Property caused by such uses beyond Landowner's reasonable control. Except as provided herein, the use of motorized vehicles off of roads and the recreational use of off-road, motorized vehicles (e.g., all-terrain vehicles, motorcycles) anywhere on the Property are prohibited.

(h) **Recreational Use.** Passive, non-motorized, recreation activities, such as hiking, camping, horseback riding, and bird-watching, are permitted, provided that such activities do not impair the Conservation Values.

(i) **Public Access.** Landowner may allow (or disallow) public access on the Property, provided that such public access shall not impair the Conservation Values and shall otherwise comply with the terms of this Easement.

(j) **Emergencies.**

(i) **Short-Term Emergencies.** In a short-term emergency (defined as an emergency lasting thirty (30) days or less), with prior Written Advisement to Easement Holder where reasonably feasible under the circumstances, Landowner may take such limited and temporary actions as are reasonably necessary to protect physical safety of persons, property, and the Property, including agricultural improvements and products, but only to the extent necessary for such protection and provided such actions are in compliance with Applicable Law. In cases where prior Written Advisement to Easement Holder is not possible in advance of taking such emergency action, Landowner shall provide Easement Holder with Written Advisement as soon as is reasonably feasible under the circumstances.

(ii) **Construction of Emergency Living Quarters.** With prior Written Advisement to Easement Holder, the construction, placement, or use of limited temporary living quarters or mobile homes on the Property during or immediately following an emergency rendering the permitted primary residence, accessory dwelling, and/or farm-labor housing uninhabitable is permitted, provided that such construction, placement, or use is in compliance with Applicable Law and any such temporary structures are removed immediately after the period of emergency is over or construction of new living quarters is completed, as reasonably determined by Easement Holder.

(iii) **Emergency Activities Lasting More than Thirty (30) Days (with prior approval).** If emergency actions taken in accordance with this section continue for more than thirty (30) days, Landowner will obtain Easement Holder’s approval pursuant to Section 9 of this Conservation Easement to continue such emergency actions.
(k) Commercial Use of the Property (with prior Written Advisement). Within the Building Envelope, small-scale commercial uses consistent with then-current County zoning and general plan are permitted with Easement Holder’s prior Written Advisement, as long as such uses do not impair the Conservation Values of the Property. The following limited commercial uses are also permitted on the Property with Easement Holder’s prior written approval so long as they are consistent with the Conservation Purpose and Section 5(d) of this Easement, the current County General Plan, and applicable zoning; and so long as they do not negatively affect the Conservation Values of the Property: (i) small-scale incidental and customary rural enterprises related, ancillary, and secondary to the agricultural uses; or small-scale commercial enterprises compatible, ancillary and secondary to agricultural uses; (ii) activities conducted within buildings located within the Building Envelope; and (iii) low-impact, small-scale, temporary or seasonal outdoor activities or events that do not degrade the agricultural use, future agricultural viability, irrigated agriculture or grazing uses or other Conservation Values of the Property.

All parking related to such commercial uses shall be limited to the Building Envelope and any parking consisting of impervious surfaces is subject to the impervious surface limitation described in Section 6. Any such commercial uses on the Property shall comply with all Applicable Law and the terms of this Conservation Easement. Except as otherwise expressly provided herein, no other commercial or industrial activities or uses may be conducted on the Property.

(l) Signs (with prior approval). Signs may be placed on the Property with Easement Holder’s prior written approval and in accordance with applicable sections of the County Zoning Ordinance, as it may be amended from time to time, and only for the purpose of advertising (1) the name of the Property and/or the owners of the Property; (2) agricultural and other permitted enterprises operating on the Property; (3) prohibiting trespass or warning of hazards; (4) the sale or lease of the Property; and/or (5) historic/commemorative signage (such as barn quilts), all in accordance with this Conservation Easement; provided, however, the total surface area of all such signs shall not exceed 360 square feet and the top of each sign shall be no more than twenty (20) feet from the ground. In accordance with Section 3(g), Easement Holder has the right under this Easement, and obligation pursuant to the terms of the NRCS Grant, to place, maintain, and/or remove one or more signs or other appropriate markers.

(m) Ecological Restoration and Vegetation Management (with prior approval). With Easement Holder’s prior written approval, Landowner may conduct ecological restoration on the Property, including but not limited to within the Upland Zone. Ecological restoration includes, but is not limited to, planting native species, removing non-native or invasive species (using manual removal, use of herbicides, and/or other methods), installing erosion control structures, installing fencing necessary for the re-establishment of native vegetation, and/or realigning the channel of ____ Creek into more natural dimensions consistent with its current flow and reconnecting the creek with its floodplain; provided that such activities are consistent with the Conservation Purpose of this Easement and the ALE Plan. Except as otherwise expressly permitted in this Easement, the removal, cutting or destruction of native vegetation or any other native habitat is prohibited, unless conducted in accordance with the ALE Plan.

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(n) **Hunting or Trapping Predators and Other Wildlife (with prior approval).**

Landowner shall carry out permitted activities on the Property in a manner so as to avoid conflict with wild animals and to prevent depredation of livestock and pets by predators, such as mountain lions, coyotes and bobcats. The control of problem animals or pests is permitted, upon Written Advisement to Easement Holder, using selective control techniques, which shall be limited in their effectiveness to specific animals that have caused damage or present an imminent threat to person or property. All actions hereunder shall be in full compliance with Applicable Law, including but not limited to obtaining depredation permits, if applicable, and shall be consistent with the Conservation Purpose. Hunting of game species by Landowner and its guests and invitees is permitted; provided that the commercial hunting of game species is permitted only with Easement Holder’s prior written approval.

(o) **Alternative Energy Systems and Other Utilities.** Landowner may construct and operate noncommercial solar, geothermal, hydropower, and biogas electric energy generation facilities that are reasonably designed and appropriately sized (I) to meet the energy needs of the permitted uses on the Property; and (II) to minimize impacts to wildlife and other Conservation Values of the Property; provided that the placement of alternative electric energy generation facilities entirely within the Building Envelope requires prior Written Advisement to Easement Holder, and the placement of alternative electric energy generation facilities outside the Building Envelope requires the prior written approval of Easement Holder. Incidental surplus electricity may be sold and/or credited to Landowner’s utility service (i.e., net metering). Wind-powered electric energy generation facilities are prohibited unless the technology of such facilities changes to such an extent that impacts on avian and other wildlife species are eliminated and then only with Easement Holder’s prior written approval in its sole and absolute discretion.

Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services solely to serve the improvements permitted herein or to transmit power generated on the Property may be installed, maintained, repaired, removed, relocated and replaced. Landowner may grant or modify rights-of-way over and under the Property for utility and road purposes with Easement Holder’s prior written approval; provided that any such rights-of-way shall be consistent with the Conservation Purpose and other terms and conditions of this Conservation Easement and shall not adversely impact the protection of the agricultural use and future agricultural viability and other Conservation Values of the Property as determined by Easement Holder in consultation with the Chief of NRCS and the Director of the Department.

(p) **Certain Water Use (with prior approval).**

(i) **Alteration of Natural Watercourses; Degradation of Water Quality.** The manipulation, alteration, draining, or ditching of any swale, watercourse, channel, wetland, stream bank, vernal pool or any other body of water is prohibited, unless completed as described in the ALE Plan or other project plan approved in writing by Easement Holder and except as described in Subsection (p)(ii) below. In addition, any activity or use that (I) is detrimental to water quality, including, but not limited to, degradation or pollution of any surface or subsurface waters; (II)
causes significant, verifiable erosion; or (III) contributes to the significant, verifiable pollution of any watercourse is prohibited.

(ii) Irrigation Systems and Wells. Landowner may maintain, repair, improve, and upgrade the existing irrigation system(s), including wells, spring boxes, diversions, weirs, ponds, sloughs, and channels as documented in the Baseline Documentation Report, provided that natural stream channels are not straightened or otherwise altered unless completed under a restoration or other water-quality improvement project approved in writing by Easement Holder. Landowner may construct or develop stock water troughs and other stock water facilities on the Property to support permitted agricultural uses where recommended by the ALE Plan and with Easement Holder’s prior written approval. The development of wells on the Property is permitted with Easement Holder’s prior written approval, in Easement Holder’s sole and absolute discretion, and only for permitted agricultural and domestic uses. Notwithstanding the foregoing, large-capacity wells (defined as greater than or equal to 100 gallons per minute) shall not be developed anywhere on the Property; provided, however, that any well existing on the Property as of the Effective Date of this Easement may be maintained, repaired, removed, and replaced so long as there is no net increase in the level of groundwater pumping (i.e., acre-feet) from that existing on the Effective Date as further described in the Baseline Report.

(iii) Transfer of Water. Water may not be sold, transferred, or exported off the Property unless doing so provides a net ecological benefit in the Sierra Valley ecosystem, subject to Easement Holder’s written approval in Easement Holder’s sole and absolute discretion. Notwithstanding the foregoing, the permanent separation of water from the Property is prohibited. Only that quantity of water or water rights that is not necessary for present or future agricultural production on the Property may be temporarily distributed. Any temporary distribution shall not impair the future agricultural use or open space character of the Property. All water shall be retained in Sierra County to serve the Conservation Purpose and for use in conjunction with the permitted activities outlined in this Easement. Water may be temporarily distributed to a contiguous property or other property owned or leased by Landowner on an annual basis for agricultural production only with Easement Holder’s written approval in Easement Holder’s sole and absolute discretion.

(iv) Transfer of Water Rights. The transfer, sale, severance, conveyance, encumbrance, lease or other separation of water rights appurtenant to the Property, including all ground and surface waters and all appropriative, prescriptive, contractual or other water rights, separately from the underlying title to the Property, or any other action that diminishes or extinguishes such water rights, is prohibited. Landowner shall retain and reserve all ground water, and all appropriative, prescriptive, contractual or other water rights appurtenant to the Property at the time this Easement becomes effective.

(q) Dumping, Disposal or Storage of Miscellaneous Materials. There shall be no dumping, burying, or other disposal of non-compostable refuse, debris, trash, ashes, waste, sewer sludge, agrichemicals, herbicides, pesticides, dangerous, toxic, or hazardous materials on the Property; provided, however, that Landowner may store within the Building Envelope those materials that are necessary for the operation and maintenance of the Property.

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materials and equipment associated with permitted ranching and rural residential practices, including pesticides, herbicides, agrichemicals, hazardous materials and petroleum products or those materials expressly allowed under this Easement, so long as the storage of such permitted materials is in full compliance with all public health, safety, environmental and any and all other Applicable Law and is conducted in a manner that shall not diminish or impair the Conservation Values. Temporary storage in the Building Envelope of residential waste generated on the Property for periodic removal (at least monthly) off-site is permitted, as is composting on the Property of organic materials originating from the Property, so long as such activities do not impair the Conservation Purpose. All residential waste and compost shall be contained in animal-proof, enclosed bins or containers and maintained in a manner and location so as to prevent attracting wildlife. Except as provided herein, the storage, dumping or accumulation of any kind of trash, refuse, derelict equipment, unused vehicles, ashes, garbage, dangerous or offensive materials is prohibited.

(r) Mining. The following provisions shall apply to any exploration for or extraction of minerals, hydrocarbons, soils, sands, gravel, rock, geothermal resources or any other material on or below the surface of the Property:

(i) Mining. Except as otherwise expressly authorized herein, Landowner shall not conduct or permit any surface or subsurface mining, including removal or extraction on or from the Property of soil, sand, gravel, aggregate, rock, oil, natural gas, fuel, or any other mineral substance, or any exploratory, extraction, processing, or transportation activities related to mineral deposits found on or under the Property; provided however, that upon Written Advisement to Easement Holder, limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Property are allowed where the extraction of such materials used for agricultural operations is limited, localized, and contained within the Quarry Zone and does not harm the Conservation Values or the agricultural uses of the Property. The mining prohibition in this section includes the installation of roads or pipelines for transportation of the aforesaid resources; however, this section is not intended to interfere with Landowners’ right to remove cobble and hardpan from farm areas in order to prepare the land for agricultural purposes.

(ii) Mineral Leases. Landowner shall not enter into any lease for the purposes of exploring for or extracting or removing any oil, gas, hydrocarbon substances, geothermal resources, or other minerals from the Property.

(iii) Restoration. As soon as Landowner ceases to use any portion of the Property for permitted exploration or extraction or removal of any minerals from the Property, Landowner shall immediately (i) remove therefrom all foreign substances placed there in the course of exploration or development activities by Landowner; (ii) abandon all operations as required by all Applicable Law; and (iii) restore such portions of the Property as reasonably specified by Easement Holder.
Landowner has agreed to mining language that is more restrictive than Public Resource Code section 10262(a):

Landowner Initials: _____

(s) Subsequent Easements. With written approval of the Easement Holder, Landowner may grant subsequent easements, including conservation easements, interests in land, or use restrictions on the Property. Notwithstanding the foregoing, the granting of any easement, other interest in land, or use restriction that might diminish or impair the Conservation Values, including but not limited to the agricultural productive capacity or open-space character, of the Property, or that otherwise interferes with any of the terms of this Conservation Easement as reasonably determined by Easement Holder in consultation with the Chief of NRCS, is prohibited. Easement Holder’s written approval shall be obtained at least thirty (30) days in advance of Landowner’s execution of any proposed subsequent easement, interests in land, or use restriction on the Property, and such subsequent easements, interests in land, and use restrictions shall make reference to and be subordinate to this Easement. Easement Holder shall notify the Department and NRCS promptly upon receipt of request by Landowner to grant a subsequent easement, interest in land, or use restriction on the Property, and provide copies of documents associated with such a request to the Department and NRCS. Easement Holder shall notify the Department and NRCS in the event that it approves the grant of any subsequent easement, interest in land, or use restriction on the Property.

(t) Subdivision, Common Ownership of the Property, and Development Rights. The division, subdivision, de facto subdivision, or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process, is prohibited. Landowner and Easement Holder acknowledge and understand that the Property is currently composed of and is described in Exhibit A as one legal parcel, 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. 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 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, and Landowner and its successors in interest 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) shall not be prohibited by this subsection. Lot-line adjustment within the boundary lines of the Easement may be permitted by Easement Holder pursuant to Section 9 for purposes of maintaining, enhancing, or expanding agricultural practices or productivity on the Property. Such lot-line adjustments shall not increase or decrease the total acreage of the Easement.

Landowner hereby grants to Easement Holder all development rights except as specifically reserved in this Easement, that were previously, are now or hereafter allocated to,
implied, reserved, appurtenant to, or inherent in the Property, and the parties agree that such
dependent rights are released, terminated, and extinguished, and may not be used on or transferred by either
departing 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 shall not create any development rights.

(u) **Introduction of Non-Native or Exotic Species.** No seeding, planting, or
introduction of non-native plant or animal species is permitted, except for non-invasive plants
and crops (i) outside the Upland Zone or, with Easement Holder’s prior written approval in
consultation with NRCS, (ii) elsewhere on the Property in response to a wildfire or other
catastrophic occurrence. Notwithstanding any other provision of this Easement to the contrary,
under no circumstances may Landowner introduce onto the Property any of the plants identified
in the list of prohibited plants maintained in the ALE Plan.

(v) **Plowing, Discing, Alteration of Topography.** The plowing, discing, cultivation,
ripping, grading, blasting, land leveling, filling, sod farming, earth removal, or any other activity
or conversion that will disturb the soil surface or alter the topography, surface or subsurface water
systems, native vegetation, or wetlands of the Property is prohibited, except (i) to carry out any
expressly permitted agricultural activities (but expressly not within the Upland Zone) as provided
in the ALE Plan; (ii) to construct permitted structures and improvements on the Property pursuant
to the terms and conditions of this Easement; (iii) to implement erosion and sediment control
measures pursuant to a plan approved by Easement Holder; (iv) to carry out restoration and
conservation activities conducted in accordance with this Easement and the ALE Plan; or (v) to
carry out any other activity that is expressly permitted by the terms of this Easement. Any change
in the topography of the Property through the placement on the Property of soils, fill material,
dredging spoils, or other materials is prohibited, except as incidental and necessary to the activities
permitted under this Easement.

Notwithstanding any provision of the preceding paragraph or the remainder of this
Easement to the contrary, (I) in no event shall any alteration of the natural topography by, but not
limited to, plowing, discing, cultivation, ripping, grading or any other conversion or disturbance
of the Property’s topography be permitted that diminishes or impairs the Conservation Values of the
Property; and (II) grazing and ancillary activities undertaken in accordance with this Easement
and the ALE Plan are permitted across any portion of the Property.

(w) **Other Activities, Uses, and Structures and Improvements (with prior approval).**
Landowner and Easement Holder acknowledge that, in view of the perpetual duration of this
Easement, they are unable to foresee all potential future land uses, technologies, and natural
changes to the land and its Conservation Values over time. If it is reasonably debatable as to
whether an activity, use, structure or improvement that is not expressly addressed in this Easement
is consistent with the terms of this Easement or might impair or interfere with the Conservation
Values of the Property, then Landowner shall provide Written Advisement to and seek prior
approval from Easement Holder for such activity, use, structure or improvement in the manner
described in Section 9 of this Easement.
6. **Limitation on Impervious Surfaces.** Impervious surfaces will not exceed two percent (2%) of the Property, excluding NRCS-approved conservation practices developed under a restoration plan or other project plan approved in writing by Easement Holder. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property, including but is not limited to permitted residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with superior rights to those rights conveyed to Easement Holder by this Conservation Easement.

7. **Easement Holder’s Restoration, Scientific, and Research Activities.** In furtherance of the Conservation Purpose, including for the purpose of restoring, managing, enhancing, studying and performing scientific research on, or improving the health of, the wildlife habitat on the Property, Easement Holder shall have the right to carry out the following activities (collectively, “Easement Holder’s Activities”):

   (a) **Access.** Easement Holder shall have the right to enter the Property outside the Building Envelope (except as provided below, with respect to access for Scientific Research Activities), on foot and by vehicle (including construction trucks and equipment, as necessary to carry out Easement Holder’s Permitted Activities) along with Easement Holder’s employees, agents, consultants, contractors and volunteers and the employees, agents, consultants and contractors of collaborating agencies in accordance with the terms of this Section 7, in order to plan and carry out habitat management activities and Scientific Research Activities described below. Easement Holder’s rights under this Section 7 shall apply to any public agency collaborating with Easement Holder on Easement Holder’s Permitted Activities, including their employees, agents, consultants and contractors, so long as such public agency agrees in writing to comply with the limitations set forth in this Section 7 and gives Landowner a commercially reasonable indemnity (i.e., of the nature and extent ordinarily given by any such public agency under similar circumstances) for any access or activities of such public agency on the Property.

   (b) **Habitat Management in accord with ALE Plan.** For the purpose of managing and enhancing the habitat of the Property, Easement Holder shall have the right to (i) implement land management recommendations in the ALE Plan in response to natural resource concerns; (ii) manage non-native (i.e. exotic) vegetation, including exotic plant control, manipulating, pruning, cutting down and removing said vegetation, on the Property outside the Building Envelope subject to the limitations set forth in this Easement; and (iii) undertake other activities, such as undertaking erosion-control measures and installing fish screens in fish-bearing streams, all in accordance with the ALE Plan. Notwithstanding any provision to the contrary in this Easement, Easement Holder shall give at least seven (7) days’ prior written notice of the activities described in this paragraph.

   (c) **Fencing.** Easement Holder shall have the right, but not the obligation, at Easement Holder’s discretion and expense, and upon consultation with Landowner, to erect, maintain, and/or remove fencing on the Property in order to further the Conservation Purpose of...
this Easement provided that any such fencing shall comply with the specifications provided in the ALE Plan. The precise location of any such fencing shall be determined by consultation between Easement Holder and Landowner, neither of which may unreasonably withhold approval to a proposed location.

(d) **Scientific Research Activities.** With Landowner’s prior written approval, which shall not be unreasonably withheld, conditioned, or delayed, Easement Holder shall have the right to conduct scientific research and biological monitoring on the Property including, but not limited to, installing, maintaining and using wildlife cameras, conducting surveys to determine the presence or absence of listed species, analyzing the effectiveness of management activities, and making any appropriate changes to their design over time; evaluating the condition of other natural resources and conducting research tours and related educational uses (each a “Scientific Research Activity“). Notwithstanding any provision to the contrary in this Easement, Easement Holder’s access to the Property shall include the right to use all roads on the Property (including within the Building Envelope) to access the Property for Scientific Research Activity purposes. Easement Holder shall coordinate with Landowner regarding the time and manner of the Scientific Research Activity so as to not unreasonably interfere with Landowner’s use and quiet enjoyment of the Property pursuant to the terms of this Easement.

(e) Except as otherwise provided in this section, all of Easement Holder’s activities set forth in this section shall be subject to the access limitations set forth Sections 8(b), 8(c), and 8(d), shall be undertaken at Easement Holder’s cost and expense as provided in Section 13(b), shall be subject to Easement Holder’s indemnification and insurance requirements (and subject to the limitations thereon) as set forth in Section 13, and shall be carried out in a manner that: (i) is consistent with the Conservation Purpose and preservation of the Conservation Values; (ii) does not unreasonably interfere with Landowner’s use and quiet enjoyment of the Property, in accordance with this Easement; and (iii) is safe and orderly. Landowner shall not be responsible in any way for upkeep and maintenance of any equipment, fences or other infrastructure installed or used as part of Easement Holder’s Permitted Activities, nor shall Landowner unreasonably interfere with the installation, upkeep and maintenance of any equipment, fences or other infrastructure installed or used as part of Easement Holder’s Permitted Activities. Easement Holder’s activities on the Property shall comply with all Applicable Law. Nothing in this Section 7 shall limit Easement Holder’s rights under this Easement to enter the Property for the purpose of monitoring or enforcement in accordance with Section 8 below.

8. **Monitoring and Property Access.** Easement Holder shall manage its responsibilities for the Easement, including but not limited to annual monitoring of the condition of the Property and enforcement, for the purposes of preserving the Property’s enumerated Conservation Values in perpetuity, in compliance with the Easement, the purposes and requirements of the Department Grant and the NRCS Grant and in a manner that is consistent with the protocols set forth in Exhibit D (Easement Monitoring Protocols). Easement Holder shall assume primary responsibility for Easement monitoring and stewardship. Failure to do so shall not impair the validity of the Easement or limit its enforceability in any way. Subject to the
following conditions, Easement Holder shall have the right to enter upon the Property to: inspect, observe, monitor and evaluate the Property to identify the current condition of, and uses and practices thereon, and to determine whether the condition, uses and practices are consistent with the terms of this Easement:

(a) Monitoring. Except in cases where Easement Holder determines, in its reasonable discretion, that immediate entry (and/or multiple entries) is required to investigate a use or condition on the Property in order to monitor, prevent, terminate, or mitigate a violation or potential violation of the terms of this Easement, monitoring shall be undertaken on an annual basis and entry for such annual monitoring shall be permitted upon no less than seven (7) days’ prior notice to Landowner for each visit. Easement Holder will be permitted to request exceptions to the foregoing annual monitoring scheduling limitations in the event of exigent circumstances, which exceptions shall be approved or disapproved in Landowner’s reasonable discretion. After the annual monitoring visit, Easement Holder will prepare a monitoring report to document the current condition of the Property and any material change in the use of or activities or improvements on the Property since the prior monitoring report and provide a copy of such report to NRCS within ninety (90) days of its monitoring visit. Easement Holder shall report to the Department 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, and any transfer of interest in the Property. Failure to do so shall not impair the validity of this Easement or limit its enforceability in any way.

Easement Holder further agrees to address in the required annual monitoring report each of the monitoring protocols as required in the Department Grant and the NRCS Grant, including a summary of any activity by Landowner to establish Carbon Credits or other emissions offsets with respect to the Property, and to provide NRCS and Department with further information as Department or NRCS may request. At the request of Easement Holder, once every three (3) calendar years, Easement Holder shall make arrangements for staff of NRCS and Department to access the Property to assess compliance with the terms, covenants and conditions of this Easement. Such access shall be in the company of Easement Holder and Landowner, unless Easement Holder and Landowner otherwise agree. To the extent possible, NRCS and Department will schedule such visit at the time of Easement Holder’s annual monitoring visit(s).

Easement Holder will annually monitor compliance of the terms of this Easement and provide the United States with an annual monitoring report that documents that Easement Holder and Landowner are in compliance with the Easement and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the Easement, the ALE Plan, and the United States Cooperative Agreement with Easement Holder, the United States will have reasonable access to the Property with advance notice to Easement Holder and Landowner or Landowner’s representative.
(b) **Property Access for other Purposes.** Easement Holder shall give at least three (3) business days’ written notice to Landowner before entering upon the Property for any purpose, except as provided in Section 7 for Easement Holder’s Permitted Activities or in the event of an emergency or reasonably suspected emergency (including but not limited to a violation or potential violation of the terms of this Easement), in which case no advanced notice is required; provided that Easement Holder shall give oral or written notice to Landowner of such entry as soon as reasonably practicable after such entry. Easement Holder’s notice shall indicate the purpose of the entry and shall provide the timeframe during which Easement Holder is expected to be on the Property.

(c) **Hours of Entry.** Except in the event of an emergency or reasonably suspected emergency (including but not limited to a violation or potential violation of the terms of this Easement), any entry shall take place during normal business hours (8am-6pm) on non-holiday weekdays unless otherwise required due to exigent circumstances or with Landowner’s prior consent in Landowner’s reasonable discretion.

(d) **Costs.** The costs of all routine monitoring activities by Easement Holder, including professional time, document production and reproduction, photographic or ground-based surveys, including aerial photography, tools, transportation, and soil, water, or other tests, are to be borne by Easement Holder; provided, however, that the costs of monitoring activities that Easement Holder incurs as a result of any Easement violation are to be borne by Landowner in accordance with Section 10(c)(iii) below. Landowner shall promptly reimburse Easement Holder for all such costs incurred by Easement Holder as a result of the Easement violation. Funding Agencies that participate in monitoring shall bear their own costs.

(e) **Landowner’s Quiet Enjoyment.** Any access by Easement Holder shall be conducted in such a manner as to minimize interference with Landowner’s use and quiet enjoyment of the Property pursuant to the terms of this Easement; provided, that nothing in this section shall allow Landowner to preclude Easement Holder’s entry otherwise allowed pursuant to the terms of this section. Notwithstanding the foregoing, Landowner understands that some necessary activities (e.g. tree cutting, brush clearing, construction of infrastructure) may be noisy or otherwise cause a disturbance, but such activities will be temporary, localized and coordinated with Landowner to the reasonable extent possible and carried out with such advance notice as is provided for in this Easement.

9. **Notice and Approval.**

(a) Landowner shall give at least thirty (30) days’ advance written notice to Easement Holder (“Written Advisement”), with a copy of the notice provided concurrently to the Funding Agencies, prior to seeking or carrying out any activity requiring a building, grading, or zoning permit or environmental regulatory review or permit for an activity or improvement on the Property, and prior to exercising any reserved right on the Property that may impair the
Conservation Values or where Written Advisement is otherwise expressly required in this Easement. Such Written Advisement shall provide Easement Holder with adequate information, documents, and plans so as to enable Easement Holder to confirm compliance with the terms of this Easement and to enable Easement Holder to keep its records current.

