

# California Farmland Conservancy Program

## Easement Elements Checklist

### NOTE TO USERS

This checklist is intended to assist existing and prospective California Farmland Conservancy Program (CFCP) grant recipients in developing conservation easements that meet CFCP standards. The content of the checklist is based on and linked to the CFCP Model Easement (included below). Use of the CFCP Model Easement or this checklist is encouraged but not a requirement for grant funding. However, most, if not all, of the elements in the checklist should typically be addressed in an agricultural conservation easement.

To facilitate review and document navigation, this checklist contains hyperlinks (colored, underlined text) to various locations within the document. Where the hyperlink is embedded in the word 'statement' or 'clause', users are encouraged to include the linked statement or clause verbatim. To open a window containing an outline of the CFCP model easement, select 'View' from the toolbar, then 'Document Map'. Quickly toggle between the checklist and the model easement by clicking on various headings enumerated in the outline window.

The CFCP, administered by Department of Conservation's Division of Land Resource Protection, is designed to ensure that the state's most valuable farmland can be preserved. Through the program, local governments and nonprofit organizations can receive grants to purchase development rights from willing landowners, thus creating permanent conservation easements.

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California Farmland Conservancy Program  
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# California Farmland Conservancy Program

## Easement Elements Checklist

### Easement Elements Checklist

Recitals	
	Property Description ( <a href="#">sample</a> )
	Baseline Report prepared ( <a href="#">sample</a> )
	Public investment <a href="#">statement</a>
	Recognizing conservation purposes <a href="#">statement</a>
	Governmental Conservation Policies (federal, state, local, including county/city resolution of support) ( <a href="#">sample</a> )
	If Grantee is a nonprofit organization, include “qualified conservation organization” <a href="#">statement</a>
Grant of Agricultural Conservation Easement	
	Granting of easement <a href="#">statement</a>
	Conservation Purposes <a href="#">statement</a>
	Right to use property for agricultural purposes ( <a href="#">sample</a> )
	Prohibited uses: Any use or activity that would diminish or impair the agricultural productive capacity and open space character or that would cause soil degradation or erosion is prohibited. ( <a href="#">sample</a> )
	Permission of the Grantee in writing in advance of action, where required, with copies to DOC ( <a href="#">sample</a> )
	New agricultural structures and improvements prohibited outside building envelope, unless specifically allowed ( <a href="#">sample</a> )
	Construction or placement of housing prohibited unless specifically allowed and located in building envelope ( <a href="#">sample</a> )
Subdivision ( <a href="#">sample</a> )	
	Future division, subdivision, defacto subdivision or partitioning prohibited.
	No recognition of additional, separate legal parcels by a certificate of compliance pursuant to California Government Code section 66499.35 based on previous patent or deed conveyances, subdivisions, or surveys.
	Landowner shall continue to maintain the parcels comprising the Property, and all interests therein, under common ownership, as though a single legal parcel.
Additional Rights and Restrictions	
	Extinguishment of Development rights <a href="#">clause</a>
	Mining: Disturbing the surface of the land for mining is prohibited ( <a href="#">sample</a> )
	Paving and Road Construction: Advance permission to pave surfaces and to construct certain roads ( <a href="#">sample</a> )
	Commercial signs (including billboards) unrelated to permitted activities are