(b) Where Easement Holder’s approval or consent is required under this Easement, said approval or consent (i) shall not be unreasonably withheld, conditioned, or delayed by Easement Holder, except where expressly provided in this Easement that Easement Holder’s approval shall be in Easement Holder’s sole and absolute discretion; (ii) shall be sought and given in writing in accordance with the notice provisions of Section 22, with a copy of the approval, consent, or denial document provided concurrently to the Funding Agencies, and (iii) shall in all cases be obtained by Landowner prior to taking the proposed action. In seeking approval, Landowner will provide Easement Holder with adequate information, documents and plans of said action, so as to enable Easement Holder to confirm compliance with this Easement and to keep its records current. If the information submitted is insufficient for Easement Holder to make an informed judgment of the activity’s consistency with the terms of this Easement, then Easement Holder shall request from Landowner the additional information Easement Holder reasonably deems necessary to allow Easement Holder make such a judgment.

Easement Holder shall grant, grant with conditions, or withhold its approval or consent in writing within thirty (30) days from the date that Easement Holder has received Landowner’s notice and sufficient information to make a determination. Easement Holder may grant approval to Landowner only where Easement Holder, acting in Easement Holder’s reasonable sole discretion (except where expressly provided in this Easement that Easement Holder’s consent shall be in Easement Holder’s sole and absolute discretion), determines that the proposed action is not inconsistent with the Conservation Purpose or is otherwise not an expressly prohibited use. If, in the judgment of Easement Holder, the proposed use or activity should not be permitted in the form proposed, but could be permitted if modified, then Easement Holder’s response may propose to Landowner suggested modification(s) and/or condition(s) that would permit the use or activity. If Landowner disagrees with Easement Holder’s decision, the Parties may agree to mediate the disagreement by written request of one Party to the other Party. Easement Holder shall use good-faith efforts to respond promptly to any requests of Landowner. If Easement Holder does not respond to Landowner’s notice within forty-five (45) days from the date that Easement Holder received the notice and sufficient information to make a determination, Landowner’s request shall be deemed approved, provided that the activity is carried out as provided in its notice to Easement Holder, that the proposed activity is not inconsistent with the Conservation Purpose or is otherwise not expressly prohibited under the terms of this Easement, and that any such deemed approval shall not be construed to deprive Easement Holder or Landowner of any judicial remedy provided at law or in equity, or by agreement herein, to enforce, or to prevent a violation of the terms and conditions of this Easement. Further, any such deemed approval shall in no way be construed to be a waiver by Easement Holder of its right to approve, approve with conditions or withhold approval of any future request for Easement Holder’s approval of a use, activity or plan pursuant to this Section 9.
(c) Where consent or approval of one or both of the Funding Agencies is expressly required by this Easement, the process for obtaining the applicable Funding Agency approvals or consent shall follow the same procedures specified in Subsections (a) and (b), above, with references in those subsections to “Easement Holder” revised so that “applicable Funding Agency/ies” is substituted in their place. Where approval of the Funding Agency/ies is required under the terms of this Easement, there shall be no deemed approval as referenced in Subsection (b) above.

(d) The parties agree that the requirements of Landowner to provide Written Advisement to, and/or obtain prior written approval from, Easement Holder prior to undertaking certain permitted activities is a material term in this Easement and that all remedies afforded to Easement Holder for violations of the terms of this Easement shall apply equally to these requirements.

(e) Landowner and Easement Holder agree to meet at least annually at a date and time convenient for both parties but not to exceed one (1) business day in duration (unless both parties mutually agree that a shorter or longer meeting, or no meeting at all, is necessary), at the office of Easement Holder (or another location convenient to both Landowner and Easement Holder) to review and discuss agricultural operations and other activities on the Property, to share the information collected by Easement Holder as a result of its monitoring visits to the Property, and to provide an opportunity for both parties to discuss any questions or concerns to better ensure mutual understanding and compliance with the terms of this Easement. Either party may request a meeting at such a location upon at least three (3) weeks’ prior written notice to the other to discuss any questions or concerns that may arise regarding any of the above. Whenever possible, at the time of this annual meeting, Landowner shall request Easement Holder’s approval for any activity planned for the upcoming year that explicitly requires Easement Holder’s approval pursuant to the terms of this Easement.

10. Disputes and Remedies. If Easement Holder determines that Landowner or any occupant of the Property is conducting or allowing a use, activity, or condition on the Property which is prohibited by the terms of this Easement (“violation”) or that a violation is threatened, Easement Holder shall give written notice to Landowner, with a copy of the notice provided concurrently to the Funding Agencies, of such violation or threatened violation and demand corrective action sufficient to cure the violation, and, where the violation involves damage to the Property resulting from any use or activity inconsistent with the Conservation Purpose of this Easement, to restore the portion of the Property so damaged to the condition in which it existed prior to the damage.

(a) Consultations Regarding Interpretation and Enforcement of Easement. When any disagreement, conflict, need for interpretation, or need for enforcement arises between the Parties to this Easement, each Party shall first consult with the other Party in good faith and attempt to resolve the issue without resorting to mediation or legal action.
(b) **Mediation.** Landowner and Easement Holder agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation. Mediation is therefore the Parties' preferred dispute resolution procedure when circumstances do not require Landowner or Easement Holder to seek immediate injunctive relief from the courts. In the event of any dispute between Landowner and Easement Holder over the meaning, requirements, interpretation, or implementation of the Easement, Landowner or Easement Holder may refer the dispute to mediation by written request served upon the other Party. The non-requesting Party shall have ten (10) days after receipt of a mediation request to consent thereto or refuse to mediate the dispute.

(i) **Procedure.** Within ten (10) days after Landowner and Easement Holder agree to mediation of a dispute, the Parties shall mutually select a mediator. Mediation hearings shall remain informal, with each Party being permitted to present such facts and evidence as it may reasonably believe supports that Party's position. Costs and expenses of mediation shall be divided equally between Landowner and Easement Holder; provided, however, that each Party shall pay its own attorneys' fees.

(ii) **Limitations.** Notwithstanding any provision to the contrary, the mediation procedure set forth herein shall in no way be construed to deprive Landowner or Easement Holder of any judicial remedy provided at law or in equity, or by agreement herein, and is intended solely as an informal dispute resolution mechanism. Neither Landowner nor Easement Holder shall have the right to compel performance of mediated solutions, unless such solutions are reduced to a binding written agreement between Landowner and Easement Holder at the conclusion of the mediation process. The Parties hereto intend that each conflict and dispute submitted to mediation shall be unique, with facts, circumstances, and recommended resolutions to be determined on a case-by-case basis, without reference to prior conflicts, disputes, or the resolutions thereto.

(c) **Easement Holder’s Other Remedies.**

(i) **Easement Violations.** If Landowner fails to cure an Easement violation within thirty (30) days after receipt of written notice thereof from Easement Holder, or within a reasonable amount of time under circumstances where the violation cannot be cured within the thirty (30)-day period, or if Landowner fails to continue diligently to address such violation until finally cured, Easement Holder may bring an action at law or in equity in a court of competent jurisdiction to:

(A) enforce the terms of this Easement;

(B) enjoin through appropriate legal process, ex parte as necessary, by temporary or permanent injunction, any violation of the terms of this Easement and any use of, or activity on, the Property by any person that is not expressly permitted in this Easement and that is detrimental to the Conservation Values, including trespasses by members of the public or neighbors;
(C) require the restoration of such areas or features of the Property as may be damaged by uses or activities inconsistent with the provisions of this Easement to the condition that existed prior to any violation or damage;

(D) prevent any activity on or use of the Property that impairs the Conservation Values or is otherwise inconsistent with the Conservation Purpose or other terms of this Easement; and

(E) recover any damages to which it may be entitled for violation of the terms of this Easement, including damages for the loss of agricultural, scenic, aesthetic, or environmental values. Without limiting Landowner’s liability therefor, Easement Holder, in its reasonable discretion, will apply any 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, after reimbursement to Easement Holder of all costs of suit, including reasonable attorneys’ fees, Easement Holder shall return to the Department its proportionate share of any and all damages recovered, as set forth in Section 15.

(ii) Immediate Enforcement. If Easement Holder, in its sole and absolute discretion, determines that circumstances require immediate action to prevent or mitigate impairment of the Conservation Values of the Property, Easement Holder may pursue its remedies under this section without prior notice to Landowner or without waiting for the period provided for cure to expire. Easement Holder’s rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Notwithstanding any other terms in this Easement, Landowner agrees that Easement Holder’s remedies at law for any violation of the terms of this Easement are inadequate to address the terms violated and that Easement Holder shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Easement Holder may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Easement Holder’s remedies described in this Section 10 shall be cumulative and shall be in addition to all remedies now or hereinafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code section 815 et seq., inclusive.

(iii) Costs of Enforcement. Landowner shall reimburse Easement Holder for any reasonable costs incurred in enforcing the terms of this Easement and any costs of restoration necessitated by Landowner’s violation of the terms of this Easement (including costs of monitoring compliance with such enforcement requirements) from such time as Easement Holder first identifies the violation to the time the violation is remedied or otherwise resolved in accordance with a court order, settlement agreement, or other mutual agreement of the Parties, as applicable. In the event of any litigation between the Parties arising out of this Easement, to enforce or to interpret the terms of this Easement or otherwise, the prevailing Party shall be awarded court costs and reasonable fees of attorneys, accountants and expert witnesses incurred by such Party in connection with the litigation, including such reasonable costs and fees incurred in any appeal. The prevailing Party also shall be entitled to recover all such costs and fees that may be reasonably incurred in enforcing any judgment or award, and this provision shall not be
merged into any judgment but shall survive any judgment. Notwithstanding the foregoing, Landowner shall not be responsible for the costs of restoration necessary to remedy damage to the Property to the extent caused by the conduct of Easement Holder or by the unauthorized (i.e., without Landowner’s consent or knowledge) actions of unrelated third parties.

(iv) *Easement Holder’s Discretion.* Easement Holder’s permission to carry out, or failure to object to, any proposed use or activity shall not constitute consent to any subsequent use or activity of the same or different nature, nor shall it permit any activity prohibited by law. To the extent the Funding Agencies or any one of them has enforcement rights under Section 18 of this Easement, the rights under this section applicable to Easement Holder shall also apply to the Funding Agencies or any one of them.

(v) *Waiver of Certain Defenses.* Landowner hereby waives any defense of laches, estoppel, prescription, or unclean hands or the doctrine of changed circumstances (except as otherwise provided in Section 14 below) in any action or proceeding, including but not limited to any mediation brought by Easement Holder to enforce or to interpret the provisions of this Easement.

(vi) *Actions against Unrelated Third Parties.*

(I) In the event any term of this Easement is violated by the activities of an unrelated third party that were not authorized by Landowner, the discovering Party shall provide notice to other Party of such activities and the Parties shall consult as to whether Landowner, Easement Holder or both should undertake legal action in response to such activities, what restoration actions may be necessary and appropriate to cure any injury to the Property resulting from the activities, and how any damages recovered from the unrelated third party should be applied to the cost of undertaking any corrective action on the Property. Landowner acknowledges and agrees that the Easement is a real property interest held by Easement Holder and that an unrelated third party’s violation of the terms of the Easement gives rise to an independent right in Easement Holder to seek a remedy therefor.

(II) In the event any term of this Easement is violated by the act of an unrelated third party, and Landowner has not undertaken, and has decided not to undertake, suit itself, Landowner agrees, at Easement Holder’s request, to assign Landowner’s right of action to Easement Holder for the purpose of pursuing enforcement action against the unrelated third party. Easement Holder shall be entitled to all remaining damages from such unrelated third party after payment of costs and expenses of suit and costs in undertaking any corrective action on the Property in the event that it alone pursues an enforcement action against the unrelated third party pursuant to the terms of this paragraph. In the event any term of this Easement is violated by the activities of an unrelated third party, and Easement Holder has decided not to participate in any action or suit against the unrelated third party, Landowner shall be entitled to all remaining damages after payment of costs and expenses of suit and costs in undertaking any corrective action on the Property in the event that it alone pursues an enforcement action against the unrelated third party pursuant to the terms of this Section 10(c)(vi).
(III) In the event any term of this Easement is violated by the activities of an unrelated third party and Landowner and Easement Holder have decided to jointly take action in response to such activities, any damages recovered from such unrelated third party shall first be applied to any expenses reasonably incurred by Landowner and Easement Holder in connection with undertaking any action against the unrelated third party and next applied to any costs in undertaking any corrective action on the Property needed to return the Property to the condition that existed immediately prior to the action of the unrelated third party, with the remainder divided between Landowner and Easement Holder in proportion to the ratio set forth in Section 15. The terms of this Section 10(c)(vi) shall not be construed to supersede the provisions of Section 13(c) (Liability), Section 14 (Extinguishment) or Section 15 (Proceeds) of this Easement.

(d) Acts Beyond Landowner’s Control. Nothing contained in this Easement shall be construed to entitle Easement Holder to bring any action against Landowner for any injury to or change in the Property resulting from fire, flood, storm, extreme temperatures, unavailability of water, and earth movement or other natural occurrences, or the unauthorized (i.e., without Landowner’s consent or knowledge) actions of unrelated third parties, or from any prudent action taken by Landowner under emergency conditions to prevent, abate or mitigate material injury to any person, property, or the Property resulting from such causes; provided, however, that nothing in this section shall be construed to waive Landowner’s obligation to take reasonable precautions to prevent trespass, encroachment or unpermitted use or occupancy of the Property, nor shall any item in this section be construed to relieve Landowner of any obligation or restriction on the use of the Property imposed by law.

11. Public Access. Nothing contained in this Easement shall be construed as granting, permitting, or affording the public access to any portion of the Property.

12. Transfer Fee.

(a) Landowner and Easement Holder recognize and agree that any transfer of the Property and any division of ownership will result in an additional burden on the monitoring and enforcement responsibilities of Easement Holder. Therefore, there shall arise, by virtue of any transfer for consideration of the Property or interest therein (other than any Exempt Transfer, as defined below) a fee which is referred to herein as the “Transfer Fee,” which the Parties acknowledge and agree, pursuant to California Civil Code section 1098.6, is imposed and shall be used for the direct benefit of the Property and Easement Holder’s protection thereof. The Transfer Fee shall be the obligation of the seller of the Property and shall be payable to Easement Holder or subsequent holder of this Easement. The Transfer Fee shall be equal to one percent (1%) of the consideration paid in connection with the transfer of any interest in the Property and shall be paid to Easement Holder concurrently with the close of escrow or other consummation of the transfer of the Property. For example, if the Property has a fair market value of two hundred fifty thousand dollars ($250,000.00), the Transfer Fee would be two thousand five hundred dollars ($2,500.00); if the Property has a fair market value of five hundred thousand dollars ($500,000.00), the Transfer Fee would be five thousand dollars ($5,000.00); and if the...
Property has a fair market value of seven hundred fifty thousand dollars ($750,000.00), the Transfer Fee would be seven thousand five hundred dollars ($7,500.00). The Transfer Fee shall be paid to Easement Holder at the address listed for giving notices to Easement Holder as set forth in Section 22. Landowner and Easement Holder agree to execute and record a “NOTICE OF PAYMENT OF TRANSFER FEE REQUIRED” in accordance with California Civil Code section 1098.5 respecting transfer fees.

(b) Landowner shall provide to Easement Holder reasonable written proof of the sales price of the Property, including but not limited to an executed closing statement, contract of sale, copies of deeds or other similar evidence satisfactory to Easement Holder. An exchange of properties pursuant to Code section 1031, or similar statute, shall be deemed to be for consideration based on the market value of the Property (as encumbered by this Easement) at the time of the exchange. Market value shall be determined by agreement of Landowner and Easement Holder, or in the absence of such agreement, by an appraiser selected by Easement Holder (subject to Landowner’s reasonable approval) that has no less than ten (10) years’ experience appraising properties in Sierra County and is State-certified and qualified to value the real property, whose appraisal fee shall be paid by Easement Holder. Landowner agrees to comply with the applicable requirements of Civil Code section 1102.6e, respecting providing notice about the Transfer Fee to Landowner’s transferees.

(c) In the event of non-payment of the Transfer Fee in accordance with this section, Easement Holder shall have the right to record a lien against the Property in the amount equal to the unpaid Transfer Fee plus any and all reasonable costs and reasonable attorney’s fees necessary to prepare and enforce the lien of the Transfer Fee. The lien shall be recorded in accordance with California Civil Code section 2872 et seq. The lien shall be subordinate to this Easement and any other prior liens, encumbrances, mortgages and deeds of trust of record and any subsequent mortgages or deeds of trust. A copy of the lien shall be mailed via certified mail, return receipt requested, to the seller and the purchaser at the last known address of each upon recordation of the lien. After the expiration of ninety (90) days following the mailing of a copy of the lien, the lien may be enforced in any manner permitted by law, including without limitation a sale by the court or sale by the trustee designated by Easement Holder in the lien, in the sole exercise of Easement Holder’s discretion, in accordance with the provisions of section 2924 of the California Civil Code.

(d) In the event of non-payment of the Transfer Fee in accordance with this section, both the transferor and its successor-in-interest shall become jointly and severally liable therefor, and, in addition to the right to record and enforce a lien against the Property as set forth in (c) above, Easement Holder shall have any right available at law or in equity to enforce this Transfer Fee provision, including the right to bring suit to recover the Transfer Fee, interest thereon at the rate of five percent (5%) per annum from the date due until the date paid, plus its costs of suit, including reasonable attorneys’ fees.

(e) Any of the following transfers (each, an “Exempt Transfer”), subsequent to the conveyance of this Easement to Easement Holder, shall be exempt from the assessment of such
Transfer Fee: (i) the first transfer of the Property by the original Easement Holder; (ii) a transfer without consideration (e.g., an inter vivos gift or testamentary conveyance); (iii) a sale, transfer, other conveyance or exchange to, between, or among any “Related Party,” as defined below; (iv) any transfer in the nature of foreclosure or deed in lieu of foreclosure of a deed of trust or mortgage encumbering the Property; (v) any transfer to a public or nonprofit entity; (vi) a lease, license, or easement for a total term, including any options to renew or extend, not exceeding thirty-five (35) years; (vii) any transfer that does not result in a “change of ownership” as defined in California Revenue and Taxation Code section 60 et seq., or (viii) any transfer of a security interest to a bona fide lender by Landowner or its successor-in-interest or a sale or transfer by such lender or trustee of any deed of trust pursuant to the power of sale provisions in any mortgage or deed of trust.

(f) For purposes of this section, a “Related Party” shall mean (i) a “family member” of Landowner or its successor in interest (defined as a grandparent, parent, uncle, aunt, brother or sister; lineal descendant of a brother, sister, uncle, or aunt; spouse; lineal descendant or adopted child (if the adoption occurs before the child reaches the age of majority) and/or spouse thereof of Landowner or any member of Landowner or a combination thereof); and (ii) an entity which controls, is controlled by, or is under common control of the transferor (for purposes hereof, “control” means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the entity’s affairs).

(g) All Transfer Fee funds shall be used only for purposes which provide a direct benefit to the Property in accordance with Title 12 of the Code of Federal Regulations Part 1228 as said regulations exist on the date of this Easement. Concurrently with the recording of this Easement, Landowner and Easement Holder have executed and recorded a notice of “Payment of Transfer Fee Required” in compliance with California Civil Code section 1098.5.

13. Costs and Responsibilities. Except as otherwise expressly provided in this Easement, for purposes of this Easement Landowner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property.

(a) Taxes. Landowner shall pay or cause to be paid before delinquency all taxes, assessments (general and special), fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively “Taxes”), including any such Taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Easement Holder with satisfactory evidence of payment upon request. Easement Holder may, at its discretion and after five (5) days’ written notice to Landowner, pay any outstanding Taxes and shall then be entitled to reimbursement by Landowner within thirty (30) days following the date of Easement Holder’s delivery to Landowner of evidence of Easement Holder’s payment of such outstanding Taxes. Such payment by Easement Holder shall create a loan obligation from Landowner to Easement Holder, bearing interest until paid by Landowner at the lesser of a rate of five (5) percent or the maximum rate allowed by law.

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(b) **Exercise of Certain Easement Holder Rights.** For purposes of this Easement, Easement Holder shall retain its proportionate responsibilities and shall bear its own costs and expenses related to Easement Holder’s exercise of Easement Holder’s rights (but only to the extent such rights are in fact exercised by Easement Holder) pursuant to this Easement. Without limiting the generality of the foregoing, as between Landowner and Easement Holder, Easement Holder shall be responsible for (and shall bear its own costs and expenses associated with) the planning, design, approval, construction, installation, maintenance, repair, renovation, replacement, remodeling and/or removal of any infrastructure and/or improvements (and any personal property) placed on the Property in connection with Easement Holder’s exercise of its rights under Sections 3(c), 3(g) and/or 7 of this Easement, including but not limited to Easement Holder’s Permitted Activities or other infrastructure or improvements that Easement Holder (or others on behalf of Easement Holder) undertakes pursuant to the exercise of any of said Easement Holder’s rights pursuant to this Easement. Easement Holder’s exercise of Easement Holder’s rights under this Easement shall not unreasonably interfere with Landowner’s use and quiet enjoyment of the Property pursuant to this Easement. The provisions of this Section 13(b) are not intended to cover any Claims as defined in Section 13(c)(i), which the Parties intend to be covered only by Sections 13(c) and 13(g) below.

(c) **Liability.**

(i) Landowner, on behalf of Landowner and its successors and assigns, shall be responsible for, indemnify, defend, protect and hold harmless Easement Holder and each of the Funding Agencies, and their respective officers, directors, governing members, employees, contractors, partners, attorneys, agents, consultants, and representatives and the respective heirs, representatives, successors and assigns of each of them (each an “Easement Holder Indemnified Party” and, collectively, the “Easement Holder Indemnified Parties”) from and against any and all liabilities, claims, demands, administrative actions, damages, fines, charges, losses, expenses (including, without limitation, reasonable attorneys’ fees, experts’ fees and investigation, testing and remediation costs), liens, judgments or costs (each a “Claim” and, collectively, “Claims”) resulting from, growing out of, or in any way connected with or incident to any portion of the Property or this Easement, except to the extent attributable to Easement Holder, the Funding Agencies or any other Easement Holder Indemnified Part(ies) under Section 13(c)(ii).

(ii) To the extent a Claim resulting from, growing out of, or in any way connected with or incident to any portion of the Property or this Easement is attributable to (A) the active negligence or willful misconduct of any of the Easement Holder Indemnified Parties, or (B) the exercise by Easement Holder of any of Easement Holder’s rights pursuant to Sections 3(c), 3(g) and/or 7 of this Easement, in any such case Easement Holder, on behalf of Easement Holder and its successors and assigns, shall be responsible for, indemnify, defend, protect and hold harmless Landowner and Funding Agencies, and their respective officers, directors, governing members, employees, contractors, consultants, partners, attorneys, agents, and representatives and the respective heirs, representatives, successors and assigns of each of them (each a “Landowner Indemnified Party” and, collectively, the “Landowner Indemnified Parties”), from and against the portion(s) of such Claim so attributable, except that Easement
Holder shall not be responsible to indemnify the Funding Agencies and their respective officers, directors, governing members, employees, contractors, consultants, partners, attorneys, agents, and representatives and the respective heirs, representatives, successors and assigns of each of them, to the extent a Claim is attributable to negligent or willful actions or omissions of the Funding Agencies.

(iii) The duty of Landowner or Easement Holder to indemnify and hold harmless as provided in clauses (i) and (ii) above includes the duty to defend as set forth in Civil Code section 2778 with counsel reasonably acceptable to the applicable Easement Holder Indemnified Party (in the case of indemnification under clause (i) above) or with counsel reasonably acceptable to the applicable Landowner Indemnified Party (in the case of indemnification under clause (ii) above).

(d) Compliance with Laws. Landowner and Easement Holder each shall comply with all Applicable Law with respect to the Property including all Applicable Law protecting rare and endangered species, as well as “specially protected species” (as defined in Applicable Law, including, but not limited to the mountain lion). Nothing in this Easement relieves Landowner of any obligation with respect to the Property or restriction on the use of the Property imposed by Applicable Law. As used in this Easement, the term “Applicable Law” shall mean all laws, ordinances, regulations, rules, orders, or permit requirements applicable to the Property or this Easement, whether currently existing or hereafter enacted or otherwise promulgated by any federal, state, county, municipal, or other governmental body (whether legislative, administrative, or judicial), or by any competent official of any of the foregoing. In no event shall this Easement be construed as granting any landowner rights not permitted by local building, land use and/or zoning regulations at the time of construction, demolition, occupation or other regulated use.

(e) Liability Insurance.

(i) Landowner shall maintain comprehensive general liability insurance in the amount of not less than One Million Dollars ($1,000,000.00) per occurrence (either in a stand-alone general liability policy, or as part of any umbrella coverage, or a combination of the two) for the Property. Landowner shall cause all such policies of insurance to name Easement Holder as an additional insured and shall provide Easement Holder with a certificate of insurance for each such policy and all renewals thereof. Except with respect to any losses for which Easement Holder has liability under the terms of this Easement, Landowner’s liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Easement Holder, and Landowner waives all rights of subrogation against Easement Holder and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained by Landowner pursuant to this Easement.

(ii) Easement Holder shall maintain comprehensive general liability insurance in the amount of not less than One Million Dollars ($1,000,000.00) per occurrence (either in a
stand-alone general liability policy, or as part of any umbrella coverage, or a combination of the
two) for the Property (or generally covering real property in which Easement Holder holds an
interest) insuring against bodily injury and property damage on the Property. Easement Holder
shall cause all such policies of insurance to name Landowner as an additional insured and shall
provide Landowner with a certificate of insurance for each such policy and all renewals thereof.
Except with respect to any losses for which Landowner has liability under the terms of this
Easement, Easement Holder’s liability insurance shall apply as primary insurance with respect to
any other insurance or self-insurance programs afforded to Landowner, and Easement Holder
waives all rights of subrogation against Landowner and its agents, representatives, officers,
directors and employees for recovery of damages to the extent these damages are covered by
insurance maintained by Easement Holder pursuant to this Easement.

(iii) The foregoing insurance requirements do not replace, waive, alter or limit
the hold-harmless or indemnification provisions of this Easement.

(iv) The insurance amounts set forth in this Section 13(e) shall be adjusted
every five years to the nearest commonly available insured amount to reflect the percentage
increase during the past five years in the “CPI,” which means the United States Department of
Labor’s Bureau of Labor Statistics Consumer Price Index for all Urban Consumers (CPI-U, all
items) (1982-84=100), or the successor of such index.

(f) Upkeep and Maintenance. Except as expressly provided in Sections 7 and 13(b),
Easement Holder shall have no obligation for the upkeep and maintenance of the Property.

(g) Environmental Matters.

(i) Notwithstanding any other provision of this Easement to the contrary, the
Parties do not intend and this Easement shall not be construed as giving rise to any right or
ability in Easement Holder or the other Easement Holder Indemnified Parties to: (A) exercise
physical or management control over the day-to-day operations of the Property, or any of
Landowner’s activities on the Property, or otherwise to become an “owner,” “operator” or
“arranger” with respect to the Property as those words are defined and used in any
“Environmental Laws,” as defined below, including without limitation, the Comprehensive
section 9601 et seq. and hereinafter “CERCLA”) or any corresponding state and local statute or
ordinance; (B) exercise the obligations or liabilities of a person described in CERCLA at 42
U.S.C. section 9607(a)(3) or (4); (C) exercise the obligations of a responsible person under any
applicable Environmental Laws; (D) exercise the right or duty to investigate and remediate any
“Hazardous Materials,” as defined below, associated with the Property; or (E) exercise any
control over Landowner’s ability to investigate, remove, remediate or otherwise clean up any
Hazardous Materials associated with the Property.

(ii) Landowner represents, warrants and covenants to Easement Holder that
Landowner’s use of the Property is in compliance with and shall remain in compliance in all
material respects with all applicable Environmental Laws. 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. Landowner further represents, warrants and covenants
to Easement Holder that, to the best of Landowner’s knowledge, there has been no release or
threatened release of Hazardous Materials on, at, beneath or from the Property and hereby
promises to indemnify, defend and hold the Easement Holder Indemnified Parties harmless from
any and all litigation, Claims (as defined in Section 13(c)(i)), demands, penalties and damages
whatsoever, including reasonable attorneys’ fees, arising from or with respect to the presence,
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, other than such portion
of any release, threatened release, or violation which was directly caused or exacerbated by any
Easement Holder Indemnified Party. Landowner’s indemnification obligation will not be
affected by any authorizations provided by Easement Holder to Landowner with respect to the
Property or any restoration activities carried out by Easement Holder at the Property; provided,
however, that Easement Holder will be responsible for any Hazardous Materials contributed after
this date to the Property by the Easement Holder.

(iii) If at any time after the Effective Date of this Easement there occurs a
release, discharge, or other incident in, on or about the Property (excluding any release caused by
a Easement Holder Indemnified Party of Hazardous Materials) 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, Landowner agrees to
take any and all steps that are required under federal, state or local law necessary to assure its
containment and remediation, including any cleanup required by a governmental agency.

(iv) For the purposes of this Easement:

(A) The term “Hazardous Materials” means any element, chemical, compound,
material, mixture, solution, or substance that may pose a present or potential hazard to human
health or the environment or is now, or after the Effective Date, defined or listed in, or otherwise
classified or regulated pursuant to any federal, state or local laws, regulations and ordinances, as
a “hazardous substance,” “hazardous material,” “hazardous waste,” “extremely hazardous
waste,” “infectious waste,” “toxic substance,” “toxic material,” “toxic pollutant,” “toxic waste,”
or any other formulation intended to define, list or classify substances by reason of deleterious
properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive
toxicity, or “PE toxicity,” and shall include petroleum, petroleum products, fuel oil, and waste
oils; explosives; natural gas, natural gas liquid, liquefied natural gas, and synthetic gas usable for
fuel (or mixtures of natural gas and such synthetic gas); ash produced by a resource recovery
facility utilizing a municipal solid waste stream; drilling fluids, produced waters, and other
wastes associated with the exploration, development or production of crude oil, natural gas, or

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geothermal sources; and any other element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment.

(B) The term “Environmental Laws” includes, without limitation, any and all federal, state, local, municipal, or administrative agency statute, laws, regulation, rule, statutes, ordinance, order, codes, guidelines, policies or requirements (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, industrial hygiene, public health or safety, and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

(h) General Disclaimer and Landowner Warranty.

(i) In view of the Department’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 Department, nor its agents and assigns, shall have responsibility for the operation of the Property, monitoring of hazardous conditions on it, or the protection of Landowner, the public, or any third parties from risks relating to conditions on the Property. Without limiting the foregoing, neither the Department nor its agents and assigns shall be liable to Landowner 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 Landowner 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 Department and/or its agents and assigns.

(ii) The United States, its employees, agents, and assigns disclaim and will not be held responsible for Easement Holder’s or Landowner’s negligent acts or omissions or Easement Holder’s or Landowner’s breach of any representation, warranty, covenant, or agreements contained in this Easement, or violations of any federal, state, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which the United States may be subject or incur relating to the Property.

Landowner shall indemnify and hold harmless United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which United States may be subject or incur relating to the Property, which may arise from, but are not limited to, Landowner’s negligent acts, omissions, or breach of any
representation, warranty, covenant, agreements contained in this Easement or violations of any
federal, state, or local laws, including all Environmental Laws.

14. **Extinguishment.** It is the intention of the Parties that the Conservation Purpose of
this Easement shall be carried out in perpetuity as provided in section 815 et seq. of the
California Civil Code and by the Program. No inaction or silence by Easement Holder 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, or is not serving as wildlife habitat or a wildlife
corridor, is not reason for termination or extinguishment of this Easement so long as the 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. Accordingly,
Landowner expressly waives on behalf of Landowner and Landowner’s successors and assigns
all rights to terminate or extinguish this Easement, or request that this Easement be terminated or
extinguished pursuant to the administrative termination provisions set forth in section 10270 et
seq. of the Public Resources Code.

If circumstances arise in the future so as to render the Conservation Purpose of this
Easement impossible or impracticable to accomplish, this Easement shall only be terminated or
extinguished, whether in whole or in part, by judicial proceedings in a court of competent
jurisdiction. Prior to initiating any legal proceedings under this section, the Party initiating the
legal proceedings shall give reasonable advance notice to the other Party and the Funding
Agencies of any prospective action for termination or extinguishment of this Easement not less
than 60 business days before initiating such proceedings. The Department may intervene in any
such judicial proceedings to protect or retain this Easement. The amount of the proceeds to
which Easement Holder and Funding Agencies shall be entitled after the satisfaction of prior
claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property
subsequent to such termination or extinguishment shall be the stipulated fair market value of the
Easement determined in accordance with Section 15 below, unless otherwise provided by
California law and applicable federal law at the time.

In addition, in granting this Conservation Easement, Landowner has considered the
possibility that uses prohibited by the terms of this Easement may become more economically
valuable than permitted uses and that neighboring properties may in the future be put entirely to
such prohibited uses. It is the intent of both Landowner and Easement Holder that any such
changes will not be deemed to be circumstances justifying the termination, extinguishment, or
modification of this Easement. In addition, the inability of Landowner, or Landowner’s heirs,
successors, or assigns, to conduct or implement any or all of the uses permitted under the terms
of this Easement, or the unprofitability of doing so, will not impair the validity, force and effect
of this Easement or be considered grounds for its termination, extinguishment, or modification.
15. **Proceeds.** This Easement constitutes a real property interest immediately vested in Easement Holder. For purposes of calculating compensation and the total proceeds due to Easement Holder and Funding Agencies following the extinguishment of this Easement pursuant to judicial proceedings, and for the purpose of allocating proceeds from a sale or other disposition of the Property at the time of termination, the Parties stipulate that the Easement and Easement Holder’s property right therein shall have a value determined by multiplying (i) the fair market value of the Property unencumbered by the Easement (minus any increase in value attributable to improvements authorized by and made in compliance with this Easement that are made after the Effective Date of this Easement, such as buildings, structures, residences) by (ii) the ratio of the value of the Easement at the time of this grant to the value of the Property unencumbered by the Easement at the time of this grant (“Easement Percentage”). For the purposes of this section, the Easement Percentage is calculated to be _________ percent (___%) and shall remain constant. Upon receipt by Easement Holder of any such proceeds, those proceeds shall be allocated among Easement Holder and Funding Agencies proportionate to the contribution each made to the purchase price of this Easement. Those proportionate shares are: _________ percent (___%) Department; and _________ percent (___%) NRCS. The proceeds shall be used in a manner consistent with the Conservation Purpose of this Easement.

Any compensation or proceeds paid to Easement Holder for 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 Easement Holder, NRCS, and the Department proportionately to the contribution each made to the purchase of this Easement as specified in this Section 15. This Easement shall not be deemed terminated or extinguished until such payment is received by the State of California, Sustainable Agricultural Lands Conservation Program, and NRCS as provided herein. The Department, in using any proceeds received, shall use the funds in accordance with the intent of the Program. Until such compensation is paid to Easement Holder in full, the amount of that compensation shall be a first priority lien on the Property with the same seniority as this Easement. If Easement Holder obtains payment on a claim under a title insurance policy insuring this Easement, payment shall be distributed as set forth this Section 15.

The fair market value of the Property unencumbered by the Easement shall be determined by an appraisal performed by an appraiser jointly selected by Landowner and Easement Holder. The appraisal shall conform to the Uniform Standards of Professional Appraisal Practices (USPAP) and is subject to approval by the Department. If the termination was sought solely by Landowner, the cost of the joint appraisal by the jointly selected appraiser shall be paid by Landowner; otherwise, the cost of the joint appraisal by the jointly selected appraiser shall be shared by Landowner and Easement Holder. Nothing herein shall prevent Landowner, Easement Holder, or the Department from having an appraisal prepared at its own expense.

16. **Condemnation.**

(a) Acquisition of the Easement through the power of eminent domain shall follow the process outlined in section 10261 of the California Public Resources Code, the eminent Potter Conservation Easement
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domain laws of the State of California, including section 1240.510 or section 1240.610 of the Code of Civil Procedure, federal law, and this Easement. The Property may not be taken by eminent domain or in lieu of eminent domain if the planned use is more than seven (7) years in the future (California Code of Civil Procedure section 1240.220). Purchase in lieu of condemnation, or settlement of an eminent domain proceeding, shall occur pursuant to applicable laws and procedures, including but not limited to California Government Code sections 7267.1 and 7267.2, and shall require approval of Easement Holder and the Director of the Department. Easement Holder and the Department shall have an opportunity to accompany the appraiser for the Acquiring Entity when the appraiser goes on the Property with Landowner. If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Landowner and Easement Holder acknowledge that Easement Holder and the Funding Agencies are entitled to certain rights of notice, comment and compensation as provided in section 1240.055 of the California Code of Civil Procedure. If Landowner or Easement Holder is notified formally or informally that the Property may be acquired for public use by eminent domain, the Party receiving such notice shall notify the other Party and the Funding Agencies of the potential acquisition no later than fifteen (15) days after first receiving such notice. Thereafter, either Party shall provide to the other Party and the Funding Agencies copies of all further communications related to the potential acquisition and any proceedings related thereto, within not more than five (5) business days of receiving the communication, and shall cooperate with the other Party and the Funding Agencies in responding to the potential acquisition and proceedings. Prior to the inspection of the Property by the appraiser pursuant to section 7267.1 of the California Government Code or any other provision of law, Landowner shall notify Easement Holder that it or its designated representative may accompany the appraiser during his or her inspection. Within fifteen (15) days of receiving any notice of the hearing on the resolution of necessity pursuant to section 1245.235 of the California Code of Civil Procedure, Landowner shall provide Easement Holder and the Funding Agencies a copy of the notice of the hearing. As provided in sections 1250.220 and 1250.230 of the California Code of Civil Procedure, in any eminent domain proceeding to acquire all or a portion of the Property, Easement Holder shall be named as a defendant and may appear in the proceedings.

(b) If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Landowner and Easement Holder shall act collaboratively to recover compensation for their respective interests in the Property and Easement, and all direct or incidental damages resulting therefrom, in accordance with Applicable Law. Each of the Parties shall be entitled to its respective proportionate share of the amount recovered as set forth in Section 15. The Funding Agencies or their respective successors shall be entitled to the proportionate share of Easement Holder’s recovered amount equal to the ratio of (i) the Funding Agencies’ grant funding to Easement Holder (collectively, the “Funding”) to (ii) the purchase price paid by Easement Holder to acquire the Easement, in the percentages identified in Section 15, above. All expenses incurred by Landowner and Easement Holder in connection with the taking or in-lieu purchase shall be paid by each Party out of its
respective amount recovered. If only a portion of the Property is subject to such exercise of the power of eminent domain or in-lieu purchase, this Easement shall remain in effect as to all other portions of the Property. In this event, all relevant documents shall be updated and re-recorded by Easement Holder to reflect the modified easement area. Encumbrances junior to this Easement shall remain subordinate to the Easement as amended. Landowner shall promptly notify Easement Holder of any notices or actions pertaining to the actual or potential condemnation of all or any part of the Property. Landowner shall not agree to any in-lieu purchase without Easement Holder’s prior written approval.

17. Landowner’s Title. 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. All financial liens or financial encumbrances on the Property existing as of the Effective Date of this Easement (excepting liens for property taxes which are not yet due and payable) have been subordinated to this Easement. Landowner represents and warrants that it has not subjected the Property to any other financial liens or encumbrances or any conservation easement whatsoever other than what is reflected on the Title Policy (as defined below). After recordation, if Landowner discovers at any time that any outstanding interest in the Property exists that is not disclosed herein, or in the Title Policy No. 5452713-C issued by First American Title Company dated concurrently with the recordation of this Easement (“Title Policy”) and incorporated herein by this reference, including, but not limited to any outstanding interest in the mineral estate of the Property, then Landowner shall immediately notify Easement Holder and the Funding Agencies and shall take all commercially reasonable steps to ensure that the interest is made subject to this Easement and that the existence of the interest or the exercise of any rights under it does not interfere with the Conservation Purpose of this Easement.

18. Funding Agencies’ Right of Enforcement.

(a) United States’ Right of Enforcement. Pursuant to 16 U.S.C. section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of this Easement are not enforced by Easement Holder. The Secretary of the USDA (the “Secretary”) or the Secretary’s assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under state or federal law if Easement Holder, or its successors or assigns, fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from Landowner, including, but not limited to, attorneys’ fees and expenses related to Landowner’s violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from Easement Holder, including, but not limited to, attorneys’ fees and expenses related to Easement Holder’s violations or failure to
enforce the Easement against Landowner up to the amount of the United States’ contribution to
the purchase of the Easement.

In the event of an emergency, the United States may enter the Property to prevent, termi-
minate, or mitigate a potential or unaddressed violation of these restrictions and will give notice
to Easement Holder and Landowner or Landowner’s representative at the earliest practicable time.

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

19.  Perpetuation of Easement; No Merger. 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, is binding upon
Landowner and Easement Holder and their respective heirs, successors, agents, assigns, lessees,
executors, administrators, and any other person claiming under them. 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 Easement Holder
or its successors or assigns.  It is the express intent of the parties that this Easement not be
extinguished by, merged into, modified, or otherwise deemed affected by any other interest or
estate in the Property now or hereafter held by Easement Holder or its successors or assigns.

20.  Assignment 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 Easement Holder by the terms of this Easement and the Funding
Agencies’ Grants 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 Sierra County within thirty (30) days. If Easement Holder
should desire to assign or transfer this Easement, Easement Holder must obtain written
permission from the Department, which permission shall not be unreasonably withheld.

21.  Subsequent Transfers of Property. Subject to the terms of this Easement,
Landowner may transfer the Property or an interest therein. Landowner shall expressly
incorporate by reference the terms of this Easement in any deed or other legal instrument by which Landowner divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Landowner further agrees to give Written Advisement to Easement Holder, NRCS, and Department of the transfer of any interest at least thirty (30) days prior to the date of such transfer, along with a copy of the proposed instrument of conveyance. The failure of Landowner to perform any act required by this Section 21 shall not impair the validity of this Easement or limit its enforceability in any way.

Landowner shall deliver to the buyer prior to any such transfer, a complete copy of this Easement and, through escrow, deliver Landowner’s copy of the Baseline Report, or request Easement Holder provide a copy of the Baseline Report at Landowner’s cost and expense. As part of the escrow for the sale of the Property, Landowner shall obtain from the buyer and deliver to Easement Holder, an acknowledgement to be signed by the buyer in substantially the same form as Exhibit C attached hereto, wherein the buyer acknowledges receipt of the Baseline Report and certifies that the Baseline Report is an accurate representation of the condition of the Property as of the date of the acknowledgement (subject to any changes of condition specified by the buyer).

22. Notices. Except as otherwise expressly provided, any notice, demand, request, consent, approval or communication that either Party desires or is required to give to the other shall be in writing, and delivered to the addresses set forth in this Section 22. Notice shall be sufficiently given for all purposes as follows:

(a) Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.

(b) Overnight Delivery. When delivered by reputable overnight delivery services, charges prepaid or charged to the sender’s account, notice is effective upon delivery, if delivery is confirmed by the delivery service.

(c) Certified Mail. When delivered by certified U.S. Mail, return receipt requested, notice is effective three (3) days after deposit with the U.S. Postal Service.

(d) Email Notices. Where expressly provided in this Easement, written notice may be given by email to the Parties at the email addresses set forth below. Notices transmitted by email shall be deemed given on the date of successful transmission or the next business day if it is sent after 5:00 pm (recipient’s time) or on a nonbusiness day.

Addresses for purpose of giving notice are as follows:

Potter Conservation Easement
Version 5
To Landowner: Arnold and Christine Potter
90 Smithneck Road
P.O. Box 508
Loyalton, CA 96118
Email: p8ranch@yahoo.com

To Easement Holder: Executive Director
Feather River Land Trust
75 Court Street
Quincy, CA 95971
Telephone: 530-283-5758
Email: shelton@frlt.org

To Department: Department of Conservation
Sustainable Agricultural Lands Conservation Program
801 K Street, MS 14-15
Sacramento, CA 95814
Email: salcp@conservation.ca.gov

To NRCS: Attn: State Conservationist
430 G Street, Room 4164
Davis, CA 95616
Phone: 530-792-5600

or to such other address as either Party from time to time shall designate by written notice to the other.

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the Party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

23. Recordation. This Easement shall be recorded in the Official Records of the County of Sierra, State of California.

24. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, this Easement may be amended only with the written consent of Landowner, Easement Holder, the United States, by and through the Chief of NRCS, and the Department’s Director. Easement Holder must provide timely written notice to the Department’s Director and Chief of the NRCS of any proposed amendment(s). Any such
amendment shall be consistent with the Conservation Purpose of this Easement and with
Easement Holder’s easement amendment policies, and shall comply with all Applicable Law,
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, and the
California Farmland Conservancy Program Act as codified in section 10200 et seq. of the
California Public Resources Code, and any regulations promulgated thereunder. No amendment
shall be allowed that will adversely affect the qualification of this Easement or the status of
Easement Holder under any Applicable Law, including California Civil Code section 815.3 or
sections 170(h) or 501(c)(3) of the IRC, and no amendment shall affect the Easement’s perpetual
duration. Any such amendment shall be recorded in the Official Records of Sierra
California, and copies of such amendment shall be sent to NRCS and the Department within
thirty (30) days of recordation. Any purported amendment that is recorded without the prior
approval of the Funding Agencies is null and void.

25. **Executory Limitation.** If a prior assignment is not made pursuant to Section 20,
the Department, in consultation with NRCS, may, in its sole discretion, identify and select an
appropriate private or public entity to which this Easement shall be transferred in the event any
of the following occurs: (i) any of the essential terms of this Easement have been violated by
Easement Holder; (ii) the existence of Easement Holder has terminated; (iii) Easement Holder
has abandoned the Easement or failed to enforce the essential terms of the Easement for any
reason; or (iv) Easement Holder ceases to be a qualified organization under section 170(h) of the
Code or to be authorized to acquire and hold conservation easements under California Civil Code
section 815.3; provided, however, that before any such transfer, one or more Funding Agencies
shall deliver written notice to Easement Holder and Landowner stating the reason(s) for such
potential transfer, and Easement Holder shall be given a reasonable opportunity to cure the issue.
As a condition of such transfer, the transferee shall expressly agree in writing to assume
Easement Holder's obligations under this Easement in order that the Conservation Purpose of this
Easement will continue to be carried out and shall also expressly agree in writing to assume and
be bound by the terms, covenants and conditions of the Funding Agencies’ Grants.

For purposes of this section the “essential terms of this Easement” are those set forth in
Section 5(a) (General Prohibition), Section 8 (Monitoring), Section 14 (Extinguishment), Section
19 (Perpetuation of Easement; No Merger), 20 (Assignment of Easement), 23 (Amendment) and
26 (Requirements for Use of Property for Mitigation).

26. **Requirements for Use of Property for Mitigation.** The Property shall not be used
for mitigation (in other words, to compensate for adverse changes to the environment elsewhere)
without the written approval of the Director of the Department and the Executive Officer of
NRCS; and any such proposed mitigation use shall be consistent with the Conservation Purpose
of this Easement. In providing approval, the Director of the Department and Executive Officer
of NRCS may require that all funds generated in connection with any authorized or allowable
mitigation on the Property shall be remitted promptly to the Department and NRCS according to
the Proportionate Shares outlined in Section 15. As used in this section, mitigation includes, but

Potter Conservation Easement
Version 5
is not limited to, any use of the real property in connection with the sale, trade, transfer or other
transaction involving greenhouse gas sequestration credit or greenhouse gas mitigation.


(a) Controlling Law. The interpretation and performance of this Easement shall be
governed by the laws of the State of California. References to authorities in this Easement shall
be to the statute, rule, regulation, ordinance or other legal provision that is in effect at the time
this Easement becomes effective. No provision of this Easement shall constitute governmental
approval of any improvements, construction or other activities that may be permitted under this
Easement.

(b) Liberal Construction. Any general rule of construction to the contrary
notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the
Conservation Purpose of this Easement and the policy and purpose of California Civil Code
section 815.1. If any provision in this instrument is found to be ambiguous, an interpretation
consistent with the Conservation Purpose of this Easement that would render the provision valid
shall be favored over any interpretation that would render it invalid.

(c) 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.

(d) 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.

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

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

(g) Termination of Rights and Obligations. A Party’s rights and obligations under
this Easement terminate upon transfer of that Party’s interest in the Easement or Property, except
that liability for acts or omissions occurring prior to transfer and during such Party’s ownership
of the Easement or Property (as applicable) shall survive transfer.
(h) **No Waiver.** Enforcement of the terms of this Easement is at the discretion of Easement Holder. Any forbearance by Easement Holder to exercise its rights under this Easement or any failure of Easement Holder to discover a violation or potential violation shall not be deemed or construed to be a waiver by Easement Holder of such term or of any of Easement Holder’s rights under this Easement. No delay or omission by Easement Holder in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. No forbearance or waiver by Easement Holder of any default or breach, whether intentional or not, shall be deemed to extend to any prior or subsequent defaults or breaches, nor shall it affect in any way any rights arising by virtue of any prior or subsequent occurrence.

(i) **Joint Obligation.** If and when Landowner consists of more than one party, the obligations imposed by this Easement upon Landowner shall be joint and several.

(j) **Administrative Costs.** The administration of this Easement by Easement Holder requires considerable time and expense. Easement Holder shall bear all routine administrative expenses related to the Easement including, but not limited to the following activities: routine easement monitoring and reporting as provided in Section 8(d), review of notices of permitted activities, routine staff work related to Landowner’s refinancing and/or sale of the Property, and Easement Holder’s Permitted Activities. Landowner agrees to pay Easement Holder’s reasonable expenses for non-routine administration of the Easement including, but not limited to, actions requiring Easement Holder’s prior approval, Landowner requests for estoppel certificates, and any Easement amendment requests made by Landowner.

(k) **Counterparts.** The Parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all Parties; each counterpart shall be deemed an original instrument as against any Party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(l) **Debt.** The Easement may not be used as security for any debt without the written approval of the Funding Agencies.

(m) **Third-Party Beneficiaries.** Except as expressly provided in the Easement, there are no third-party beneficiaries of this Easement. NRCS and Department are, jointly and severally, intended third party beneficiaries of this Easement, in accordance with California Civil Code sections 1085 and 1559 and common law and, as such, hold the right to enforce its terms in accordance with Applicable Law and policy; provided, however, that (A) only Easement Holder (including any successor Easement Holder) shall have the right to enforce the provisions of this Easement against Landowner unless and until Department or NRCS give written notice to Landowner that Easement Holder has been replaced as the enforcing party by Department or NRCS in accordance with Section 25, and (B) thereafter, only Department or NRCS, as designated in such notice, shall have such enforcement authority, until Department or NRCS gives written notice to Landowner that Easement Holder or its successor has been reinstated as the enforcing party. It is the intent of the preceding sentence that, at any particular time, only

Potter Conservation Easement
Version 5
one party shall have the right to enforce the terms of this Easement against Landowner
(Easement Holder, Department, or NRCS). In the event that Department or NRCS replace
Easement Holder as the enforcing party, and Landowner receives inconsistent notices or
demands from Department and/or NRCS, then Landowner shall have the right to require by
written notice that NRCS and Department resolve such inconsistency and, pending the resolution
of such inconsistency, Landowner shall be relieved of any obligation to respond to such notices
or demands.

(n) Grant Agreements. Landowner acknowledges that funds to acquire the Easement
have been provided pursuant to the terms of the NRCS Grant and Department Grant. Landowner
acknowledges that the Department Grant provides certain rights to Department, including the
right to require Easement Holder to assign or delegate to Department any of its rights under this
Easement, subject to the terms of Section 18.

(o) Authority. Each Party executing this Easement represents to the other Party that
the person or persons signing this Easement on behalf of said Party, has full power and authority
to sign for and to bind said Party to this Easement

(p) Estoppels. Upon reasonable request by Landowner, Easement Holder shall within
thirty (30) days execute and deliver to Landowner any document, including an estoppel
certificate, which certifies the status of Landowner’s compliance with any obligation of
Landowner contained in this Easement and otherwise evidences the status of this Easement as
may be requested by Landowner.

30. Recitals; Exhibits. The Recitals to this Easement are integral and operative
provisions of this Easement and are incorporated in and made a part of this Easement. The
following exhibits are attached hereto and incorporated herein by reference:

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Legal Description of Property</td>
</tr>
<tr>
<td>B-1</td>
<td>Map of Property and Improvements</td>
</tr>
<tr>
<td>B-2</td>
<td>Survey of Building Envelope</td>
</tr>
<tr>
<td>C</td>
<td>Acknowledgment of Baseline Report</td>
</tr>
<tr>
<td>D</td>
<td>Monitoring Protocols</td>
</tr>
<tr>
<td>E</td>
<td>Notice and Approval Chart</td>
</tr>
</tbody>
</table>

31. Acceptance. As attested by the signature of its Executive Director affixed hereto, as
authorized by Easement Holder’s Board of Directors/Trustees, in exchange for consideration,
Easement Holder hereby accepts without reservation the rights and responsibilities conveyed by
this Deed of Agricultural Conservation Easement.

[Signatures to follow on next page.]
TO HAVE AND TO HOLD, this Deed of Agricultural Conservation Easement unto Easement Holder, its successors and assigns, forever.

IN WITNESS WHEREOF, Landowner and Easement Holder, intending to legally bind themselves, have set their hands on the date first written above.

LANDOWNER:

ARNOLD J. POTTER and CHRISTINE M. POTTER,
husband and wife as joint tenants

By: ______________________________
Arnold J. Potter

By: ______________________________
Christine M. Potter

EASEMENT HOLDER:

FEATHER RIVER LAND TRUST,
a California nonprofit public benefit corporation

By: ______________________________
Shelton Douthit, Executive Director
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 ________________

On ________________, 20__, before me, ____________________________, a Notary Public in and for said State, personally appeared ____________________________, 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 ____________________________ (Seal)
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 __________________________

On ________________, 20__, before me, ______________________________, a Notary Public in and for said State, personally appeared ____________________________, 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 ________________________________ (Seal)
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 ________________ )

On ________________, 20__, before me, ______________________________, a Notary Public in and for said State, personally appeared ______________________________, 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 ______________________________ (Seal)
EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

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

TOWNSHIP 21 NORTH, RANGE 16 EAST, M.D.M.

SECTION 19: EAST 1/2 OF NORTHEAST 1/4; SOUTHEAST 1/4; EXCEPTING THEREFROM: THAT PORTION LYING WESTERLY OF THE CENTERLINE OF SMITHNECK ROAD.

SECTION 20: WEST 1/2 OF WEST 1/2, EXCEPTING ALL THAT PORTION LYING WESTERLY OF THE CENTERLINE OF SMITHNECK ROAD AND THAT PORTION DESCRIBED IN THE DEED TO P.J. LOMBARDI RECORDED NOVEMBER 25, 1903, IN BOOK 18 OF DEEDS, PAGE 339.

FURTHER EXCEPTING THEREFROM:

ALL OF GRantor’S RIGHT TITLE AND INTEREST INCLUDING ANY REVERSIONARY INTEREST OF GRantor, IN AND TO ALL OIL, OIL RIGHTS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, TOGETHER WITH ALL GEOTHERMAL STEAM AND STEAM POWER THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND ABOVE DESCRIBED.

TOGETHER WITH THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH OR ON, AND UTILIZE, ALL OR ANY PORTION OF THE SURFACE AND SUBSURFACE OF THE LAND HEREAFTER DESCRIBED, AS SET FORTH IN THE DEED EXECUTED BY OCCIDENTAL LAND INC., RECORDED JULY 22, 1974, IN BOOK 62, PAGE 30, OFFICIAL RECORDS.

FURTHER EXCEPTING THEREFROM:


APN: 016-090-053-0
EXHIBIT B-2
SURVEY OF BUILDING ENVELOPE

(to be completed)
EXHIBIT C
ACKNOWLEDGMENT OF BASELINE REPORT
AND RECEIPT OF BASELINE REPORT

The undersigned, Arnold J. Potter and Christine M. Potter, on behalf of Landowner, and Shelton Douthit, representing Feather River Land Trust, certifies as Easement Holder of the Conservation Easement, as follows:

a) Each is familiar with the condition of the Property, and
b) Each does hereby acknowledge and certify that the Baseline Report, and all of its inclusions, dated ____________ , 2019, prepared by ______________ , Conservation Steward, of Feather River Land Trust, is an inventory of the natural resources of the Property and an accurate representation of the condition of the Property as of the date of conveyance of the Conservation Easement.

Duplicate originals of the Baseline Report were signed and delivered by each of Landowner and Easement Holder, and each will receive a duplicate original of the Baseline Report at the close of escrow. The Parties have provided each of the Funding Agencies (defined in Recital F) with a copy of the Baseline Report.

LANDOWNER:
ARNOLD J. POTTER and CHRISTINE M. POTTER,
husband and wife as joint tenants

By: __________________________________________
Arnold J. Potter

By: __________________________________________
Christine M. Potter

EASEMENT HOLDER:
FEATHER RIVER LAND TRUST,
a California nonprofit public benefit corporation

By: __________________________________________
Shelton Douthit, Executive Director
EXHIBIT D: MONITORING PROTOCOLS

Monitoring shall occur no less than once a year and include as a minimum:

1. Contacting landowner(s) prior to field visit with an invitation to participate and/or provide information pertinent to monitoring the Conservation Easement.
2. Entry on and visual inspection of the Property from the ground. Inspection (and documentation) shall be as extensive as is practicable considering the size of the Property, its topography, and the accessibility of the various portions of the Property.
3. Documentation of the conditions on the Property and the condition of the Conservation Values through:
   a. Photographs or other video technology that can be easily preserved and provided in report form.
4. Evaluation of the condition of the Property and the Conservation Values compared to the condition documented in the Baseline Conditions Report.
5. A comparison of observed conditions to the Baseline Conditions Report photos and aerial photos.
7. Review of pertinent documentation submitted by the Property owner (Landowner) (for example, inventory reports, yield tax returns and bureau ticket summaries, timber harvesting documents, and California Department of Forestry and Fire Protection (“CDF”) inspection reports) and analysis of that documentation in relation to the observed conditions on the Property and in relation to the terms of the Conservation Easement.

In addition to the annual monitoring, monitoring activities shall include:

1. Review of the most recent and publicly or commercially available aerial photographs (or other remotely sensed images as appropriate) of the Property. This review should be conducted at least once every 5 years.
2. Additional monitoring activities, as necessary to respond to and document natural catastrophes, any Easement violations which Easement Holder or the monitoring entity has reason to believe may occur or may have occurred, or any other unscheduled, unanticipated events which affect the Conservation Easement.
3. Department shall be invited and allowed access to the Property no less than once in any period of three calendar years, to assess compliance with the terms, covenants, and conditions of the Grant Agreement between Department and the easement holder (Easement Holder).
4. A written report detailing observations, analysis, and conclusions and with appropriate documentation shall be prepared by Easement Holder within 30 days of any on-site inspection or other monitoring activity. The monitoring report shall address each of the monitoring protocols as required in the NRCS Grant and Department Grant. On completion, the report shall be sent by Easement Holder to NRCS, Department, and Landowner. Any significant variation (improvement, deterioration or otherwise) in the condition of the Property or of the Conservation Values from the conditions identified in the Baseline Conditions Report should be detailed and documented.
EXHIBIT E
NOTICE AND APPROVAL CHART

The following chart provides general guidance as to those activities requiring Written Advisement/notice to Easement Holder or Written Advisement/notice to and approval of Easement Holder under the Easement, but in no way limits Landowner’s obligations with regard thereto. In the event of an inconsistency between the following chart and the terms of the Easement, the Easement shall control.

<table>
<thead>
<tr>
<th>Written Advisement/Notice Required</th>
<th>Written Advisement/Notice and Approval Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>5(d)(iii) New ag structures within the Building Envelope</td>
<td>2(a)(iv) Deviating from stated grazing dates</td>
</tr>
<tr>
<td>5(d)(v) Placement of agricultural-related structure or improvement outside Building Envelope</td>
<td>2(c) Update or amendment of ALE Plan</td>
</tr>
<tr>
<td>5(e)(ii) New fencing</td>
<td>2(d) Fencing in Upland Zone</td>
</tr>
<tr>
<td>5(j)(ii) Short-term emergency actions</td>
<td>4(d) Creation of carbon offset credits</td>
</tr>
<tr>
<td>5(j)(ii) Construction of temporary emergency living quarters</td>
<td>(5)(d)(i) Enlargement by more than 150% or replacement in different location of existing improvements</td>
</tr>
<tr>
<td>5(k) Certain small-scale commercial uses within Building Envelope</td>
<td>5(d)(iv) Changing location of designated Building Envelope</td>
</tr>
<tr>
<td>5(n) Control of problem animals or pests</td>
<td>5(e)(ii) Certain new fencing</td>
</tr>
<tr>
<td>5(o) Alternative electric energy generation facilities within the Building Envelope</td>
<td>5(f)(ii) Paving and construction of new roads</td>
</tr>
<tr>
<td>5(r)(i) Mining of materials for agricultural operations</td>
<td>5(i)(iii) Continuance of emergency activities longer than thirty (30) days</td>
</tr>
<tr>
<td>9(a) Prior to seeking, or carrying out any activity requiring, a building, grading, or zoning permit or environmental regulatory review or permit; prior to exercising any reserved right on the Property that may impair the Conservation Purpose; and where Written Advisement is otherwise expressly required in the Easement</td>
<td>5(k) Certain commercial uses</td>
</tr>
<tr>
<td>10(c)(vi)(I) Violation by unrelated third party</td>
<td>5(l) Signs</td>
</tr>
<tr>
<td>12(b) Proof of the sales price of the Property to establish transfer fee</td>
<td>5(m) Ecological restoration</td>
</tr>
<tr>
<td>14 Prior to initiating extinguishment proceedings</td>
<td>5(n) Commercial hunting of game species</td>
</tr>
<tr>
<td>16(a) Receipt of eminent domain notification and hearing notice; prior to inspection of the Property</td>
<td>5(o) Alternative electric energy generation facilities outside the Building Envelope and placement of wind power facilities anywhere on Property</td>
</tr>
<tr>
<td>17 Discovery of outstanding interest in the Property not disclosed in the title policy</td>
<td>5(o) Grant or modify utility or road rights-of-way</td>
</tr>
<tr>
<td>21 Subsequent transfers of the Property</td>
<td>5(p)(i) Alteration of natural watercourses</td>
</tr>
<tr>
<td></td>
<td>5(p)(ii) Alteration of natural stream channels; development of wells, stock watering systems</td>
</tr>
<tr>
<td></td>
<td>5(p)(iii) Exportation of water off-Property</td>
</tr>
<tr>
<td></td>
<td>5(r)(iii) Restoration after mining activities</td>
</tr>
<tr>
<td></td>
<td>5(s) Subsequent easements</td>
</tr>
<tr>
<td></td>
<td>5(u) Introduction of non-native plant or animal species after catastrophe</td>
</tr>
<tr>
<td></td>
<td>5(v) Surface alteration to implement erosion and sediment control</td>
</tr>
<tr>
<td></td>
<td>5(w) Certain other activities, uses, and structures</td>
</tr>
<tr>
<td></td>
<td>6 Restoration or other project plan related to impervious surfaces</td>
</tr>
<tr>
<td></td>
<td>9(b) Details re seeing Easement Holder’s approval</td>
</tr>
<tr>
<td></td>
<td>16(a) and (b) Purchase in lieu of condemnation</td>
</tr>
<tr>
<td>24 Amendment of Easement</td>
<td>26 Use of Property for mitigation</td>
</tr>
</tbody>
</table>
Hill Grassland NRCS-SALC
05/13/19

Recording requested by and when recorded return to:

Feather River Land Trust
75 Court Street
Quincy, CA 95971
Attn: Executive Director

SPACE ABOVE THIS LINE RESERVED FOR RECORDER’S USE

APN(s): 016-020-023 and 016-020-024
Documentary Transfer Tax: $______

DEED OF AGRICULTURAL CONSERVATION EASEMENT

THIS DEED OF AGRICULTURAL CONSERVATION EASEMENT ("Easement") is made this ___ day of __________ 20__ ("Effective Date"), by the Justin Hill and Sara Hill, also known as and who acquired title as Justin T. Hill and Sara M. Hill, Trustees of the JUSTIN AND SARA HILL REVOCABLE TRUST, EXECUTED MARCH 2, 2006 ("Landowner"), in favor of FEATHER RIVER LAND TRUST, a California nonprofit public benefit corporation ("Easement Holder"), and with a right of enforcement to the United States of America (the "United States"), acting by and through the United States Department of Agriculture ("USDA") Natural Resources Conservation Service ("NRCS") on behalf of the Commodity Credit Corporation ("CCC"), for the purposes outlined herein. Landowner and Easement Holder are collectively referred to herein as the "Parties" and individually as a "Party."

RECITALS

A. Landowner is the sole owner in fee simple of that certain real property located in Sierra County ("County"), California, consisting of approximately 440 acres, also identified as Assessor Parcel Number(s) 016-020-023 and 016-020-024, and more particularly described in Exhibit A (the "Property"). The Property is located as shown on the map attached hereto as Exhibit B-1. The Property contains the following areas, in which different restrictions and limitations apply, as further provided herein: (i) a "Sagebrush/Dry Meadow Zone" (approximately 108 acres); (ii) a "Wet Meadow Zone" (approximately 274 acres); and (iii) a "Riparian Zone" (approximately 50 acres), all of which are shown on Exhibit B-1, and (iv) a "Building Envelope" (approximately 8 acres), as shown in the survey attached as Exhibit B-2. The existing roads and other improvements on the Property are also located as shown on Exhibit B-1 and are described in the Baseline Report referenced in Recital K, below. Except as shown in Exhibit B-1, the Property is open farmland, whose soils have been classified as prime farmland if irrigated and farmland of local importance by the 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.

B. This Conservation Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (“ACEP”), 16 U.S.C. section 3865 et seq. and 7 CFR Part 1468, for the purpose of protecting grazing uses and related conservation values by restoring and conserving the Property. Landowner, Easement Holder, and the United States, acting by and through the USDA NRCS on behalf of the CCC acknowledge that the Easement is acquired by Easement Holder to protect grazing uses and related conservation values by restoring and conserving the Property.

C. The Budget Act of 2014 appropriated $130 million from the California Air Resources Board’s California Climate Investment Fund, also known as the Greenhouse Reduction Fund, to develop and implement the Affordable Housing and Sustainable Communities Program (“Program”). Beginning in FY 2015-16, 20 percent of California Climate Investment Fund’s annual proceeds go to the Program. The goal of the Program, which is administered by the Strategic Growth Council (“Council”), is to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development. Projects eligible for funding include the acquisition of agricultural conservation easements to protect agricultural lands that are under pressure of conversion to nonagricultural uses.

D. On behalf of the Council and the Natural Resources Agency, the Department administers the Sustainable Agricultural Lands Conservation Program (“SALCP”). SALCP supports the Program’s goal by investing in the acquisition of agricultural conservation easements on properties at risk of conversion to non-agricultural uses, thereby reducing greenhouse gas emissions. These acquisitions can support a healthy agricultural economy, provide food security, encourage smart growth, and ensure agricultural and open space remains available.

E. As administrator of SALCP and on behalf of the Council, the Department has made a grant of funds to the Easement Holder from the California Climate Investment Fund to support the acquisition of this Easement. These funds represent a substantial investment by the people of the State of 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 identified in the 2016-17 Sustainable Agricultural Lands Conservation Program 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. NRCS and Department may be referred to in this Easement, collectively, as the “Funding Agencies.”
G. Easement Holder 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 of 1986, as amended (“Code”). Easement Holder, as certified by a resolution of Easement Holder’s Board of Directors, accepts the responsibility of enforcing the terms of this Easement and upholding its conservation purposes forever. Easement Holder’s primary purpose is the preservation, protection, and enhancement of natural landscapes and their associated agricultural, open-space, wildlife habitat, and/or scenic values. Easement Holder’s purpose includes the rehabilitation, restoration, acquisition and protection of habitat that promotes recovery of threatened and endangered species, protects habitat corridors, and protects significant natural landscapes and ecosystems.

H. In 2015, Easement Holder, the Northern Sierra Partnership and The Nature Conservancy formed the Sierra Valley Conservation Partnership Project (“SVCPP”) to secure funding to conserve working ranches in Sierra Valley. The three nonprofit partners responded to a national call for proposals from the USDA Natural Resources Conservation Service (“NRCS”) and submitted a request to fund the acquisition of conservation easements in Sierra Valley. In early 2016, NRCS approved the SVCPP request for funding for Agricultural Land Easements in Sierra Valley.

The SVCPP identified certain conservation goals to be met by the acquisition of conservation easements and the development of associated land management plans in Sierra Valley. Conservation of the Property was determined to meet each of the following goals:

1. Conserve and enhance the Sierra Nevada’s largest complex of wetlands and wet meadows, found in Sierra Valley.
2. Conserve, restore, and expand Sierra Valley’s riparian and riverine habitats.
3. Conserve and enhance landscape connectivity and climate resilience, including the free movement and dispersal of native wildlife and fishes.
4. Conserve and enhance populations of special status wildlife, fish, and plant species within Sierra Valley.
5. Protect and enhance surface water quality and quantity within Sierra Valley.
6. Achieve and maintain sustainable groundwater use and function within the massive Sierra Valley Groundwater Basin.
7. Conserve and enhance important upland habitats in Sierra Valley, with an emphasis on native biodiversity and fawning, migratory, and winter range for pronghorn and the Doyle, Sloat, and Truckee-Loyalton mule deer herds.
8. Halt further fragmentation of economically viable, sustainable ranches and farms within Sierra Valley.

I. The Property possesses significant natural, scenic, open-space, wildlife habitat, and agricultural values (collectively, “Conservation Values”) of great importance to Easement Holder, the people of Sierra County and the people of the State of California. In particular, the Conservation Values include the Property’s dry and wet meadows as well as riparian and riverine...
habitat along the main stem of Smithneck Creek, which meanders through Property. The
Property contains approximately 290 acres of high-quality wet meadow habitat, approximately
126 acres of sagebrush and dry meadow/perennial grassland habitat, approximately 15 acres of
quality montane riparian habitat, and 1.5 miles of perennial streams (Smithneck Creek), which
are quite hydrologically intact (connected to flood plain, narrow, etc.). Smithneck Creek also
provides a productive trout fishery on the property. Due to its location on the edge of Loyalton,
conservation of the Property is strategically important to stopping rural sprawl and halting
further fragmentation of economically viable, sustainable ranches and farms within Sierra
Valley. The Property provides outstanding habitat, a diversity of special status wildlife species,
and species of management interest, including: White-faced Ibis, Golden Eagle, Swainson’s
Hawk, Ferruginous Hawk, Northern Harrier, Bald Eagle, Prairie Falcon, Peregrine Falcon,
Greater Sandhill Crane, Yellow Warbler, Long-billed Curlew, Short-eared Owl, Mule Deer, and
Pronghorn. Repopulation of the property by the state-endangered Willow Flycatcher is possible
with enhancement and expansion of the property’s montane riparian habitat.

Protecting, preserving, and restoring these Conservation Values are recognized by the State of
California and the people of Sierra County as being of significant public benefit. These
Conservation Values are further described in the “Baseline Report” referred to in Recital K
below.

J. The conservation purposes of this Easement are recognized by, and the grant of this
Easement will serve, the following clearly delineated governmental conservation policies:

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;”

California Civil Code at Part 2, Chapter 4, (commencing with section 815), which defines
and authorizes perpetual conservation easements. The California Legislature declares in
section 815 of the California Civil Code 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, under which this
Agricultural Conservation Easement is an enforceable restriction, requiring that the
Property’s tax valuation be consistent with restriction of its use for purposes of food and
fiber production and conservation of natural resources.
Section 2780 of the California Fish and Game Code, in which the California Legislature declares that “Protection, enhancement, and restoration of wildlife habitat and fisheries are vital to maintaining the quality of life in California as the state’s human population increases, there is an urgent need to protect the rapidly disappearing wildlife habitats that support California’s unique and varied wildlife 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 the Program 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, provides the Department authority for agricultural land protection, and informs eligibility for funding under SALCP;

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”;

California Food and Agriculture Code section 821 states that one of the major principles of the State'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;"

The California General Plan law section 65300 et seq. and section 65400 et seq. of the California Government Code, and the Sierra County General Plan, as updated in 2012, which includes as one of its goals to protect farmlands designated as prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses; and

Resolution No. [Resolution number], approved by the Board of Supervisors of Sierra County on the [day] of [month], [year], which expresses support for the acquisition of this Easement and finds that the acquisition is consistent with the County’s General Plan and the Resolution’s findings.

K. The Conservation Values of the Property are further described in an inventory of relevant features of the Property contained in the baseline documentation report, dated [Baseline Report], which the Parties hereto have jointly prepared, is incorporated herein by

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this reference, and a copy of which is maintained in the files of Easement Holder. The Parties agree that the Baseline Report provides an accurate representation of the condition of the Property as of the Effective Date of this Easement and is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement. A signed acknowledgment and certification by the Parties of the condition of the Property as set forth in the Baseline Report is attached hereto as Exhibit C. The Parties have provided each of the Funding Agencies (defined in Recital F, above) with a copy of the Baseline Report, as certified in Exhibit C.

L. In order to ensure the conservation of the Property, Landowner desires to grant to Easement Holder this Easement for valuable consideration, providing affirmative rights to Easement Holder and imposing restrictions on the Property. Landowner intends to convey this Easement over the Property to Easement Holder, including the right to preserve, protect and enhance the Conservation Values of the Property in perpetuity. Landowner and Easement Holder intend that this Easement will confine the use of the Property to activities that are consistent with the purposes of this Easement and will prohibit and prevent any use of the Property that will impair or interfere with the Conservation Values of the Property for the benefit of this generation and generations to come, all as provided herein.

M. Landowner grants this Easement for valuable consideration to Easement Holder for the purpose of assuring that, under Easement’s Holder’s perpetual stewardship, the Conservation Values of the Property will be conserved and maintained forever, and that uses of the Property that are inconsistent with the protection of these Conservation Values and the Conservation Purpose (as defined and described below) will be prevented or corrected.

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, Landowner voluntarily grants and conveys to Easement Holder, and Easement Holder voluntarily accepts, a perpetual conservation easement, as defined by sections 815.1 and 815.2 of the California Civil Code 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 conservation purpose of this Easement is to enable the Property to remain in productive agricultural use in perpetuity by preventing and correcting uses of the Property prohibited by the provisions of this Easement; and, to the extent that the preservation of the other Conservation Values of the Property is consistent with such use, it is within the purpose of this Easement to protect those values (collectively, the “Conservation Purpose”). In particular, the Conservation Purpose shall include the following:

(a) to restrict development of the Property and prevent any use of the Property that will impair the Conservation Values;
(b) to enable and cause the Property to remain in agricultural use by preserving and protecting in perpetuity its agricultural values, character, use, and utility including, the Property’s grassland and grazing productivity, vegetation, soil and water quality;

c) to protect and manage the Property for wildlife habitat and wildlife passage consistent with the provisions in Section 7;

d) to provide for scientific research and education respecting wildlife, including range, habitat, food sources and movements;

e) to preserve the open-space character and scenic qualities of the Property, including the protection of the scenic views from public roads and existing protected lands; and

(f) to protect and manage the Middle Fork of the Feather River and its tributaries for watershed protection and as a source of cold, clean water for fish and other species.

The Parties agree that Landowner’s retention of certain rights expressly permitted in this Easement, including specified agricultural, residential, recreational, and limited commercial uses, is consistent with the Conservation Purpose, provided that those rights are exercised in accordance with the terms of this Easement.

2. Agricultural Activities. Landowner retains the right to use the Property for agricultural activities, or to permit others to use the Property for agricultural activities, in accordance with Applicable Law (as defined below) and the terms of this Easement. In addition to the other permitted uses of the Property expressly provided herein, the following activities are permitted or required, as applicable, subject to the qualifications and conditions stated below:

(a) Agricultural Production. The provisions of this Easement limit the types of agricultural operations that can occur on the Property to those that restore or conserve grassland and protect grazing uses and related Conservation Values. The (i) production of cattle and, with Easement Holder’s prior written approval, other types of livestock and agricultural products and practices compatible with restoration and conservation of grassland, grazing uses, and related Conservation Values; and (ii) processing, packaging, marketing, or sale of ranch products produced on the Property and other properties owned by Landowner are permitted, provided that such activities are conducted in a manner consistent with the terms of this Easement and the Agricultural Land Easement (“ALE”) Plan (as defined and described below). Except for grazing uses, grassland uses as provided in Section 2(b) below, and grassland restoration and conservation, the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial non-grassland agricultural product outside the Building Envelope is prohibited. No uses will be allowed that violate federal laws, including federal drug laws, or that decrease the Easement’s protection of the grazing uses and related Conservation Values or adversely impact the restoration or conservation of the grassland, and related Conservation Values of the Property.
Livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Property shall be conducted in a manner consistent with the terms of the ALE Plan and with the following provisions:

i. Grazing practices shall be conducted in compliance with all Applicable Law and may not cause significant deterioration of stream banks, riparian vegetation, or water quality or cause significant degradation of topsoil quality;

ii. Salt licks, minerals, food supplements or supplemental hay for livestock shall not be located within two hundred (200) feet of the highwater mark of any spring, stream, or other natural watercourse or water body (including but not limited to within the Riparian and Wet Meadow Zones);

iii. Grazing within each zone shown in Exhibit B-1 shall occur only as provided in, and during the periods specified in, the ALE Plan for each respective zone. Once grazing dates are established in the ALE Plan, said dates may be revised (I) during regular updates to the ALE Plan, or (II) in the event of drought or other shortage of water, or excess water, as applicable, over a single or multiple grazing seasons; provided that the aforementioned grazing dates shall not be changed or deviated from without Easement Holder’s prior written approval. Easement Holder will not unreasonably withhold approval of grazing date modifications due to drought, shortage of water, or unusually wet conditions.

iv. Grazing practices shall not result in excessive bare ground in any zone as shown on Exhibit B-1. Average percent bare ground allowances shall be defined in the ALE Plan and shall be based on the best available science at the time said percentages are established.

(b) Grassland Uses of the Property. Subject to the restrictions contained in this Conservation Easement, Landowner is permitted to hay, mow, and harvest as provided in the ALE Plan. Notwithstanding the foregoing, Landowner shall not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified in the ALE Plan. Determinations of nesting seasons for birds whose populations are in significant decline and the areas of the Property affected by this restriction will be set forth within the ALE Plan for the Property.

(c) Agricultural Land Easement Plan. As required by 16 U.S.C. Section 3865a, agricultural production and related uses of the Property are subject to an “Agricultural Land Easement Plan” (or “ALE Plan”) that promotes the long-term viability of the land to meet the Conservation Purpose of this Easement. The ALE Plan and any revisions thereto must be approved by Landowner, Easement Holder, and NRCS. Landowner agrees that the use of the Property will be subject to the ALE Plan and that the terms of the ALE Plan shall be enforceable by Easement Holder and NRCS to the same extent as any other terms or condition of this Easement. The ALE Plan, which has been signed by Landowner and Easement Holder to indicate their respective agreement to its terms, is incorporated herein by reference. In the unlikely event that the terms of the ALE Plan conflict with the terms of this Easement, the terms of this Easement shall prevail.
Easement Holder will monitor the effectiveness of the ALE Plan at least annually. In addition, if the agricultural uses and/or environmental conditions of the Property materially change, or if the ownership of the Property changes, Easement Holder and Landowner shall update the ALE Plan via mutual agreement by both Parties, provided that no update shall cause a net decrease in the ALE Plan’s level of protection of the Conservation Values (as determined in Easement Holder’s sole and absolute discretion). All aspects of the original ALE Plan (or then-current ALE Plan if the original ALE Plan has been updated) shall remain in full effect until both Parties agree in writing to an update. Copies of the current ALE Plan will be kept on file with Easement Holder and Landowner.

Easement Holder must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the ALE Plan, NRCS may notify Easement Holder of such noncompliance. NRCS will give Easement Holder and Landowner a reasonable amount of time, not to exceed 180 days, to take corrective action. If Easement Holder fails to enforce the terms of the Easement, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement hereunder.

(d) Landowner Fencing Obligation. In order to effectuate the protection of the Property’s Conservation Values, Landowner agrees, upon consultation with Easement Holder, to erect, as funding is available, and maintain fencing to restrict livestock access to the Riparian Zone, as expressly prescribed and further described in the ALE Plan. All such fencing shall comply with the specifications provided in the ALE Plan, and the precise location(s) of any such fencing shall be determined by consultation between Easement Holder and Landowner, neither of which may unreasonably withhold approval of a proposed location. Easement Holder agrees to assist Landowner with securing funding necessary to erect and maintain fencing required by this section.

(e) Landowner Water Source Obligation. Landowner shall construct water sources for cattle away from established Riparian Zone when such activities are expressly prescribed, and as described, in the ALE Plan.

3. Rights of Easement Holder. To accomplish the Conservation Purpose of this Easement, the following rights are conveyed to Easement Holder:

(a) To identify, preserve, and protect in perpetuity the Conservation Values of the Property, including review and approval of improvements and activities that may be permitted under this Easement pursuant to the terms hereof.

(b) To enter upon, inspect, observe, and study the Property, along with Easement Holder’s employees, agents, consultants and contractors, and the employees, agents, consultants and contractors of the Funding Agencies, in accordance with the terms of this Easement, including but not limited to Section 8 (Monitoring) below, for the purposes of (i) identifying the current uses and practices thereon; and (ii) monitoring the current uses and practices and, where applicable, evaluating notices of proposed uses and practices to determine whether they are consistent with the terms of this Easement.
(c) To access and enter upon the Property, along with Easement Holder’s employees, agents, consultants and contractors, and the employees, agents, consultants and contractors of the Funding Agencies, to undertake Easement Holder’s Permitted Activities as defined in, and pursuant to, Section 7; provided that any such restoration and research activities shall be carried out in consultation with Landowner and in a manner that will not interfere unreasonably with the permitted uses or quiet enjoyment of the Property by Landowner.

(d) To investigate, review, and approve, approve with conditions, or disapprove, in accordance with the terms of this Easement, those activities under this Easement requiring notice to or approval of Easement Holder in accordance with Section 9 (Notice and Approval).

(e) To enforce the terms of this Easement, including but not limited to preventing and correcting violations of the terms, conditions, covenants, and Purpose of this Easement, in accordance with Section 10 (Easement Holder’s Remedies).

(f) To use existing roads and trails across the Property to allow Easement Holder, and Easement Holder’s employees, agents, consultants and contractors and the employees, agents, consultants and contractors of the Funding Agencies, to enter and access all portions of the Property for all of the purposes allowed by this Easement, subject to any limitations set forth in this Easement.

(g) Subject to compliance with all Applicable Law, Easement Holder has the right and obligation pursuant to the terms of its NRCS Grant, at its discretion, to place, maintain, and remove one or more signs or other appropriate markers as described below at the expense of Easement Holder, provided that Easement Holder will consult with Landowner as to the number, size and location of the signs. The signs or other appropriate markers may be located in prominent locations on the Property, visible from public roads or, at Easement Holder’s option, other adjoining property owned by Landowner, bearing information indicating: (i) the Property is protected by the Easement; (ii) the participation of Easement Holder; and (iii) the participation of the Funding Agencies in the acquisition of the Easement; the wording of which shall be decided upon by Easement Holder and the Funding Agencies (as applicable), exercising their reasonable discretion, but which shall in any case include such applicable logos as the Funding Agencies may reasonably require.

4. Landowner’s Reserved Rights. Landowner reserves unto itself and to its successors and assigns all rights accruing from its fee simple ownership of the Property that (i) are not extinguished, transferred, or conveyed hereby; (ii) are not expressly restricted or prohibited herein; (iii) are not, or do not become, inconsistent with the Conservation Purpose of this Easement; and (iv) do not impair the Conservation Values of the Property. Without limiting the generality of the foregoing, the following rights relating to the Property are expressly reserved by Landowner:

(a) Water Rights. Subject to the prohibition on transfer or severance as provided in Section 5(p) below, Landowner reserves the right to hold and use all existing water rights on the Property as of the Effective Date for the benefit of the Property, the right to apply for Hill Ranch Conservation Easement Version 7
appropriative rights as necessary for the permitted uses of the Property, including agricultural, residential, and ecological uses, and to obtain water supplies from any source permitted by Applicable Law.

(b) Future Conveyances. Subject to the restrictions prohibiting subdivision set forth in Section 5(t), Landowner reserves the right to sell, lease, devise or otherwise transfer the Property as a whole, subject to this Easement, to anyone Landowner chooses. Landowner may also use the Property as collateral for subsequent borrowing, provided any subsequent obligation secured by the Property is 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 this Easement and the interest of Easement Holder therein.

(c) Privacy. Subject to Easement Holder’s rights to access the Property to monitor and enforce this Easement, and to conduct wildlife and habitat management, research, and restoration, all in accordance with the terms of this Easement, Landowner reserves the right to privacy and the right to exclude any member of the public from trespassing on the Property. Nothing contained herein shall be construed as a grant to the general public of any right to enter upon any part of the Property.

(d) Carbon Credits. Subject to the restrictions set forth herein and subject to the prior written approval of Easement Holder and the Funding Agencies, Landowner reserves the right to have issued or granted, and to authorize, create, own, hold, sell, exchange, transfer, trade, gift or retire, any or all of the rights to carbon offset credits, issued by a third party entity, or other ecosystem carbon offset service providers, or any or all similar rights that may exist now or in the future, that are appurtenant to the Property and attributable to the absorption by plants of carbon dioxide from the atmosphere and its conversion to carbon stored in trees and other vegetation and associated roots, surface duff, and organic elements in the soil on the Property (“Carbon Credits”); provided, however, that Landowner shall ensure that the terms and conditions of the Conservation Easement are incorporated into the project baseline and taken into account as an existing legal/financial constraint for purposes of establishing Carbon Credits or other emissions offsets that Landowner or Easement Holder propose to sell, exchange, transfer, or retire with respect to the Property. The establishment of this Conservation Easement shall not be eligible to support the generation or issuance of future Carbon Credits, and any Carbon Credits attributable to this Conservation Easement are hereby extinguished. Landowner may, however, claim ownership and disposition rights to any Carbon Credits that may result from any future encumbrances and restrictions voluntarily imposed on the Property that are permitted by, and consistent with the purposes of this Conservation Easement and result in the sequestration of additional carbon on the Property. Landowner shall be allocated only that percentage of any Carbon Credits attributable to such future encumbrances and restrictions and may retain, retire, exchange, sell, or transfer such credits. Landowner shall notify Easement Holder at least sixty (60) days prior to any establishment of Carbon Credits, a copy of which notice Easement Holder shall promptly furnish to the Funding Agencies.
In addition, consistent with the provisions of Exhibit D (Easement Monitoring Protocols), Easement Holder agrees to include in the required annual monitoring report to the Funding Agencies a summary of any activity to establish Carbon Credits with respect to the Property and to provide the Funding Agencies with such further information as the Funding Agencies may request regarding such activity. In the event that Easement Holder proposes to authorize, create, sell, exchange, transfer, trade or gift such Carbon Credits (which shall occur only with Landowner’s advance written approval, which may be granted or denied in Landowner’s sole and absolute discretion), Easement Holder shall be subject to all the provisions of this section.

5. Activities, Uses, Structures and Improvements. Landowner shall confine its use of the Property to such activities and uses that: (1) are consistent with the Conservation Purpose of this Easement; (2) do not impair the Conservation Values; and (3) are not expressly prohibited under the terms of this Easement. Without limiting the generality of the foregoing, the uses, practices, and activities described in this Section 5, though not an exhaustive list, are permitted, conditionally permitted, or prohibited on the Property, as applicable. These uses, practices, and activities also serve to provide Landowner and Easement Holder with guidance in determining whether other activities and uses are inconsistent with the Conservation Purpose or might impair the Conservation Values. Notwithstanding the foregoing, any activities inconsistent with the Conservation Purpose of this Easement are prohibited.

The term “impair” (or any derivation thereof, as applicable) shall mean a material adverse effect on the quality or character of the Conservation Values of the Property that are intended to be protected.

(a) General Prohibition. No use will be allowed that decreases the Easement’s protection of the grazing uses and related Conservation Values of the Property; that adversely impacts the restoration or conservation of the grassland and related Conservation Values of the Property; that would otherwise diminish or impair the agricultural productive capacity, future agricultural viability, grassland and grazing uses, and open-space character of the Property; that would cause significant soil degradation or erosion on the Property; or that is inconsistent with the terms of the Easement.

(b) Agricultural Activities. Landowner retains the right to use the Property for agricultural purposes in accordance with Section 2 of this Conservation Easement and the ALE Plan. Landowner is not limited to those ranching, grazing, and pasture management techniques currently known or foreseeable, but rather may use new or different techniques that are consistent with Section 2, the Conservation Purpose and other terms and conditions of this Conservation Easement, and an approved ALE Plan.

(c) Storage and Use of Agricultural Products and Equipment. Storage and use of the following items are permitted as long as any such item is intended to be used on the Property and shall be stored as permitted herein: agricultural products, agricultural chemicals, agricultural byproducts and agricultural equipment. The term “agricultural chemicals” includes herbicides,
pesticides, fungicides, fertilizers, and other materials commonly used in farming and ecological
restoration operations even though they may be classified as hazardous materials. Any such use
and storage must be in accordance with Applicable Law and labeling requirements, and storage
of any such items shall occur only within the Building Envelope.

(d) Structures and Improvements. All structures and improvements shall be subject
to the impervious surface limitation described in Section 6 below (for those items that create or
constitute an impervious surface) and shall comply with the following requirements:

(i) Existing Structures and Improvements. As of the Effective Date of this
Easement, one single-family dwelling (800 square feet) exists on the Property. Landowner may
maintain, repair, reasonably enlarge, and replace (within the Building Envelope) any of the
Property’s existing structures and improvements, as shown in Exhibit B-1 and more fully
described in the Baseline Report, including but not limited to existing buildings, sheds, fences,
utilities, and other improvements, in their current locations, subject to Easement Holder’s prior
written approval for any enlargement that is more than 150 percent of the square footage of the
existing improvement as documented in the Baseline Documentation Report as of the Effective
Date of the Easement and for any replacement that is not within the same general location or
within the same general size and functionality of the replaced structure. Notwithstanding the
foregoing, the single family residence existing as of the Effective Date of this Easement shall not
exceed 150% of its existing square footage as of the Effective Date of this Easement.

(ii) New Residential Improvements. Construction or placement of new single-
family dwellings anywhere on the Property is prohibited. Construction or placement of
residential dwellings secondary, ancillary, or accessory to the existing single-family dwelling is
allowed within the Building Envelope subject to Applicable Law.

(iii) New Agricultural Improvements within the Building Envelope. New
structures, buildings, and improvements to be used solely for agricultural production on the
Property or sale of farm products predominantly grown or raised on the Property, including barns
and equipment sheds, but not including any dwelling or farm-labor housing, may be built,
repaired, reasonably enlarged, and replaced entirely within the Building Envelope with prior
Written Advisement (as defined in Section 9 below) to Easement Holder. Farm-labor housing
may be constructed, repaired, reasonably enlarged, and replaced entirely within the Building
Envelope so long as such structures are consistent with Applicable Law, including California
Health and Safety Code section 17021.6. Underground utilities and no more than one (1) new
septic system in the Building Envelope may be constructed, maintained, repaired or replaced in
substantially the same location. Any disturbance or other permitted activity within the Building
Envelope shall be located in areas that have been previously disturbed, if applicable, and/or shall
otherwise be conducted in a manner that minimizes damage to the Conservation Values.

(iv) Adjustment of the Building Envelope Boundaries (with prior approval).
The parties acknowledge that the boundaries and location of the Building Envelope have been
designated as of the Effective Date of this Easement and are depicted on Exhibit B-1 and further
described in the Baseline Report; however, if the location of such designated Building Envelope
is not reasonably feasible for permitted residential or other permitted development because of
County or other agency requirements, then, prior to the commencement of any construction or
alteration of the land, the adjusted boundaries and location of the Building Envelope shall be
proposed by Landowner pursuant to the terms of Section 9 of this Easement for review and
approval by Easement Holder, the Director of the Department, and the Chief of NRCS.

The adjusted Building Envelope may not increase in size and must provide equal
or greater protection of the grassland and grazing uses and related Conservation Values of the
Property. In addition, the adjusted Building Envelope shall not be located within the Riparian
Zone and shall be sited, to the extent reasonably practicable, in close proximity to a public
road(s) and in an area of the Property that minimizes damage to the Conservation Values.

Upon approval, Landowner shall have a legal description prepared by a licensed
land surveyor (LLS) and the boundaries marked in the field using standard signage supplied by
Easement Holder. Landowner shall bear the cost of identifying, describing and marking such
adjusted Building Envelope, including reimbursing Easement Holder for all reasonable costs
associated with adjusting the boundaries and location of the Building Envelope. Once established
pursuant to the terms hereof, the boundaries of the Building Envelope may not be changed
except pursuant to the terms of this section.

(v) Structures and Improvements outside the Building Envelope (with prior
approval). Any agricultural-related structure or improvement to be located outside the Building
Envelope may be constructed only with prior written approval of Easement Holder; provided
that, notwithstanding the foregoing, no structure or improvement shall be located within the
Riparian Zone, as shown on Exhibit B-1, except for such structures necessary to complete
approved conservation and restoration activities or as otherwise described in the ALE Plan.

(vi) Outdoor Lighting. Outdoor lighting may be installed and used within the
Building Envelope, provided that all of the following requirements are met: (i) it is motion-
detecting lighting; and (ii) all outdoor lights must be shielded or directed in such a manner as to
minimize light shining into significant wildlife habitat (i.e., lights must be pointed down or
shielded). Except for lighting reasonably necessary for permitted agricultural uses, all lighting
on the Property shall minimize light pollution to the maximum extent practicable.

(vii) Other Construction Prohibited. Except as expressly provided in this
Easement, the construction or placement of any residential buildings, dwellings, camping
accommodations, temporary living quarters of any sort, mobile homes; signs, billboards or other
advertising materials; utility towers or other facilities; resort structures, athletic fields, golf
courses, non-residential swimming pools, non-residential tennis courts, commercial equestrian
facilities, playing fields, airstrips, helicopter pads or any other commercial recreational structure;
and all other construction, erection, installation or placement of buildings, structures, or other
improvements on the Property is prohibited.

(e) Fencing.
(i) Temporary Fencing. Landowner may install temporary fences (i.e., of a type and style that is intended to be transitory, such as thread-in or step-on posts, etc.) for purposes of reasonable and customary management and protection of livestock, wildlife, and the reasonable and customary security of the residences and other improvements on the Property.

(ii) New Fences. With prior Written Advisement to Easement Holder, new fences may be built for purposes of reasonable and customary management of livestock and wildlife; and the reasonable and customary security of the residences and other improvements on the Property, including but not limited to construction of a fence(s) around the perimeter of the Property or portions of the perimeter to prevent trespass. Except where the exclusive purpose of such fencing is to exclude wildlife to protect persons or permitted improvements (such as permitted structures or gardens) or as otherwise specified in the ALE Plan or approved by Easement Holder, all new fencing shall comply with the wildlife friendly fencing standards specified in the ALE Plan, shall be installed only in accordance with the ALE Plan, and shall be consistent with grassland species management requirements identified in the ALE Plan.

(iii) Fences in the Riparian Zone (with prior approval). Landowner may place and/or construct fences within the Riparian Zone with Easement Holder’s prior written approval and only if the placement of such fences is done for the purpose of protecting and/or enhancing the habitat values of such areas.

(f) Roads and Trails.

(i) Existing and Unpaved Roads and Trails. Landowner may (i) access, use, maintain and repair the existing roads (all located as shown on Exhibit B-1 and as further shown and described in the Baseline Report) in their current locations; and (ii) access, use, maintain and repair existing pathways and trails on the Property (all located as shown on Exhibit B-1 and as further shown and described in the Baseline Report) in their current locations.

(ii) Paving and New Roads and Trails (with prior approval). Except for existing paved surfaces, no portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, unless prior written approval is obtained from Easement Holder. Acceptable reasons for use of paving material include that paving is required by a law or regulation related to air quality, fire safety, accessibility for disabled persons, or is otherwise required for activities permitted on the Property. The construction of new roads and trails and any widening, improvement, or relocation of the existing roads and trails on the Property to support permitted uses may be permitted, provided that such new roads and trails shall be constructed within the impervious surface limitation referenced in Section 6 below and must be necessary to carry out the agricultural operations or other allowed uses on the Property, and that prior to the commencement of any construction or alteration of the land for these purposes, the new or adjusted location of the road or trail shall be proposed by Landowner pursuant to the terms of this Easement for review and prior written approval by Easement Holder and NRCS. New and relocated roads and trails shall be constructed and maintained so as to reasonably minimize erosion and sedimentation and ensure proper drainage, utilizing Best Management Practices as recommended by the NRCS or similar.
or successor entity, but this section shall not be construed to require that existing roads be reconstructed to meet these standards. As a condition of road or trail removal or relocation, Easement Holder may require the restoration of the removed or relocated road or trail.

(g) **Motorized Vehicle Use.** Motorized vehicles are permitted on the existing roads shown on Exhibit B-1 or permitted new or relocated roads as reasonably necessary to conduct activities that are expressly permitted herein. The use of motorized vehicles off roads is permitted only as necessary for Property maintenance and security, agricultural production and forest management, emergency purposes for the protection of persons or property, ecological restoration and enhancement, hunting and other low-impact recreational activities, and monitoring and enforcing this Easement, provided that any such off-road vehicle use shall not impair the Property’s Conservation Values. Tractors and mowers may be used and stored on the Property as long as they are used in conjunction with an activity permitted in this Easement. Landowner shall take all reasonable actions to prevent unauthorized third parties from using motorized vehicles for recreational purposes on the Property; provided, however, that Landowner shall not be responsible for injuries or changes to the Property caused by such uses beyond Landowner's reasonable control. Except as provided herein, the use of motorized vehicles off of roads and the recreational use of off-road, motorized vehicles (e.g., all-terrain vehicles, motorcycles) anywhere on the Property are prohibited.

(h) **Recreational Use.** Passive, non-motorized, recreation activities, such as hiking and bird-watching, are permitted, provided that such activities do not impair the Conservation Values.

(i) **Public Access.** Landowner may allow (or disallow) public access on the Property, provided that such public access shall not impair the Conservation Values and shall otherwise comply with the terms of this Easement.

(j) **Emergencies.**

(i) **Short-Term Emergencies.** In a short-term emergency (defined as an emergency lasting thirty (30) days or less), with prior Written Advisement to Easement Holder where reasonably feasible under the circumstances, Landowner may take such limited and temporary actions as are reasonably necessary to protect physical safety of persons, property, and the Property, including agricultural improvements and products, but only to the extent necessary for such protection and provided such actions are in compliance with Applicable Law. In cases where prior Written Advisement to Easement Holder is not possible in advance of taking such emergency action, Landowner shall provide Easement Holder with Written Advisement as soon as is reasonably feasible under the circumstances.

(ii) **Construction of Emergency Living Quarters.** With prior Written Advisement to Easement Holder, the construction, placement, or use of limited temporary living quarters or mobile homes on the Property during or immediately following an emergency rendering the permitted primary residence, accessory dwelling, and/or farm-labor housing uninhabitable is permitted, provided that such construction, placement, or use is in compliance
with Applicable Law and any such temporary structures are removed immediately after the period of emergency is over or construction of new living quarters is completed, as reasonably determined by Easement Holder.

(iii) Emergency Activities Lasting More than Thirty (30) Days (with prior approval). If emergency actions taken in accordance with this section continue for more than thirty (30) days, Landowner will obtain Easement Holder’s approval pursuant to Section 9 of this Conservation Easement to continue such emergency actions.

(k) Commercial Use of the Property (with prior approval). Within the Building Envelope, small-scale commercial uses consistent with then-current County zoning and general plan are permitted with Easement Holder’s prior written approval, as long as such uses do not impair the Conservation Values of the Property. The following limited commercial uses are also permitted on the Property with Easement Holder’s prior written approval so long as they are consistent with the Conservation Purpose and Section 5(d) of this Easement, the current County General Plan, and applicable zoning; and so long as they do not negatively affect the Conservation Values of the Property: (i) small-scale incidental and customary rural enterprises related, ancillary, and secondary to the agricultural uses, or small-scale commercial enterprises compatible, ancillary and secondary to agricultural uses; (ii) activities conducted within buildings located within the Building Envelope; and (iii) low-impact, small-scale, temporary or seasonal outdoor activities or events that do not degrade the agricultural use, future agricultural viability, irrigated agriculture or grazing and grassland uses or other Conservation Values of the Property.

All parking related to such commercial uses shall be limited to the Building Envelope and any parking consisting of impervious surfaces is subject to the impervious surface limitation described in Section 6. Any such commercial uses on the Property shall comply with all Applicable Law and the terms of this Conservation Easement. Except as otherwise expressly provided herein, no other commercial or industrial activities or uses may be conducted on the Property.

(l) Signs (with prior approval). Signs may be placed on the Property with Easement Holder’s prior written approval and in accordance with applicable sections of the County Zoning Ordinance, as it may be amended from time to time, and only for the purpose of advertising (1) the name of the Property and/or the owners of the Property; (2) agricultural and other permitted enterprises operating on the Property; (3) prohibiting trespass or warning of hazards; (4) the sale or lease of the Property; and/or (5) historic/commemorative signage (such as barn quilts), all in accordance with this Conservation Easement; provided, however, the total surface area of all such signs shall not exceed 360 square feet and the top of each sign shall be no more than twenty (20) feet from the ground. In accordance with Section 3(g), Easement Holder has the right under this Easement, and obligation pursuant to the terms of the NRCS Grant, to place, maintain, and/or remove one or more signs or other appropriate markers.

(m) Ecological Restoration and Vegetation Management (with prior approval). With Easement Holder’s prior written approval, Landowner may conduct ecological restoration on the Property, including but not limited to within the Riparian and Wet Meadow Zones. Ecological Hill Ranch Conservation Easement
restoration includes, but is not limited to, planting native species, removing non-native or invasive species (using manual removal, use of herbicides, and/or other methods), installing erosion control structures, installing fencing necessary for the re-establishment of native vegetation, and/or realigning the channel of Smithneck Creek into more natural dimensions consistent with its current flow and reconnecting the creek with its floodplain; provided that such activities are consistent with the Conservation Purpose of this Easement and the ALE Plan. Except as otherwise expressly permitted in this Easement, the removal, cutting or destruction of native vegetation or any other native habitat is prohibited, unless conducted in accordance with the ALE Plan.

(n) **Hunting or Trapping Predators and Other Wildlife (with prior approval).** Landowner shall carry out permitted activities on the Property in a manner so as to avoid conflict with wild animals and to prevent depredation of livestock and pets by predators, such as mountain lions, coyotes and bobcats. The control of problem animals or pests is permitted, upon Written Advisement to Easement Holder, using selective control techniques, which shall be limited in their effectiveness to specific animals that have caused damage or present an imminent threat to person or property. All actions hereunder shall be in full compliance with Applicable Law, including but not limited to Landowner’s personal hunting on the Property, and obtaining depredation permits, if applicable, and shall be consistent with the Conservation Purpose.

Hunting of game species by Landowner and its guests and invitees is permitted; provided that the commercial hunting of game species and entering into agreements or leases with third parties to enable them to use the Property for the commercial or non-commercial hunting of game species are permitted only with Easement Holder’s prior written approval.

(o) **Alternative Energy Systems and Other Utilities.** Landowner may construct and operate noncommercial solar, geothermal, hydropower, and biogas electric energy generation facilities that are reasonably designed and appropriately sized (I) to meet the energy needs of the permitted uses on the Property; and (II) to minimize impacts to wildlife and other Conservation Values of the Property; provided that the placement of alternative electric energy generation facilities entirely within the Building Envelope requires prior Written Advisement to Easement Holder, and the placement of alternative electric energy generation facilities outside the Building Envelope requires the prior written approval of Easement Holder. Incidental surplus electricity may be sold and/or credited to Landowner’s utility service (i.e., net metering). Wind-powered electric energy generation facilities are prohibited unless the technology of such facilities changes to such an extent that impacts on avian and other wildlife species are eliminated and then only with Easement Holder’s prior written approval in its sole and absolute discretion.

Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services solely to serve the improvements permitted herein or to transmit power generated on the Property may be installed, maintained, repaired, removed, relocated and replaced. Landowner may grant or modify rights-of-way over and under the Property for utility and road purposes with Easement Holder’s prior written approval. Easement Holder may provide approval at its discretion; provided that any such rights-of-way shall be consistent with the Conservation Purpose and other terms and conditions of this Conservation Easement and shall not adversely impact the protection of the grazing uses, grasslands, and related Conservation

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Values of the Property as determined by Easement Holder, the Chief of NRCS, and the Director of the Department.

(p) Certain Water Use (with prior approval).

(i) Alteration of Natural Watercourses; Degradation of Water Quality. The manipulation, alteration, draining, or ditching of any swale, watercourse, channel, wetland, stream bank, vernal pool or any other body of water is prohibited, unless completed as described in the ALE Plan or other project plan approved in writing by Easement Holder and except as described in Subsection (p)(ii) below. In addition, any activity or use that (I) is detrimental to water quality, including, but not limited to, degradation or pollution of any surface or subsurface waters; (II) causes significant, verifiable erosion; or (III) contributes to the significant, verifiable pollution of any watercourse is prohibited.

(ii) Irrigation Systems and Wells. Landowner may maintain, repair, improve, and upgrade the existing irrigation system(s), including wells, spring boxes, diversions, weirs, ponds, sloughs, and channels as documented in the Baseline Documentation Report, provided that natural stream channels are not straightened or otherwise altered unless completed under a restoration or other water-quality improvement project approved in writing by Easement Holder. Landowner may construct or develop off-stream stock water troughs and other stock water facilities on the Property to support permitted agricultural uses where recommended by the ALE Plan and with Easement Holder’s prior written approval. The development of wells, including one (1) large-capacity well (defined as greater than or equal to 100 gallons per minute), on the Property (but not within the Riparian Zone) is permitted with Written Advisement to the Easement Holder, and only for permitted agricultural and domestic uses, and only in accordance with Applicable Law. Except as provided above, no other large-capacity wells (defined as greater than or equal to 100 gallons per minute) shall be developed anywhere on the Property.

(iii) Transfer of Water. Water may not be sold, transferred, or exported off the Property unless doing so provides a net ecological benefit in the Sierra Valley ecosystem, subject to Easement Holder’s written approval in Easement Holder’s sole and absolute discretion. Notwithstanding the foregoing, the permanent separation of water from the Property is prohibited. Only that quantity of water or water rights that is not necessary for present or future agricultural production on the Property may be temporarily distributed. Any temporary distribution shall not impair the future agricultural use or open space character of the Property. All water shall be retained in Sierra County to serve the Conservation Purpose and for use in conjunction with the permitted activities outlined in this Easement. Water may be temporarily distributed to a contiguous property or other property owned or leased by Landowner on an annual basis for agricultural production only with Easement Holder’s written approval in Easement Holder’s sole and absolute discretion.

(iv) Transfer of Water Rights. The transfer, sale, severance, conveyance, encumbrance, lease or other separation of water rights appurtenant to the Property, including all ground and surface waters and all appropriative, prescriptive, contractual or other water rights, separately from the underlying title to the Property, or any other action that diminishes or

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extinguishes such water rights, is prohibited. Landowner shall retain and reserve all ground water, and all appropriative, prescriptive, contractual or other water rights appurtenant to the Property at the time this Easement becomes effective.

(q) **Dumping, Disposal or Storage of Miscellaneous Materials.** There shall be no dumping, burying, or other disposal of non-compostable refuse, debris, trash, ashes, waste, sewer sludge, agrichemicals, herbicides, pesticides, dangerous, toxic, or hazardous materials on the Property; provided, however, that Landowner may store within the Building Envelope those materials and equipment associated with permitted ranching and rural residential practices, including pesticides, herbicides, agrichemicals, hazardous materials and petroleum products or those materials expressly allowed under this Easement, so long as the storage of such permitted materials is in full compliance with all public health, safety, environmental and any and all other Applicable Law and is conducted in a manner that shall not diminish or impair the Conservation Values. Temporary storage in the Building Envelope of residential waste generated on the Property for periodic removal (at least monthly) off-site is permitted, as is composting on the Property of organic materials originating from the Property, so long as such activities do not attract wildlife. Except as provided herein, the storage, dumping or accumulation of any kind of trash, refuse, derelict equipment, unused vehicles, ashes, garbage, dangerous or offensive materials is prohibited.

(r) **Mining.** The following provisions shall apply to any exploration for or extraction of minerals, hydrocarbons, soils, sands, gravel, rock, geothermal resources or any other material on or below the surface of the Property:

(i) **Mining.** Except as otherwise expressly authorized herein, Landowner shall not conduct or permit any surface or subsurface mining, including removal or extraction on or from the Property of soil, sand, gravel, aggregate, rock, oil, natural gas, fuel, or any other mineral substance, or any exploratory, extraction, processing, or transportation activities related to mineral deposits found on or under the Property; provided however, that with prior written approval of Easement Holder, limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Property are allowed where the extraction of such materials used for agricultural operations is limited, localized, and contained within a defined area and acreage identified in Exhibit B-1 and does not harm the Conservation Values or the agricultural uses of the Property. The mining prohibition in this section includes the installation of roads or pipelines for transportation of the aforesaid resources; however, this section is not intended to interfere with Landowners’ right to remove cobble and hardpan from farm areas in order to prepare the land for agricultural purposes.

(ii) **Mineral Leases.** Landowner shall not enter into any lease for the purposes of exploring for or extracting or removing any oil, gas, hydrocarbon substances, geothermal resources, or other minerals from the Property.
(iii) Restoration. As soon as Landowner ceases to use any portion of the Property for permitted exploration or extraction or removal of any minerals from the Property, Landowner shall immediately (i) remove therefrom all foreign substances placed there in the course of exploration or development activities by Landowner; (ii) abandon all operations as required by all Applicable Law; and (iii) restore such portions of the Property as reasonably specified by Easement Holder.

Landowner has agreed to mining language that is more restrictive than Public Resource Code section 10262(a):

Landowner Initials: _____

(s) Subsequent Easements. With written approval of the Easement Holder, Landowner may grant subsequent easements, including conservation easements, interests in land, or use restrictions on the Property. Notwithstanding the foregoing, the granting of any easement, other interest in land, or use restriction that might diminish or impair the Conservation Values, including but not limited to the grassland, grazing uses or open-space character, of the Property, or that otherwise interferes with any of the terms of this Conservation Easement as reasonably determined by Easement Holder, is prohibited. Easement Holder’s written approval shall be obtained at least thirty (30) days in advance of Landowner’s execution of any proposed subsequent easement, interests in land, or use restriction on the Property, and such subsequent easements, interests in land, and use restrictions shall make reference to and be subordinate to this Easement. Easement Holder shall notify the Department promptly upon receipt of request by Landowner to grant a subsequent easement, interest in land, or use restriction on the Property, and provide copies of documents associated with such a request to the Department. Easement Holder shall notify the Department in the event that it approves the grant of any subsequent easement, interest in land, or use restriction on the Property.

(t) Subdivision, Common Ownership of the Property, and Development Rights. The division, subdivision, de facto subdivision, or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process, is prohibited. Landowner and Easement Holder acknowledge and understand that the Property is currently composed of and is described in Exhibit A as two 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. 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 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, and Landowner and its successors in interest 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) shall not be prohibited by this subsection. Lot-line adjustment within the boundary lines of the Easement may be permitted by Easement Holder pursuant to Section 9 for purposes of Hill Ranch Conservation Easement
maintaining, enhancing, or expanding agricultural practices or productivity on the Property. Such lot-line adjustments shall not increase or decrease the total acreage of the Easement.

Landowner hereby grants to Easement Holder all development rights except as specifically reserved in this Easement, that were previously, are now or hereafter 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 shall not create any development rights.

(u) Introduction of Non-Native or Exotic Species. No seeding, planting, or introduction of non-native plant or animal species is permitted, except for non-invasive plants and crops (i) within the Building Envelope or (ii) elsewhere on the Property in response to a wildfire or other catastrophic occurrence with Easement Holder’s prior written approval in consultation with NRCS. Notwithstanding any other provision of this Easement to the contrary, under no circumstances may Landowner introduce onto the Property any of the plants identified in the list of prohibited plants maintained in the ALE Plan.

(v) Plowing, Discing, Alteration of Topography. The plowing, discing, cultivation, ripping, grading, blasting, land leveling, filling, sod farming, earth removal, or any other activity or conversion that will disturb the soil surface or alter the topography, surface or subsurface water systems, native vegetation, or wetlands of the Property is prohibited, except (i) to carry out any expressly permitted agricultural activities (but expressly not within the Riparian and Wet Meadow Zones) as provided in the ALE Plan; (ii) to conduct customary dragging of fields in the fall to spread manure; (iii) to construct permitted structures and improvements on the Property pursuant to the terms and conditions of this Easement; (iv) to implement erosion and sediment control measures pursuant to a plan approved by Easement Holder; (v) to carry out restoration and conservation activities conducted in accordance with this Easement and the ALE Plan; or (vi) to carry out any other activity that is expressly permitted by the terms of this Easement. Any change in the topography of the Property through the placement on the Property of soils, fill material, dredging spoils, or other materials is prohibited, except as incidental and necessary to the activities permitted under this Easement.

Notwithstanding any provision of the preceding paragraph or the remainder of this Easement to the contrary, (I) in no event shall any alteration of the natural topography by, but not limited to, plowing, discing, cultivation, ripping, grading or any other conversion or disturbance of the Property’s topography be permitted that diminishes or impairs the Conservation Values of the Property; and (II) grazing and ancillary activities undertaken in accordance with this Easement and the ALE Plan are permitted across any portion of the Property.

(w) Other Activities, Uses, and Structures and Improvements (with prior approval). Landowner and Easement Holder acknowledge that, in view of the perpetual duration of this Easement, they are unable to foresee all potential future land uses, technologies, and natural changes to the land and its Conservation Values over time. If it is reasonably debatable as to
whether an activity, use, structure or improvement that is not expressly addressed in this Easement is consistent with the terms of this Easement or might impair or interfere with the Conservation Values of the Property, then Landowner shall provide Written Advisement to and seek prior approval from Easement Holder for such activity, use, structure or improvement in the manner described in Section 9 of this Easement.


Impervious surfaces will not exceed two percent (2%) of the Property, excluding NRCS-approved conservation practices developed under a restoration plan or other project plan approved in writing by Easement Holder. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property, including but is not limited to permitted residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with superior rights to those rights conveyed to Easement Holder by this Conservation Easement.

7. Easement Holder’s Restoration, Scientific, and Research Activities. In furtherance of the Conservation Purpose, including for the purpose of restoring, managing, enhancing, studying and performing scientific research on, or improving the health of, the wildlife habitat on the Property, Easement Holder shall have the right to carry out the following activities (collectively, “Easement Holder’s Activities”):

(a) Access. Easement Holder shall have the right to enter the Property outside the Building Envelope (except as provided below, with respect to access for Scientific Research Activities), on foot and by vehicle (including construction trucks and equipment, as necessary to carry out Easement Holder’s Permitted Activities) along with Easement Holder’s employees, agents, consultants, contractors and volunteers and the employees, agents, consultants and contractors of collaborating agencies in accordance with the terms of this Section 7, in order to plan and carry out habitat management activities and Scientific Research Activities described below. Easement Holder’s rights under this Section 7 shall apply to any public agency collaborating with Easement Holder on Easement Holder’s Permitted Activities, including their employees, agents, consultants and contractors, so long as such public agency agrees in writing to comply with the limitations set forth in this Section 7 and gives Landowner a commercially reasonable indemnity (i.e., of the nature and extent ordinarily given by any such public agency under similar circumstances) for any access or activities of such public agency on the Property.

(b) Habitat Management in accord with ALE Plan. For the purpose of managing and enhancing the habitat of the Property, Easement Holder shall have the right to (i) implement land management recommendations in the ALE Plan in response to natural resource concerns; (ii) manage non-native (i.e. exotic) vegetation, including exotic plant control, manipulating, pruning, cutting down and removing said vegetation, on the Property outside the Building Envelope subject to the limitations set forth in this Easement; and (iii) undertake other activities, such as undertaking erosion-control measures and installing fish screens in fish-bearing streams, all in accordance with the ALE Plan. Notwithstanding any provision to the contrary in this

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Easement, Easement Holder shall give at least seven (7) days’ prior written notice of the activities described in this paragraph.

(c) Fencing. Easement Holder shall have the right, but not the obligation, at Easement Holder's discretion and expense, and upon consultation with Landowner, to erect, maintain, and/or remove fencing previously installed by Easement Holder (or, with Landowner’s prior approval, other fencing) on the Property in order to further the Conservation Purpose of this Easement provided that any such fencing shall comply with the specifications provided in the ALE Plan. The precise location of any such fencing shall be determined by consultation between Easement Holder and Landowner, neither of which may unreasonably withhold approval to a proposed location. In particular, but not by way of limitation, Easement Holder shall have the right to erect fencing to restrict livestock access to the Riparian Zone on the Property as outlined in the ALE Plan.

(d) Scientific Research Activities. Easement Holder shall have the right to conduct scientific research and biological monitoring on the Property including, but not limited to, installing, maintaining and using wildlife cameras, conducting surveys to determine the presence or absence of listed species, analyzing the effectiveness of management activities, and making any appropriate changes to their design over time; evaluating the condition of other natural resources and conducting research tours and related educational uses (each a “Scientific Research Activity”). Notwithstanding any provision to the contrary in this Easement, Easement Holder’s access to the Property shall include the right to use all roads on the Property (including within the Building Envelope) to access the Property for Scientific Research Activity purposes. Notwithstanding any provision to the contrary in this Easement, notice may be given by email in accordance with Section 22 (Notices) and shall be given at least three (3) business days prior to the intended activity. Easement Holder shall coordinate with Landowner regarding the time and manner of the Scientific Research Activity so as to not unreasonably interfere with Landowner’s use and quiet enjoyment of the Property pursuant to the terms of this Easement.

(e) Except as otherwise provided in this section, all of Easement Holder’s activities set forth in this section shall be subject to the access limitations set forth Sections 8(b), 8(c), and 8(d), shall be undertaken at Easement Holder’s cost and expense as provided in Section 13(b), shall be subject to Easement Holder’s indemnification and insurance requirements (and subject to the limitations thereon) as set forth in Section 13, and shall be carried out in a manner that: (i) is consistent with the Conservation Purpose and preservation of the Conservation Values; (ii) does not unreasonably interfere with Landowner’s use and quiet enjoyment of the Property, in accordance with this Easement; and (iii) is safe and orderly. Landowner shall not be responsible in any way for upkeep and maintenance of any equipment, fences or other infrastructure installed or used as part of Easement Holder’s Permitted Activities, nor shall Landowner unreasonably interfere with the installation, upkeep and maintenance of any equipment, fences or other infrastructure installed or used as part of Easement Holder’s Permitted Activities. Easement Holder’s activities on the Property shall comply with all Applicable Law. Nothing in this Section 7 shall limit Easement Holder’s rights under this Easement to enter the Property for the purpose of monitoring or enforcement in accordance with Section 8 below.
8. Monitoring and Property Access. Easement Holder shall manage its responsibilities for the Easement, including but not limited to annual monitoring of the condition of the Property and enforcement, for the purposes of preserving the Property’s enumerated Conservation Values in perpetuity, in compliance with the Easement, the purposes and requirements of the Department Grant and the NRCS Grant and in a manner that is consistent with the protocols set forth in Exhibit D (Easement Monitoring Protocols). Easement Holder shall assume primary responsibility for Easement monitoring and stewardship. Failure to do so shall not impair the validity of the Easement or limit its enforceability in any way. Subject to the following conditions, Easement Holder shall have the right to enter upon the Property to: inspect, observe, monitor and evaluate the Property to identify the current condition of, and uses and practices thereon, and to determine whether the condition, uses and practices are consistent with the terms of this Easement:

(a) Monitoring. Except in cases where Easement Holder determines, in its reasonable discretion, that immediate entry (and/or multiple entries) is required to investigate a use or condition on the Property in order to monitor, prevent, terminate, or mitigate a violation or potential violation of the terms of this Easement, monitoring shall be undertaken on an annual basis and entry for such annual monitoring shall be permitted upon no less than seven (7) days’ prior notice to Landowner for each visit. Easement Holder will be permitted to request exceptions to the foregoing annual monitoring scheduling limitations in the event of exigent circumstances, which exceptions shall be approved or disapproved in Landowner’s reasonable discretion. After the annual monitoring visit, Easement Holder will prepare a monitoring report to document the current condition of the Property and any material change in the use of or activities or improvements on the Property since the prior monitoring report and provide a copy of such report to NRCS within ninety (90) days of its monitoring visit. Easement Holder shall report to the Department 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, and any transfer of interest in the Property. Failure to do so shall not impair the validity of this Easement or limit its enforceability in any way.

Easement Holder further agrees to address in the required annual monitoring report each of the monitoring protocols as required in the Department Grant and the NRCS Grant, including a summary of any activity by Landowner to establish Carbon Credits or other emissions offsets with respect to the Property, and to provide NRCS and Department with further information as Department or NRCS may request. At the request of Easement Holder, once every three (3) calendar years, Easement Holder shall make arrangements for staff of NRCS and Department to access the Property to assess compliance with the terms, covenants and conditions of this Easement. Such access shall be in the company of Easement Holder and Landowner, unless Easement Holder and Landowner otherwise agree. To the extent possible, NRCS and Department will schedule such visit at the time of Easement Holder’s annual monitoring visit(s).
Easement Holder will annually monitor compliance of the terms of this Easement and provide the United States with an annual monitoring report that documents that Easement Holder and Landowner are in compliance with the Easement and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the Easement, the ALE Plan, and the United States Cooperative Agreement with Easement Holder, the United States will have reasonable access to the Property with advance notice to Easement Holder and Landowner or Landowner’s representative.

(b) **Property Access for other Purposes.** Easement Holder shall give at least three (3) business days’ written notice to Landowner before entering upon the Property for any purpose, except as provided in Section 7 for Easement Holder’s Permitted Activities or in the event of an emergency or reasonably suspected emergency (including but not limited to a violation or potential violation of the terms of this Easement), in which case no advanced notice is required; provided that Easement Holder shall give oral or written notice to Landowner of such entry as soon as reasonably practicable after such entry. Easement Holder’s notice shall indicate the purpose of the entry and shall provide the timeframe during which Easement Holder is expected to be on the Property.

(c) **Hours of Entry.** Except in the event of an emergency or reasonably suspected emergency (including but not limited to a violation or potential violation of the terms of this Easement), any entry shall take place during normal business hours (8am-6pm) on non-holiday weekdays unless otherwise required due to exigent circumstances or with Landowner’s prior consent in Landowner’s reasonable discretion.

(d) **Costs.** The costs of all routine monitoring activities by Easement Holder, including professional time, document production and reproduction, photographic or ground-based surveys, including aerial photography, tools, transportation, and soil, water, or other tests, are to be borne by Easement Holder; provided, however, that the costs of monitoring activities that Easement Holder incurs as a result of any Easement violation are to be borne by Landowner in accordance with Section 10(c)(ii) below. Landowner shall promptly reimburse Easement Holder for all such costs incurred by Easement Holder as a result of the Easement violation. Funding Agencies that participate in monitoring shall bear their own costs.

(e) **Landowner’s Quiet Enjoyment.** Any access by Easement Holder shall be conducted in such a manner as to minimize interference with Landowner’s use and quiet enjoyment of the Property pursuant to the terms of this Easement; provided, that nothing in this section shall allow Landowner to preclude Easement Holder’s entry otherwise allowed pursuant to the terms of this section. Notwithstanding the foregoing, Landowner understands that some necessary activities (e.g. tree cutting, brush clearing, construction of infrastructure) may be noisy or otherwise cause a disturbance, but such activities will be temporary, localized and coordinated with Landowner to the reasonable extent possible and carried out with such advance notice as is provided for in this Easement.

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(a) Landowner shall give at least forty-five (45) days’ advance written notice to Easement Holder (“Written Advisement”), with a copy of the notice provided concurrently to the Funding Agencies, prior to seeking or carrying out any activity requiring a building, grading, or zoning permit or environmental regulatory review or permit for an activity or improvement on the Property, and prior to exercising any reserved right on the Property that may impair the Conservation Values or where Written Advisement is otherwise expressly required in this Easement. Such Written Advisement shall provide Easement Holder with adequate information, documents, and plans so as to enable Easement Holder to confirm compliance with the terms of this Easement and to enable Easement Holder to keep its records current.

(b) Where Easement Holder’s approval or consent is required under this Easement, said approval or consent (i) shall not be unreasonably withheld, conditioned, or delayed by Easement Holder, except where expressly provided in this Easement that Easement Holder’s approval shall be in Easement Holder’s sole and absolute discretion; (ii) shall be sought and given in writing in accordance with the notice provisions of Section 22, with a copy of the approval, consent, or denial document provided concurrently to the Funding Agencies, and (iii) shall in all cases be obtained by Landowner prior to taking the proposed action. In seeking approval, Landowner will provide Easement Holder with adequate information, documents and plans of said action, so as to enable Easement Holder to confirm compliance with this Easement and to keep its records current. If the information submitted is insufficient for Easement Holder to make an informed judgment of the activity’s consistency with the terms of this Easement, then Easement Holder shall request from Landowner the additional information Easement Holder reasonably deems necessary to allow Easement Holder make such a judgment.

Easement Holder shall grant, grant with conditions, or withhold its approval or consent in writing within forty-five (45) days from the date that Easement Holder has received Landowner’s notice and sufficient information to make a determination. Easement Holder may grant approval to Landowner only where Easement Holder, acting in Easement Holder’s reasonable sole discretion (except where expressly provided in this Easement that Easement Holder’s consent shall be in Easement Holder’s sole and absolute discretion), determines that the proposed action is not inconsistent with the Conservation Purpose or is otherwise not an expressly prohibited use. If, in the judgment of Easement Holder, the proposed use or activity should not be permitted in the form proposed, but could be permitted if modified, then Easement Holder’s response may propose to Landowner suggested modification(s) and/or condition(s) that would permit the use or activity. If Landowner disagrees with Easement Holder’s decision, the Parties may agree to mediate the disagreement by written request of one Party to the other Party. Easement Holder shall use good-faith efforts to respond promptly to any requests of Landowner. If Easement Holder does not respond to Landowner’s notice within forty-five (45) days from the date that Easement Holder received the notice and sufficient information to make a determination, Landowner’s request shall be deemed approved, provided that the activity is carried out as provided in its notice to Easement Holder, that the proposed activity is not
inconsistent with the Conservation Purpose or is otherwise not expressly prohibited under the terms of this Easement, and that any such deemed approval shall not be construed to deprive Easement Holder or Landowner of any judicial remedy provided at law or in equity, or by agreement herein, to enforce, or to prevent a violation of the terms and conditions of this Easement. Further, any such deemed approval shall in no way be construed to be a waiver by Easement Holder of its right to approve, approve with conditions or withhold approval of any future request for Easement Holder’s approval of a use, activity or plan pursuant to this Section 9.

(c) Where consent or approval of one or both of the Funding Agencies is expressly required by this Easement, the process for obtaining the applicable Funding Agency’s approval or consent shall follow the same procedures specified in Subsections (a) and (b), above, with references in those subsections to “Easement Holder” revised so that “applicable Funding Agency/ies” is substituted in their place. Where approval of the Funding Agency/ies is required under the terms of this Easement, there shall be no deemed approval as referenced in Subsection (b) above.

(d) The parties agree that the requirements of Landowner to provide Written Advisement to, and/or obtain prior written approval from, Easement Holder prior to undertaking certain permitted activities is a material term in this Easement and that all remedies afforded to Easement Holder for violations of the terms of this Easement shall apply equally to these requirements.

(e) Landowner and Easement Holder agree to meet at least annually at a date and time convenient for both parties but not to exceed one (1) business day in duration (unless both parties mutually agree that a shorter or longer meeting, or no meeting at all, is necessary), at the office of Easement Holder (or another location convenient to both Landowner and Easement Holder) to review and discuss agricultural operations and other activities on the Property, to share the information collected by Easement Holder as a result of its monitoring visits to the Property, and to provide an opportunity for both parties to discuss any questions or concerns to better ensure mutual understanding and compliance with the terms of this Easement. Either party may request a meeting at such a location upon at least three (3) weeks’ prior written notice to the other to discuss any questions or concerns that may arise regarding any of the above. Whenever possible, at the time of this annual meeting, Landowner shall request Easement Holder’s approval for any activity planned for the upcoming year that explicitly requires Easement Holder’s approval pursuant to the terms of this Easement.

10. Disputes and Remedies. If Easement Holder determines that Landowner or any occupant of the Property is conducting or allowing a use, activity, or condition on the Property which is prohibited by the terms of this Easement (“violation”) or that a violation is threatened, Easement Holder shall give written notice to Landowner, with a copy of the notice provided concurrently to the Funding Agencies, of such violation or threatened violation and demand corrective action sufficient to cure the violation, and, where the violation involves damage to the Property resulting from any use or activity inconsistent with the Conservation Purpose of

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this Easement, to restore the portion of the Property so damaged to the condition in which it
existed prior to the damage.

(a) Consultations Regarding Interpretation and Enforcement of Easement. When
any disagreement, conflict, need for interpretation, or need for enforcement arises between the
Parties to this Easement, each Party shall first consult with the other Party in good faith and
attempt to resolve the issue without resorting to mediation or legal action.

(b) Mediation. Landowner and Easement Holder agree that mediation offers an
alternative to the expense and time required to resolve disputes by litigation. Mediation is
therefore the Parties' preferred dispute resolution procedure when circumstances do not require
Landowner or Easement Holder to seek immediate injunctive relief from the courts. In the
event of any dispute between Landowner and Easement Holder over the meaning,
requirements, interpretation, or implementation of the Easement, Landowner or Easement
Holder may refer the dispute to mediation by written request served upon the other Party. The
non-requesting Party shall have ten (10) days after receipt of a mediation request to consent
thereo or refuse to mediate the dispute.

(i) Procedure. Within ten (10) days after Landowner and Easement Holder
agree to mediation of a dispute, the Parties shall mutually select a mediator. Mediation
hearings shall remain informal, with each Party being permitted to present such facts and
evidence as it may reasonably believe supports that Party's position. Costs and expenses of
mediation shall be divided equally between Landowner and Easement Holder; provided,
however, that each Party shall pay its own attorneys' fees.

(ii) Limitations. Notwithstanding any provision to the contrary, the mediation
procedure set forth herein shall in no way be construed to deprive Landowner or Easement
Holder of any judicial remedy provided at law or in equity, or by agreement herein, and is
intended solely as an informal dispute resolution mechanism. Neither Landowner nor Easement
Holder shall have the right to compel performance of mediated solutions, unless such solutions
are reduced to a binding written agreement between Landowner and Easement Holder at the
conclusion of the mediation process. The Parties hereto intend that each conflict and dispute
submitted to mediation shall be unique, with facts, circumstances, and recommended
resolutions to be determined on a case-by-case basis, without reference to prior conflicts,
disputes, or the resolutions thereto.

(c) Easement Holder’s Other Remedies.

(i) Easement Violations. If Landowner fails to cure an Easement violation
within thirty (30) days after receipt of written notice thereof from Easement Holder, or within a
reasonable amount of time under circumstances where the violation cannot be cured within the
thirty (30)-day period, or if Landowner fails to continue diligently to address such violation until
finally cured, Easement Holder may bring an action at law or in equity in a court of competent
jurisdiction to:

(A) enforce the terms of this Easement;
(B) enjoin through appropriate legal process, ex parte as necessary, by temporary or permanent injunction, any violation of the terms of this Easement and any use of, or activity on, the Property by any person that is not expressly permitted in this Easement and that is detrimental to the Conservation Values, including trespasses by members of the public or neighbors;

(C) require the restoration of such areas or features of the Property as may be damaged by uses or activities inconsistent with the provisions of this Easement to the condition that existed prior to any violation or damage;

(D) prevent any activity on or use of the Property that impairs the Conservation Values or is otherwise inconsistent with the Conservation Purpose or other terms of this Easement; and

(E) recover any damages to which it may be entitled for violation of the terms of this Easement, including damages for the loss of agricultural, scenic, aesthetic, or environmental values. Without limiting Landowner’s liability therefor, Easement Holder, in its reasonable discretion, will apply any 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, after reimbursement to Easement Holder of all costs of suit, including reasonable attorneys’ fees, Easement Holder shall return to the Department its proportionate share of any and all damages recovered, as set forth in Section 15.

(ii) **Immediate Enforcement.** If Easement Holder, in its sole and absolute discretion, determines that circumstances require immediate action to prevent or mitigate impairment of the Conservation Values of the Property, Easement Holder may pursue its remedies under this section without prior notice to Landowner or without waiting for the period provided for cure to expire. Easement Holder’s rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Notwithstanding any other terms in this Easement, Landowner agrees that Easement Holder’s remedies at law for any violation of the terms of this Easement are inadequate to address the terms violated and that Easement Holder shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Easement Holder may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Easement Holder’s remedies described in this Section 10 shall be cumulative and shall be in addition to all remedies now or hereinafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code section 815 et seq., inclusive.

(iii) **Costs of Enforcement.** Landowner shall reimburse Easement Holder for any reasonable costs incurred in enforcing the terms of this Easement and any costs of restoration necessitated by Landowner’s violation of the terms of this Easement (including costs of monitoring compliance with such enforcement requirements) from such time as Easement Holder first identifies the violation to the time the violation is remedied or otherwise resolved in accordance with a court order, settlement agreement, or other mutual agreement of the Parties, as applicable. In the event of any litigation between the Parties arising out of this Easement, to enforce or to interpret the terms of this Easement or otherwise, the prevailing Party shall be

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awarded court costs and reasonable fees of attorneys, accountants and expert witnesses incurred by such Party in connection with the litigation, including such reasonable costs and fees incurred in any appeal. The prevailing Party also shall be entitled to recover all such costs and fees that may be reasonably incurred in enforcing any judgment or award, and this provision shall not be merged into any judgment but shall survive any judgment. Notwithstanding the foregoing, Landowner shall not be responsible for the costs of restoration necessary to remedy damage to the Property to the extent caused by the conduct of Easement Holder or by the unauthorized (i.e., without Landowner’s consent or knowledge) actions of unrelated third parties.

(iv) **Easement Holder’s Discretion.** Easement Holder’s permission to carry out, or failure to object to, any proposed use or activity shall not constitute consent to any subsequent use or activity of the same or different nature, nor shall it permit any activity prohibited by law. To the extent the Funding Agencies or any one of them has enforcement rights under Section 18 of this Easement, the rights under this section applicable to Easement Holder shall also apply to the Funding Agencies or any one of them.

(v) **Waiver of Certain Defenses.** Landowner hereby waives any defense of laches, estoppel, prescription, or unclean hands or the doctrine of changed circumstances (except as otherwise provided in Section 14 below) in any action or proceeding, including but not limited to any mediation brought by Easement Holder to enforce or to interpret the provisions of this Easement.

(vi) **Actions against Unrelated Third Parties.**

(I) In the event any term of this Easement is violated by the activities of an unrelated third party that were not authorized by Landowner, the discovering Party shall provide notice to other Party of such activities and the Parties shall consult as to whether Landowner, Easement Holder or both should undertake legal action in response to such activities, what restoration actions may be necessary and appropriate to cure any injury to the Property resulting from the activities, and how any damages recovered from the unrelated third party should be applied to the cost of undertaking any corrective action on the Property. Landowner acknowledges and agrees that the Easement is a real property interest held by Easement Holder and that an unrelated third party’s violation of the terms of the Easement gives rise to an independent right in Easement Holder to seek a remedy therefor.

(II) In the event any term of this Easement is violated by the act of an unrelated third party, and Landowner has not undertaken, and has decided not to undertake, suit itself, Landowner agrees, at Easement Holder’s request, to assign Landowner’s right of action to Easement Holder for the purpose of pursuing enforcement action against the unrelated third party. Easement Holder shall be entitled to all remaining damages from such unrelated third party after payment of costs and expenses of suit and costs in undertaking any corrective action on the Property in the event that it alone pursues an enforcement action against the unrelated third party pursuant to the terms of this paragraph. In the event any term of this Easement is violated by the activities of an unrelated third party, and Easement Holder has decided not to participate in any action or suit against the unrelated third party, Landowner shall be entitled to Hill Ranch Conservation Easement

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all remaining damages after payment of costs and expenses of suit and costs in undertaking any corrective action on the Property in the event that it alone pursues an enforcement action against the unrelated third party pursuant to the terms of this Section 10(c)(vi).

(III) In the event any term of this Easement is violated by the activities of an unrelated third party and Landowner and Easement Holder have decided to jointly take action in response to such activities, any damages recovered from such unrelated third party shall first be applied to any expenses reasonably incurred by Landowner and Easement Holder in connection with undertaking any action against the unrelated third party and next applied to any costs in undertaking any corrective action on the Property needed to return the Property to the condition that existed immediately prior to the action of the unrelated third party, with the remainder divided between Landowner and Easement Holder in proportion to the ratio set forth in Section 15. The terms of this Section 10(c)(vi) shall not be construed to supersede the provisions of Section 13(c) (Liability), Section 14 (Extinguishment) or Section 15 (Proceeds) of this Easement.

(d) Acts Beyond Landowner’s Control. Nothing contained in this Easement shall be construed to entitle Easement Holder to bring any action against Landowner for any injury to or change in the Property resulting from fire, flood, storm, extreme temperatures, unavailability of water, and earth movement or other natural occurrences, or the unauthorized (i.e., without Landowner’s consent or knowledge) actions of unrelated third parties, or from any prudent action taken by Landowner under emergency conditions to prevent, abate or mitigate material injury to any person, property, or the Property resulting from such causes; provided, however, that nothing in this section shall be construed to waive Landowner’s obligation to take reasonable precautions to prevent trespass, encroachment or unpermitted use or occupancy of the Property, nor shall any item in this section be construed to relieve Landowner of any obligation or restriction on the use of the Property imposed by law.

11. Public Access. Nothing contained in this Easement shall be construed as granting, permitting, or affording the public access to any portion of the Property.

12. Transfer Fee.

(a) Landowner and Easement Holder recognize and agree that any transfer of the Property and any division of ownership will result in an additional burden on the monitoring and enforcement responsibilities of Easement Holder. Therefore, there shall arise, by virtue of any transfer for consideration of the Property or interest therein (other than any Exempt Transfer, as defined below) a fee which is referred to herein as the “Transfer Fee,” which the Parties acknowledge and agree, pursuant to California Civil Code section 1098.6, is imposed and shall be used for the direct benefit of the Property and Easement Holder’s protection thereof. The Transfer Fee shall be the obligation of the seller of the Property and shall be payable to Easement Holder or subsequent holder of this Easement. The Transfer Fee shall be equal to one percent (1%) of the consideration paid in connection with the transfer of any interest in the Property and shall be paid to Easement Holder concurrently with the close of escrow or other consummation of the transfer of the Property. For example, if the Property has a fair market value of two hundred fifty thousand dollars ($250,000.00), the Transfer Fee would be two thousand five
hundred dollars ($2,500.00); if the Property has a fair market value of five hundred thousand
dollars ($500,000.00), the Transfer Fee would be five thousand dollars ($5,000.00); and if the
Property has a fair market value of seven hundred fifty thousand dollars ($750,000.00), the
Transfer Fee would be seven thousand five hundred dollars ($7,500.00). The Transfer Fee shall
be paid to Easement Holder at the address listed for giving notices to Easement Holder as set
forth in Section 22. Landowner and Easement Holder agree to execute and record a “NOTICE
OF PAYMENT OF TRANSFER FEE REQUIRED” in accordance with California Civil Code
section 1098.5 respecting transfer fees.

(b) Landowner shall provide to Easement Holder reasonable written proof of the sales
price of the Property, including but not limited to an executed closing statement, contract of sale,
copies of deeds or other similar evidence satisfactory to Easement Holder. An exchange of
properties pursuant to Code section 1031, or similar statute, shall be deemed to be for
consideration based on the market value of the Property (as encumbered by this Easement) at the
time of the exchange. Market value shall be determined by agreement of Landowner and
Easement Holder, or in the absence of such agreement, by an appraiser selected by Easement
Holder (subject to Landowner’s reasonable approval) that has no less than ten (10) years’
experience appraising properties in Sierra County and is State-certified and qualified to value the
real property, whose appraisal fee shall be paid by Easement Holder. Landowner agrees to
comply with the applicable requirements of Civil Code section 1102.6e, respecting providing
notice about the Transfer Fee to Landowner’s transferees.

(c) In the event of non-payment of the Transfer Fee in accordance with this section,
Easement Holder shall have the right to record a lien against the Property in the amount equal to
the unpaid Transfer Fee plus any and all reasonable costs and reasonable attorney’s fees
necessary to prepare and enforce the lien of the Transfer Fee. The lien shall be recorded in
accordance with California Civil Code section 2872 et seq. The lien shall be subordinate to this
Easement and any other prior liens, encumbrances, mortgages and deeds of trust of record and
any subsequent mortgages or deeds of trust. A copy of the lien shall be mailed via certified mail,
return receipt requested, to the seller and the purchaser at the last known address of each upon
recordation of the lien. After the expiration of ninety (90) days following the mailing of a copy
of the lien, the lien may be enforced in any manner permitted by law, including without
limitation a sale by the court or sale by the trustee designated by Easement Holder in the lien, in
the sole exercise of Easement Holder’s discretion, in accordance with the provisions of section
2924 of the California Civil Code

(d) In the event of non-payment of the Transfer Fee in accordance with this section,
both the transferor and its successor-in-interest shall become jointly and severally liable therefor,
and, in addition to the right to record and enforce a lien against the Property as set forth in (c)
above, Easement Holder shall have any right available at law or in equity to enforce this Transfer
Fee provision, including the right to bring suit to recover the Transfer Fee, interest thereon at the
rate of five percent (5%) per annum from the date due until the date paid, plus its costs of suit,
including reasonable attorneys’ fees.
(e) Any of the following transfers (each, an “Exempt Transfer”), subsequent to the conveyance of this Easement to Easement Holder, shall be exempt from the assessment of such Transfer Fee: (i) the first transfer of the Property by the original Easement Holder; (ii) a transfer without consideration (e.g., an inter vivos gift or testamentary conveyance); (iii) a sale, transfer, other conveyance or exchange to, between, or among any “Related Party,” as defined below; (iv) any transfer in the nature of foreclosure or deed in lieu of foreclosure of a deed of trust or mortgage encumbering the Property; (v) any transfer to a public or nonprofit entity; (vi) a lease, license, or easement for a total term, including any options to renew or extend, not exceeding thirty-five (35) years; (vii) any transfer that does not result in a “change of ownership” as defined in California Revenue and Taxation Code section 60 et seq., or (viii) any transfer of a security interest to a bona fide lender by Landowner or its successor-in-interest or a sale or transfer by such lender or trustee of any deed of trust pursuant to the power of sale provisions in any mortgage or deed of trust.

(f) For purposes of this section, a “Related Party” shall mean (i) a “family member” of Landowner or its successor in interest (defined as a grandparent, parent, uncle, aunt, brother or sister; lineal descendant of a brother, sister, uncle, or aunt; spouse; lineal descendant or adopted child (if the adoption occurs before the child reaches the age of majority) of Landowner or any member of Landowner or a combination thereof); and (ii) an entity which controls, is controlled by, or is under common control of the transferor (for purposes hereof, “control” means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the entity’s affairs).

(g) All Transfer Fee funds shall be used only for purposes which provide a direct benefit to the Property in accordance with Title 12 of the Code of Federal Regulations Part 1228 as said regulations exist on the date of this Easement. Concurrently with the recordation of this Easement, Landowner and Easement Holder have executed and recorded a notice of “Payment of Transfer Fee Required” in compliance with California Civil Code section 1098.5.

13. **Costs and Responsibilities.** Except as otherwise expressly provided in this Easement, for purposes of this Easement Landowner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property.

(a) **Taxes.** Landowner shall pay or cause to be paid before delinquency all taxes, assessments (general and special), fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively “Taxes”), including any such Taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Easement Holder with satisfactory evidence of payment upon request. Easement Holder may, at its discretion and after five (5) days’ written notice to Landowner, pay any outstanding Taxes and shall then be entitled to reimbursement by Landowner within thirty (30) days following the date of Easement Holder’s delivery to Landowner of evidence of Easement Holder’s payment of such outstanding Taxes. Such payment by Easement Holder shall create a loan obligation from Landowner to
Easement Holder, bearing interest until paid by Landowner at the lesser of a rate of five (5) percent or the maximum rate allowed by law.

(b) Exercise of Certain Easement Holder Rights. For purposes of this Easement, Easement Holder shall retain its proportionate responsibilities and shall bear its own costs and expenses related to Easement Holder’s exercise of Easement Holder’s rights (but only to the extent such rights are in fact exercised by Easement Holder) pursuant to this Easement. Without limiting the generality of the foregoing, as between Landowner and Easement Holder, Easement Holder shall be responsible for (and shall bear its own costs and expenses associated with) the planning, design, approval, construction, installation, maintenance, repair, renovation, replacement, remodeling and/or removal of any infrastructure and/or improvements (and any personal property) placed on the Property in connection with Easement Holder’s exercise of its rights under Sections 3(c), 3(g) and/or 7 of this Easement, including but not limited to Easement Holder’s Permitted Activities or other infrastructure or improvements that Easement Holder (or others on behalf of Easement Holder) undertakes pursuant to the exercise of any of said Easement Holder’s rights pursuant to this Easement. Easement Holder’s exercise of Easement Holder’s rights under this Easement shall not unreasonably interfere with Landowner’s use and quiet enjoyment of the Property pursuant to this Easement. The provisions of this Section 13(b) are not intended to cover any Claims as defined in Section 13(c)(i), which the Parties intend to be covered only by Section 13(c) and 13(g) below.

(c) Liability.

(i) Landowner, on behalf of Landowner and its successors and assigns, shall be responsible for, indemnify, defend, protect and hold harmless Easement Holder and each of the Funding Agencies, and their respective officers, directors, governing members, employees, contractors, partners, attorneys, agents, consultants, and representatives and the respective heirs, representatives, successors and assigns of each of them (each an “Easement Holder Indemnified Party” and, collectively, the “Easement Holder Indemnified Parties”) from and against any and all liabilities, claims, demands, administrative actions, damages, fines, charges, losses, expenses (including, without limitation, reasonable attorneys’ fees, experts’ fees and investigation, testing and remediation costs), liens, judgments or costs (each a “Claim” and, collectively, “Claims”) resulting from, growing out of, or in any way connected with or incident to any portion of the Property or this Easement, except to the extent attributable to Easement Holder, the Funding Agencies or any other Easement Holder Indemnified Part(ies) under Section 13(c)(ii).

(ii) To the extent a Claim resulting from, growing out of, or in any way connected with or incident to any portion of the Property or this Easement is attributable to (A) the active negligence or willful misconduct of any of the Easement Holder Indemnified Parties, or (B) the exercise by Easement Holder of any of Easement Holder’s rights pursuant to Sections 3(c), 3(g) and/or 7 of this Easement, in any such case Easement Holder, on behalf of Easement Holder and its successors and assigns, shall be responsible for, indemnify, defend, protect and hold harmless Landowner and Funding Agencies, and their respective officers, directors, governing members, employees, contractors, consultants, partners, attorneys, agents, and representatives and the respective heirs, representatives, successors and assigns of each of them.

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(each a “Landowner Indemnified Party” and, collectively, the “Landowner Indemnified Parties”), from and against the portion(s) of such Claim so attributable, except that Easement Holder shall not be responsible to indemnify the Funding Agencies and their respective officers, directors, governing members, employees, contractors, consultants, partners, attorneys, agents, and representatives and the respective heirs, representatives, successors and assigns of each of them, to the extent a Claim is attributable to negligent or willful actions or omissions of the Funding Agencies.

(iii) The duty of Landowner or Easement Holder to indemnify and hold harmless as provided in clauses (i) and (ii) above includes the duty to defend as set forth in Civil Code section 2778 with counsel reasonably acceptable to the applicable Easement Holder Indemnified Party (in the case of indemnification under clause (i) above) or with counsel reasonably acceptable to the applicable Landowner Indemnified Party (in the case of indemnification under clause (ii) above).

(d) **Compliance with Laws.** Landowner and Easement Holder each shall comply with all Applicable Law with respect to the Property including all Applicable Law protecting rare and endangered species, as well as “specially protected species” (as defined in Applicable Law, including, but not limited to the mountain lion). Nothing in this Easement relieves Landowner of any obligation with respect to the Property or restriction on the use of the Property imposed by Applicable Law. As used in this Easement, the term “Applicable Law” shall mean all laws, ordinances, regulations, rules, orders, or permit requirements applicable to the Property or this Easement, whether currently existing or hereafter enacted or otherwise promulgated by any federal, state, county, municipal, or other governmental body (whether legislative, administrative, or judicial), or by any competent official of any of the foregoing. In no event shall this Easement be construed as granting any landowner rights not permitted by local building, land use and/or zoning regulations at the time of construction, demolition, occupation or other regulated use.

(e) **Liability Insurance.**

(i) Landowner shall maintain comprehensive general liability insurance in the amount of not less than One Million Dollars ($1,000,000.00) per occurrence (either in a stand-alone general liability policy, or as part of any umbrella coverage, or a combination of the two) for the Property. Landowner shall cause all such policies of insurance to name Easement Holder as an additional insured and shall provide Easement Holder with a certificate of insurance for each such policy and all renewals thereof. Except with respect to any losses for which Easement Holder has liability under the terms of this Easement, Landowner’s liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Easement Holder, and Landowner waives all rights of subrogation against Easement Holder and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained by Landowner pursuant to this Easement.
(ii) Easement Holder shall maintain comprehensive general liability insurance in the amount of not less than One Million Dollars ($1,000,000.00) per occurrence (either in a stand-alone general liability policy, or as part of any umbrella coverage, or a combination of the two) for the Property (or generally covering real property in which Easement Holder holds an interest) insuring against bodily injury and property damage on the Property. Easement Holder shall cause all such policies of insurance to name Landowner as an additional insured and shall provide Landowner with a certificate of insurance for each such policy and all renewals thereof.

Except with respect to any losses for which Landowner has liability under the terms of this Easement, Easement Holder’s liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Landowner, and Easement Holder waives all rights of subrogation against Landowner and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained by Easement Holder pursuant to this Easement.

(iii) The foregoing insurance requirements do not replace, waive, alter or limit the hold-harmless or indemnification provisions of this Easement.

(iv) The insurance amounts set forth in this Section 13(e) shall be adjusted every five years to the nearest commonly available insured amount to reflect the percentage increase during the past five years in the “CPI,” which means the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index for all Urban Consumers (CPI-U, all items) (1982-84=100), or the successor of such index.

(f) Upkeep and Maintenance. Except as expressly provided in Sections 7 and 13(b), Easement Holder shall have no obligation for the upkeep and maintenance of the Property.

(g) Environmental Matters.

(i) Notwithstanding any other provision of this Easement to the contrary, the Parties do not intend and this Easement shall not be construed as giving rise to any right or ability in Easement Holder or the other Easement Holder Indemnified Parties to: (A) 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,” “operator” or “arranger” with respect to the Property as those words are defined and used in any “Environmental Laws,” as defined below, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. section 9601 et seq. and hereinafter “CERCLA”) or any corresponding state and local statute or ordinance; (B) exercise the obligations or liabilities of a person described in CERCLA at 42 U.S.C. section 9607(a)(3) or (4); (C) exercise the obligations of a responsible person under any applicable Environmental Laws; (D) exercise the right or duty to investigate and remediate any “Hazardous Materials,” as defined below, associated with the Property; or (E) exercise any control over Landowner’s ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.
(ii) Landowner represents, warrants and covenants to Easement Holder that Landowner’s use of the Property is in compliance with and shall remain in compliance in all material respects with all applicable Environmental Laws. 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. Furthermore, Landowner warrants the information disclosed to Easement Holder and United States regarding any past violations or noncompliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate. Landowner further represents, warrants and covenants to Easement Holder that, to the best of Landowner’s knowledge, there has been no release or threatened release of Hazardous Materials on, at, beneath or from the Property and hereby promises to indemnify, defend and hold the Easement Holder Indemnified Parties harmless from any and all litigation, Claims (as defined in Section 13(c)(i)), demands, penalties and damages whatsoever, including reasonable attorneys’ fees, arising from or with respect to the presence, 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, other than such portion of any release, threatened release, or violation which was directly caused or exacerbated by any Easement Holder Indemnified Party. Landowner’s indemnification obligation will not be affected by any authorizations provided by Easement Holder to Landowner with respect to the Property or any restoration activities carried out by Easement Holder on the Property; provided, however, that Easement Holder will be responsible for any Hazardous Materials contributed after this date to the Property by the Easement Holder.

(iii) If at any time after the Effective Date of this Easement there occurs a release, discharge, or other incident in, on or about the Property (excluding any release caused by a Easement Holder Indemnified Party of Hazardous Materials) 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, Landowner agrees to take any and all steps that are required under federal, state or local law necessary to assure its containment and remediation, including any cleanup required by a governmental agency.

(iv) For the purposes of this Easement:

(A) The term “Hazardous Materials” means any element, chemical, compound, material, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment or is now, or after the Effective Date, defined or listed in, or otherwise classified or regulated pursuant to any federal, state, or local law, regulations and ordinances, as a “hazardous substance,” “hazardous material,” “hazardous waste,” “extremely hazardous waste,” “infectious waste,” “toxic substance,” “toxic material,” “toxic pollutant,” “toxic waste,” or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or “PE toxicity,” and shall include petroleum, petroleum products, fuel oil, and waste.

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oils; explosives; natural gas, natural gas liquid, liquefied natural gas, and synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas); ash produced by a resource recovery facility utilizing a municipal solid waste stream; drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal sources; and any other element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment.

(B) The term “Environmental Laws” includes, without limitation, any and all federal, state, local, municipal, or administrative agency statute, laws, regulation, rule, statutes, ordinance, order, codes, guidelines, policies or requirements (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, industrial hygiene, public health or safety, and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

(h) General Disclaimer and Landowner Warranty.

(i) In view of the Department’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 Department, nor its agents and assigns, shall have responsibility for the operation of the Property, monitoring of hazardous conditions on it, or the protection of Landowner, the public, or any third parties from risks relating to conditions on the Property. Without limiting the foregoing, neither the Department nor its agents and assigns shall be liable to Landowner or any 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 Landowner 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 Department and/or its agents and assigns.

(ii) The United States, its employees, agents, and assigns disclaim and will not be held responsible for Easement Holder’s or Landowner’s negligent acts or omissions or Easement Holder’s or Landowner’s breach of any representation, warranty, covenant, or agreements contained in this Easement, or violations of any federal, state, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which the United States may be subject or incur relating to the Property.

Landowner shall indemnify and hold harmless United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which United States may be subject or incur relating to the Property, which may Hill Ranch Conservation Easement
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arise from, but are not limited to, Landowner’s negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Easement or violations of any federal, state, or local laws, including all Environmental Laws.

14. Extinguishment. It is the intention of the Parties that the Conservation Purpose of this Easement shall be carried out in perpetuity as provided in section 815 et seq. of the California Civil Code and by the Program. No inaction or silence by Easement Holder 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, or is not serving as wildlife habitat or a wildlife corridor, is not reason for termination or extinguishment of this Easement so long as the 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. Accordingly, Landowner expressly waives on behalf of Landowner and Landowner’s successors and assigns all rights to terminate or extinguish this Easement, or request that this Easement be terminated or extinguished pursuant to the administrative termination provisions set forth in section 10270 et seq. of the Public Resources Code.

If circumstances arise in the future so as to render the Conservation Purpose of this Easement impossible or impracticable to accomplish, this Easement shall only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Prior to initiating any legal proceedings under this section, the Party initiating the legal proceedings shall give reasonable advance notice to the other Party and the Funding Agencies of any prospective action for termination or extinguishment of this Easement not less than 60 business days before initiating such proceedings. The Department may intervene in any such judicial proceedings to protect or retain this Easement. The amount of the proceeds to which Easement Holder and Funding Agencies shall be entitled after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment shall be the stipulated fair market value of the Easement determined in accordance with Section 15 below, unless otherwise provided by California law and applicable federal law at the time.

In addition, in granting this Conservation Easement, Landowner has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both Landowner and Easement Holder that any such changes will not be deemed to be circumstances justifying the termination, extinguishment, or modification of this Easement. In addition, the inability of Landowner, or Landowner's heirs, successors, or assigns, to conduct or implement any or all of the uses permitted under the terms of this Easement, or the unprofitability of doing so, will not impair the validity, force and effect of this Easement or be considered grounds for its termination, extinguishment, or modification.
15. **Proceeds.** This Easement constitutes a real property interest immediately vested in Easement Holder. For purposes of calculating compensation and the total proceeds due to Easement Holder and Funding Agencies following the extinguishment of this Easement pursuant to judicial proceedings, and for the purpose of allocating proceeds from a sale or other disposition of the Property at the time of termination, the Parties stipulate that the Easement and Easement Holder’s property right therein shall have a value determined by multiplying (i) the fair market value of the Property unencumbered by the Easement (minus any increase in value attributable to improvements authorized by and made in compliance with this Easement that are made after the Effective Date of this Easement, such as buildings, structures, residences) by (ii) the ratio of the value of the Easement at the time of this grant to the value of the Property unencumbered by the Easement at the time of this grant (“Easement Percentage”). For the purposes of this section, the Easement Percentage is calculated to be __________ percent (___%) and shall remain constant. Upon receipt by Easement Holder of any such proceeds, those proceeds shall be allocated among Easement Holder and Funding Agencies proportionate to the contribution each made to the purchase price of this Easement. Those proportionate shares are: __________ percent (___%) Department; and __________ percent (___%) NRCS. The proceeds shall be used in a manner consistent with the Conservation Purpose of this Easement.

Any compensation or proceeds paid to Easement Holder for 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 Easement Holder, NRCS, and the Department proportionately to the contribution each made to the purchase of this Easement as specified in this Section 15. This Easement shall not be deemed terminated or extinguished until such payment is received by the State of California, Sustainable Agricultural Lands Conservation Program, and NRCS as provided herein. The Department, in using any proceeds received, shall use the funds in accordance with the intent of the Program. Until such compensation is paid to Easement Holder in full, the amount of that compensation shall be a first priority lien on the Property with the same seniority as this Easement. If Easement Holder obtains payment on a claim under a title insurance policy insuring this Easement, payment shall be distributed as set forth this Section 15.

The fair market value of the Property unencumbered by the Easement shall be determined by an appraisal performed by an appraiser jointly selected by Landowner and Easement Holder. The appraisal shall conform to the Uniform Standards of Professional Appraisal Practices (USPAP) and is subject to approval by the Department. If the termination was sought solely by Landowner, the cost of the joint appraisal by the jointly selected appraiser shall be paid by Landowner; otherwise, the cost of the joint appraisal by the jointly selected appraiser shall be shared by Landowner and Easement Holder. Nothing herein shall prevent Landowner, Easement Holder, or the Department from having an appraisal prepared at its own expense.

16. **Condemnation.**

(a) Acquisition of the Easement through the power of eminent domain shall follow the process outlined in section 10261 of the California Public Resources Code, the eminent domain laws of the State of California, including section 1240.510 or section 1240.610 of the Hill Ranch Conservation Easement

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Code of Civil Procedure, federal law, and this Easement. The Property may not be taken by eminent domain or in lieu of eminent domain if the planned use is more than seven (7) years in the future (California Code of Civil Procedure section 1240.220). Purchase in lieu of condemnation, or settlement of an eminent domain proceeding, shall occur pursuant to applicable laws and procedures, including but not limited to California Government Code sections 7267.1 and 7267.2, and shall require approval of Easement Holder and the Director of the Department. Easement Holder and the Department shall have an opportunity to accompany the appraiser for the Acquiring Entity when the appraiser goes on the Property with Landowner. If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Landowner and Easement Holder acknowledge that Easement Holder and the Funding Agencies are entitled to certain rights of notice, comment and compensation as provided in section 1240.055 of the California Code of Civil Procedure. If Landowner or Easement Holder is notified formally or informally that the Property may be acquired for public use by eminent domain, the Party receiving such notice shall notify the other Party and the Funding Agencies of the potential acquisition no later than fifteen (15) days after first receiving such notice. Thereafter, either Party shall provide to the other Party and the Funding Agencies copies of all further communications related to the potential acquisition and any proceedings related thereto, within not more than five (5) business days of receiving the communication, and shall cooperate with the other Party and the Funding Agencies in responding to the potential acquisition and proceedings. Prior to the inspection of the Property by the appraiser pursuant to section 7267.1 of the California Government Code or any other provision of law, Landowner shall notify Easement Holder that it or its designated representative may accompany the appraiser during his or her inspection. Within fifteen (15) days of receiving any notice of the hearing on the resolution of necessity pursuant to section 1245.235 of the California Code of Civil Procedure, Landowner shall provide Easement Holder and the Funding Agencies a copy of the notice of the hearing. As provided in sections 1250.220 and 1250.230 of the California Code of Civil Procedure, in any eminent domain proceeding to acquire all or a portion of the Property, Easement Holder shall be named as a defendant and may appear in the proceedings.

(b) If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Landowner and Easement Holder shall act collaboratively to recover compensation for their respective interests in the Property and Easement, and all direct or incidental damages resulting therefrom, in accordance with Applicable Law. Each of the Parties shall be entitled to its respective proportionate share of the amount recovered as set forth in Section 15. The Funding Agencies or their respective successors shall be entitled to the proportionate share of Easement Holder’s recovered amount equal to the ratio of (i) the Funding Agencies’ grant funding to Easement Holder (collectively, the “Funding”) to (ii) the purchase price paid by Easement Holder to acquire the Easement, in the percentages identified in Section 15, above. All expenses incurred by Landowner and Easement Holder in connection with the taking or in-lieu purchase shall be paid by each Party out of its respective amount recovered. If only a portion of the Property is subject to such exercise of the power of eminent domain or in-lieu purchase, this Easement shall remain in effect as to all other portions of the Property.
portions of the Property. In this event, all relevant documents shall be updated and re-recorded
by Easement Holder to reflect the modified easement area. Encumbrances junior to this
Easement shall remain subordinate to the Easement as amended. Landowner shall promptly
notify Easement Holder of any notices or actions pertaining to the actual or potential
condemnation of all or any part of the Property. Landowner shall not agree to any in-lieu
purchase without Easement Holder’s prior written approval.

17. Landowner’s Title. 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. All financial liens or financial encumbrances on the Property existing as of the
Effective Date of this Easement (excepting liens for property taxes which are not yet due and
payable) have been subordinated to this Easement. Landowner represents and warrants that it
has not subjected the Property to any other financial liens or encumbrances or any conservation
easement whatsoever other than what is reflected on the Title Policy (as defined below). After
recording, if Landowner discovers at any time that any outstanding interest in the Property
exists that is not disclosed herein, or in the Title Policy No. 5452713-A issued by First American
Title Company dated concurrently with the recordation of this Easement (“Title Policy”) and
incorporated herein by this reference, including, but not limited to any outstanding interest in the
mineral estate of the Property, then Landowner shall immediately notify Easement Holder and
the Funding Agencies and shall take all commercially reasonable steps to ensure that the interest
is made subject to this Easement and that the existence of the interest or the exercise of any
rights under it does not interfere with the Conservation Purpose of this Easement.

18. Funding Agencies’ Right of Enforcement.

(a) United States’ Right of Enforcement. Pursuant to 16 U.S.C. section 3865 et seq.,
the United States is granted the right of enforcement that it may exercise only if the terms of this
Easement are not enforced by Easement Holder. The Secretary of the USDA (the “Secretary”) or
Secretary’s assigns, on behalf of the United States, may exercise this right of enforcement under
any authority available under state or federal law if Easement Holder, or its successors or assigns,
fails to enforce any of the terms of this Easement, as determined in the sole discretion of the
Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover
any and all administrative and legal costs associated with any enforcement or remedial action
related to the enforcement of this Easement from Landowner, including, but not limited to,
attorneys’ fees and expenses related to Landowner’s violations. In the event the United States
exercises this right of enforcement, it is entitled to recover any and all administrative and legal
costs associated with any enforcement of this Easement from Easement Holder, including, but not
limited to, attorneys’ fees and expenses related to Easement Holder’s violations or failure to
enforce the Easement against Landowner up to the amount of the United States’ contribution to
the purchase of the Easement.
In the event of an emergency, the United States may enter the Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Easement Holder and Landowner or Landowner’s representative at the earliest practicable time.

(b) **Department’s Right of Enforcement.** In the event Easement Holder fails to enforce any term, condition, covenant or purpose of this Easement, as determined by the Department’s Director, the Department and its successors and assigns shall have the right to enforce the Easement after giving notice to Easement Holder and Landowner and providing a reasonable opportunity under the circumstances for Easement Holder to enforce any term, condition, covenant, or purpose of the Easement. In the event that the Department’s Director has reasonable cause to suspect that Easement Holder has failed to enforce any of the terms, conditions, covenants, or purposes of the Easement, the Department’s Director and successors and assigns shall be entitled to exercise the same right to enter the Property granted to Easement Holder, including right of immediate entry in the event of an emergency or suspected emergency where the Department’s Director or successor or assign determines that immediate entry is required to prevent, terminate or mitigate a violation of this Easement.

19. **Perpetuation of Easement; No Merger.** 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, is binding upon Landowner and Easement Holder and their respective heirs, successors, agents, assigns, lessees, executors, administrators, and any other person claiming under them. 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 Easement Holder or its successors or assigns. It is the express intent of the parties that this Easement not be extinguished by, merged into, modified, or otherwise deemed affected by any other interest or estate in the Property now or hereafter held by Easement Holder or its successors or assigns.

20. **Assignment 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 Easement Holder by the terms of this Easement and the Funding Agencies’ Grants 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 Sierra County within thirty (30) days. If Easement Holder should desire to assign or transfer this Easement, Easement Holder must obtain written permission from the Department, which permission shall not be unreasonably withheld.

21. **Subsequent Transfers of Property.** Subject to the terms of this Easement, Landowner may transfer the Property or an interest therein. Landowner shall expressly incorporate by reference the terms of this Easement in any deed or other legal instrument by which Landowner divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Landowner further agrees to give written notice to Easement Holder, NRCS, and Department of the transfer of any interest at least thirty (30) days.
prior to the date of such transfer, along with a copy of the proposed instrument of conveyance.
The failure of Landowner to perform any act required by this Section 21 shall not impair the
validity of this Easement or limit its enforceability in any way.

Landowner shall deliver to the buyer prior to any such transfer, a complete copy of this
Easement and, through escrow, deliver Landowner’s copy of the Baseline Report, or request
Easement Holder provide a copy of the Baseline Report at Landowner’s cost and expense. As
part of the escrow for the sale of the Property, Landowner shall obtain from the buyer and deliver
to Easement Holder, an acknowledgement to be signed by the buyer in substantially the same
form as Exhibit C attached hereto, wherein the buyer acknowledges receipt of the Baseline
Report and certifies that the Baseline Report is an accurate representation of the condition of the
Property as of the date of the acknowledgement (subject to any changes of condition specified by
the buyer).

22. Notices. Except as otherwise expressly provided, any notice, demand, request,
consent, approval or communication that either Party desires or is required to give to the other
shall be in writing, and delivered to the addresses set forth in this Section 22. Notice shall be
sufficiently given for all purposes as follows:

(a) Personal Delivery. When personally delivered to the recipient, notice is effective
upon delivery.

(b) Overnight Delivery. When delivered by reputable overnight delivery services,
charges prepaid or charged to the sender’s account, notice is effective upon delivery, if delivery
is confirmed by the delivery service.

(c) Certified Mail. When delivered by certified U.S. Mail, return receipt requested,
notice is effective three (3) days after deposit with the U.S. Postal Service.

(d) Email Notices. Where expressly provided in this Easement, written notice may be
given by email to the Parties at the email addresses set forth below. Notices transmitted by email
shall be deemed given on the date of successful transmission or the next business day if it is sent
after 5:00 pm (recipient’s time) or on a nonbusiness day.

Addresses for purpose of giving notice are as follows:

To Landowner: Justin T. Hill and Sara M. Hill, Trustees of the
Justin and Sara Hill Revocable Trust, Executed
March 2, 2006
2983 Clark Road
Live Oak, CA 95953
Email: hilljustint@gmail.com
To Easement Holder:  Executive Director
Feather River Land Trust
75 Court Street
Quincy, CA 95971
Email: shelton@frlt.org

To Department:  Department of Conservation
Sustainable Agricultural Lands Conservation Program
801 K Street, MS 14-15
Sacramento, CA 95814
Email: salcp@conservation.ca.gov

To NRCS:  Attn: State Conservationist
430 G Street, Room 4164
Davis, CA 95616
Phone: 530-792-5600

or to such other address as either Party from time to time shall designate by written notice to the other.

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the Party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

23. Recordation. This Easement shall be recorded in the Official Records of the County of Sierra, State of California.

24. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, this Easement may be amended only with the written consent of Landowner, Easement Holder, NRCS, and the Department’s Director. Easement Holder must provide timely written notice to the Department’s Director of any proposed amendment(s). Any such amendment shall be consistent with the Conservation Purpose of this Easement and with Easement Holder’s easement amendment policies, and shall comply with all Applicable Law, 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, and the California Farmland Conservancy Program Act as codified in section 10200 et seq. of the California Public Resources Code, and any regulations promulgated thereunder. No amendment shall be allowed that will adversely affect the qualification of this Easement or the status of Easement Holder under any Applicable Law, including California Civil Code section 815.3 or sections 170(h) or 501(c)(3) of the IRC, and no amendment shall affect the

Hill Ranch Conservation Easement
Version 7
Easement’s perpetual duration. Any such amendment shall be recorded in the Official Records of Sierra County, California, and copies of such amendment shall be sent to NRCS and the Department within thirty (30) days of recordation. Any purported amendment that is recorded without the prior approval of the Funding Agencies is null and void.

25. Executory Limitation. If a prior assignment is not made pursuant to Section 20, the Department, in consultation with NRCS, may, in its sole discretion, identify and select an appropriate private or public entity to which this Easement shall be transferred in the event any of the following occurs: (i) any of the essential terms of this Easement have been violated by Easement Holder; (ii) the existence of Easement Holder has terminated; (iii) Easement Holder has abandoned the Easement or failed to enforce the essential terms of the Easement for any reason; or (iv) Easement Holder ceases to be a qualified organization under section 170(h) of the Code or to be authorized to acquire and hold conservation easements under California Civil Code section 815.3; provided, however, that before any such transfer, one or more Funding Agencies shall deliver written notice to Easement Holder and Landowner stating the reason(s) for such potential transfer, and Easement Holder shall be given a reasonable opportunity to cure the issue. As a condition of such transfer, the transferee shall expressly agree in writing to assume Easement Holder's obligations under this Easement in order that the Conservation Purpose of this Easement will continue to be carried out and shall also expressly agree in writing to assume and be bound by the terms, covenants and conditions of the Funding Agencies’ Grants.

For purposes of this section the “essential terms of this Easement” are those set forth in Section 5(a) (General Prohibition), Section 8 (Monitoring), Section 14 (Extinguishment), Section 19 (Perpetuation of Easement; No Merger), 20 (Assignment of Easement), 23 (Amendment) and 26 (Requirements for Use of Property for Mitigation).

26. Requirements for Use of Property for Mitigation. The Property shall not be used for mitigation (in other words, to compensate for adverse changes to the environment elsewhere) without the written approval of the Director of the Department and the Executive Officer of NRCS; and any such proposed mitigation use shall be consistent with the Conservation Purpose of this Easement. In providing approval, the Director of the Department and Executive Officer of NRCS may require that all funds generated in connection with any authorized or allowable mitigation on the Property shall be remitted promptly to the Department and NRCS according to the proportionate shares outlined in Section 15.


(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California. References to authorities in this Easement shall be to the statute, rule, regulation, ordinance or other legal provision that is in effect at the time this Easement becomes effective. No provision of this Easement shall constitute governmental approval of any improvements, construction or other activities that may be permitted under this Easement.
(b) **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the Conservation Purpose of this Easement and the policy and purpose of California Civil Code section 815.1. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Conservation Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) **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.

(d) **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.

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

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

(g) **Termination of Rights and Obligations.** A Party’s rights and obligations under this Easement terminate upon transfer of that Party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer and during such Party’s ownership of the Easement or Property (as applicable) shall survive transfer.

(h) **No Waiver.** Enforcement of the terms of this Easement is at the discretion of Easement Holder. Any forbearance by Easement Holder to exercise its rights under this Easement or any failure of Easement Holder to discover a violation or potential violation shall not be deemed or construed to be a waiver by Easement Holder of such term or of any of Easement Holder’s rights under this Easement. No delay or omission by Easement Holder in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. No forbearance or waiver by Easement Holder of any default or breach, whether intentional or not, shall be deemed to extend to any prior or subsequent defaults or breaches, nor shall it affect in any way any rights arising by virtue of any prior or subsequent occurrence.

(i) **Joint Obligation.** If and when Landowner consists of more than one party, the obligations imposed by this Easement upon Landowner shall be joint and several.
(j) **Administrative Costs.** The administration of this Easement by Easement Holder requires considerable time and expense. Easement Holder shall bear all routine administrative expenses related to the Easement including, but not limited to the following activities: routine easement monitoring and reporting as provided in Section 8(d), review of notices of permitted activities, routine staff work related to Landowner’s refinancing and/or sale of the Property, and Easement Holder’s Permitted Activities. Landowner agrees to pay Easement Holder’s reasonable expenses for non-routine administration of the Easement including, but not limited to, actions requiring Easement Holder’s prior approval, Landowner requests for estoppel certificates, and any Easement amendment requests made by Landowner.

(k) **Counterparts.** The Parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all Parties; each counterpart shall be deemed an original instrument as against any Party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(l) **Debt.** The Easement may not be used as security for any debt without the written approval of the Funding Agencies.

(m) **Third-Party Beneficiaries.** Except as expressly provided in the Easement, there are no third-party beneficiaries of this Easement. NRCS and Department are, jointly and severally, intended third party beneficiaries of this Easement, in accordance with California Civil Code sections 1085 and 1559 and common law and, as such, hold the right to enforce its terms in accordance with Applicable Law and policy; provided, however, that (A) only Easement Holder (including any successor Easement Holder) shall have the right to enforce the provisions of this Easement against Landowner unless and until Department or NRCS give written notice to Landowner that Easement Holder has been replaced as the enforcing party by Department or NRCS in accordance with Section 25, and (B) thereafter, only Department or NRCS, as designated in such notice, shall have such enforcement authority, until Department or NRCS gives written notice to Landowner that Easement Holder or its successor has been reinstated as the enforcing party. It is the intent of the preceding sentence that, at any particular time, only one party shall have the right to enforce the terms of this Easement against Landowner (Easement Holder, Department, or NRCS). In the event that Department or NRCS replace Easement Holder as the enforcing party, and Landowner receives inconsistent notices or demands from Department and/or NRCS, then Landowner shall have the right to require by written notice that NRCS and Department resolve such inconsistency and, pending the resolution of such inconsistency, Landowner shall be relieved of any obligation to respond to such notices or demands.

(n) **NRCS Grant Agreement.** Landowner acknowledges that funds to acquire the Easement have been provided pursuant to the terms of the NRCS Grant and Department Grant. Landowner acknowledges that the NRCS Grant provides certain rights to Department, including the right to require Easement Holder to assign or delegate to Department any of its rights under this Easement, subject to the terms of Section 18.
(o) **Authority.** Each Party executing this Easement represents to the other Party that the person or persons signing this Easement on behalf of said Party, has full power and authority to sign for and to bind said Party to this Easement.

(p) **Estoppels.** Upon reasonable request by Landowner, Easement Holder shall within thirty (30) days execute and deliver to Landowner any document, including an estoppel certificate, which certifies the status of Landowner’s compliance with any obligation of Landowner contained in this Easement and otherwise evidences the status of this Easement as may be requested by Landowner.

30. **Recitals; Exhibits.** The Recitals to this Easement are integral and operative provisions of this Easement and are incorporated in and made a part of this Easement. The following exhibits are attached hereto and incorporated herein by reference:

- Exhibit A: Legal Description of Property
- Exhibit B-1: Map of Property and Improvements
- Exhibit B-2: Survey of Building Envelope
- Exhibit C: Acknowledgment of Baseline Report
- Exhibit D: Monitoring Protocols

31. **Acceptance.** As attested by the signature of its Executive Director affixed hereto, as authorized by Easement Holder’s Board of Directors/Trustees, in exchange for consideration, Easement Holder hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Agricultural Conservation Easement.

*Signatures to follow on next page.*
TO HAVE AND TO HOLD, this Deed of Agricultural Conservation Easement unto Easement Holder, its successors and assigns, forever.

IN WITNESS WHEREOF, Landowner and Easement Holder, intending to legally bind themselves, have set their hands on the date first written above.

LANDOWNER:

JUSTIN AND SARA HILL REVOCABLE TRUST,
EXECUTED MARCH 2, 2006

By: __________________________________________
    Justin T. Hill, Trustee

By: __________________________________________
    Sara M. Hill, Trustee

EASEMENT HOLDER:

FEATHER RIVER LAND TRUST,
a California nonprofit public benefit corporation

By: __________________________________________
    Shelton Douthit, Executive Director
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 ______________ ) ss.

On ______________, 20__, before me, ______________________________, a Notary Public in and for said State, personally appeared ____________________________, 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 ________________________________ (Seal)
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 ______________ ) ss.

On ________________, 20__, before me, ______________________________, a Notary Public in and for said State, personally appeared ____________________________, 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 ____________________________________________ (Seal)
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 ________________ ) ss.

On ________________, 20__, before me, ______________________________, a Notary Public in and for said State, personally appeared ____________________________, 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 ________________________________ (Seal)
REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF SIERRA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

TOWNSHIP 21 NORTH, RANGE 15 EAST, M.D.B. & M.

SECTION 2: SW ¼ OF SW ¼,
SECTION 3: SE ¼ OF SE ¼,
SECTION 10: E ½ OF NE ¼,
SECTION 11: NW ¼, N ½ OF SW ¼ AND NW ¼ OF SE ¼.

APNs: 016-020-023 AND 016-020-024
EXHIBIT B - 2

SURVEY OF BUILDING ENVELOPE

BUILDING ENVELOPE

All that certain real property being a portion of the West 1/2 of Section 11, Township 21 North, Range 15 East, M.D.B.&M., in the unincorporated area of the County of Sierra, State of California, being more particularly described as follows:

Beginning at a point which bears N30°31’06”E 2483.11 feet from a 3/4” iron pipe with a brass cap, stamped LS 3336, marking the Southwest Corner of said Section 11; thence N63°35’43”W 471.10 feet; thence N01°36’00”W 602.16 feet; thence S86°38’30”E 571.29 feet; thence S01°30’06”E 769.38 feet; thence S86°39’41”W 151.96 feet to the Point of Beginning.

Said Building Envelope containing 9.36 acres, more or less.

The Basis of Bearings of this description is the West line of Section 11, as found monumented, as shown in Book 9 of Maps and Surveys at Page 83, Sierra County records.

APN: 016-020-024 (portion)
Building Envelope for Feather River Land Trust

Situate in the West 1/2 of Section 11,

Township 21 North, Range 15 East, M.D.B.&M.
Sierra County ~ California
Scale 1" = 500' January, 2019
Parcel name: 1

<table>
<thead>
<tr>
<th>North</th>
<th>East</th>
</tr>
</thead>
<tbody>
<tr>
<td>12348.62</td>
<td>10839.00</td>
</tr>
</tbody>
</table>

Line Course: S 63-35-43 E Length: 471.10
  North: 12139.12 East : 11260.96

Line Course: N 86-39-41 E Length: 151.96
  North: 12147.97 East : 11412.66

Line Course: N 01-30-06 W Length: 769.38
  North: 12917.08 East : 11392.50

Line Course: N 86-38-30 W Length: 571.29
  North: 12950.55 East : 10822.19

Line Course: S 01-36-00 E Length: 602.16
  North: 12348.62 East : 10839.00

Perimeter: 2565.89 Area: 407,700 sq. ft. 9.36 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01 Course: N 38-50-35 W
Error North: 0.004 East : -0.003
Precision 1: 256,589.00
EXHIBIT C
ACKNOWLEDGMENT OF BASELINE REPORT
AND RECEIPT OF BASELINE REPORT

The undersigned, Justin T. Hill and Sara M. Hill, Trustees of the Justin and Sara Hill Revocable Trust, Executed March 2, 2006, on behalf of Landowner, and Shelton Douthit, representing Feather River Land Trust, certifies as Easement Holder of the Conservation Easement, as follows:

a) Each is familiar with the condition of the Property, and
b) Each does hereby acknowledge and certify that the Baseline Report, and all of its inclusions, dated ____________, 20___, prepared by ________________, Conservation Steward, of Feather River Land Trust, is an inventory of the natural resources of the Property and an accurate representation of the condition of the Property as of the date of conveyance of the Conservation Easement.

Duplicate originals of the Baseline Report were signed and delivered by each of Landowner and Easement Holder, and each will receive a duplicate original of the Baseline Report at the close of escrow.

The Parties have provided each of the Funding Agencies (defined in Recital F) with a copy of the Baseline Report.

LANDOWNER:

JUSTIN AND SARA HILL REVOCABLE TRUST,
EXECUTED MARCH 2, 2006

By: ________________________________
    Justin T. Hill, Trustee

By: ________________________________
    Sara M. Hill, Trustee

EASEMENT HOLDER:

FEATHER RIVER LAND TRUST,
a California nonprofit public benefit corporation

By: ________________________________
    Shelton Douthit, Executive Director
EXHIBIT D: MONITORING PROTOCOLS

Monitoring shall occur no less than once a year and include as a minimum:

1. Contacting landowner(s) prior to field visit with an invitation to participate and/or provide information pertinent to monitoring the Conservation Easement.
2. Entry on and visual inspection of the Property from the ground. Inspection (and documentation) shall be as extensive as is practicable considering the size of the Property, its topography, and the accessibility of the various portions of the Property.
3. Documentation of the conditions on the Property and the condition of the Conservation Values through:
   a. Photographs or other video technology that can be easily preserved and provided in report form.
4. Evaluation of the condition of the Property and the Conservation Values compared to the condition documented in the Baseline Conditions Report.
5. A comparison of observed conditions to the Baseline Conditions Report photos and aerial photos.
7. Review of pertinent documentation submitted by the Property owner (Landowner), if applicable, and analysis of that documentation in relation to the observed conditions on the Property and in relation to the terms of the Conservation Easement.

In addition to the annual monitoring, monitoring activities shall include:

1. Review of the most recent and publicly or commercially available aerial photographs (or other remotely sensed images as appropriate) of the Property. This review should be conducted at least once every 5 years.
2. Additional monitoring activities, as necessary to respond to and document natural catastrophes, any Easement violations which Easement Holder or the monitoring entity has reason to believe may occur or may have occurred, or any other unscheduled, unanticipated events which affect the Conservation Easement.
3. Department shall be invited and allowed access to the Property no less than once in any period of three calendar years, to assess compliance with the terms, covenants, and conditions of the Grant Agreement between Department and the easement holder (Easement Holder).
4. A written report detailing observations, analysis, and conclusions and with appropriate documentation shall be prepared by Easement Holder within 30 days of any on-site inspection or other monitoring activity. The monitoring report shall address each of the monitoring protocols as required in the NRCS Grant and Department Grant. On completion, the report shall be sent by Easement Holder to NRCS, Department, and Landowner. Any significant variation (improvement, deterioration or otherwise) in the condition of the Property or of the Conservation Values from the conditions identified in the Baseline Conditions Report should be detailed and documented.
July 16, 2019

Sierra County Board of Supervisors
P.O. Drawer D
Downieville, CA 95936

Re: July 23 Sierra County BOS Meeting, Conservation Easement Resolution of Support

Dear Sierra County Supervisors,

I am writing you all to request your strong support for our July 23, 10 a.m. agenda item – the Resolution of Support for the Proposed Easements by the California Department of Conservation on the Hill and Potter Ranches. I had planned to attend your meeting on the 23rd to express my support in person, but due to a scheduling conflict that is no longer possible.

My wife, Sara, and I have been working with Feather River Land Trust, the Natural Resources Conservation Service and the Department of Conservation over the last several years to develop an easement that will conserve and protect our cattle ranch near Loyalton, so that we can pass it on to my children, (Logan and Macy), who will continue our ranching operation. I believe that the draft conservation easement submitted to the board with this agenda item will help us to do that, without any negative effect on our operation.

After many years of looking for the right opportunity to own a summer cattle ranch in Sierra Valley, we found and purchased this property in early 2016. We have invested significant time and funds into ranch improvements and operations since then, and this easement transaction will help us continue to do so.

I am asking for your support for this resolution, which is required by the Department of Conservation. I would be happy to answer any questions you may have. Please feel free to contact me with any questions you may have, (530) 304-7889

Best Regards,

Justin Hill
JS Bar Land and Cattle LLC.
Re: Grazing Plans for Feather River Land Trust Conservation Easements

Honorable Board of Supervisors:

I am a Certified Range Manager, licensed through the California State Board of Forestry (CRM#37) and a Certified Rangeland Manager with the Society for Range Management (an international professional organization). I had a 30 year career with the US Department of Agriculture practicing rangeland management throughout California. I retired as the State Rangeland Specialist for the USDA, Davis California, covering the entire state guiding policy and training for range professionals with the Natural Resource Conservation Service (a branch of USDA) and Resource Conservation Districts. Natural Resource Conservation Service (NRCS) provides technical assistance to private landowners involved in ranching and farming throughout the US. NRCS also provides funding through the Farm Bill to address resource concerns while maintaining viable agricultural enterprises.

Currently I own Rangelands West, Inc. a consulting firm providing services in grazing planning, livestock management, pasture management and other resource related items on private lands. The Feather River Land Trust (FRLT) hired me to write grazing plans for their conservation easements.

The grazing planning process for the FRLT is similar to what NRCS uses to develop grazing plans. The process involves the following steps:

- Inventory resources (soils, forage production, water sources, wildlife habitat, livestock type)
- Identify resource concerns (erosion, water quality, forage deficiencies, wildlife habitat, etc.)
- Identify landowner long-term and short-term goals for the ranching operation
- Develop a grazing strategy with the landowner to address resource concerns i.e. improve the condition of the ranch, to meet the landowner goals
- Develop a list of possible improvements needed to meet the goals and address resource conditions (fencing, water developments, seeding recommendation to improve forage, etc.)
- Develop a monitoring plan to assure that short-term and long-term goals are reached. (Monitoring should be done by landowner because it is their plan)

This planning process is standard and used for many grazing plans throughout the state and nation. NRCS provides this service but with their shortage of staff many landowners and NGO’s like FRLT hire consultants to assist with this.
The plans are developed to build in flexibility because ranching operations change with the weather patterns, livestock market conditions and family dynamics. They are not meant to be “set in stone” and are “living” documents that should be adjusted and revisited on an annual basis. Each ranch is unique and each grazing plan should reflect that. A standard set of grazing guidelines for all ranches in Sierra Valley is not employed in these plans. Each one is developed in cooperation with the landowners on a voluntary basis. The economics of the livestock and/or farming operation is a focal point on each plan since that is how farmers and ranchers make a living. The USDA who funds a large portion of these plans, requires that this type of grazing plan and associated conservation easement remain a viable agricultural enterprise.

I hope this information helps understand the grazing plans and the grazing planning process. If you have any questions, please feel free to call me.

Sincerely,

Ceci Dale-Cesmat
CRM #37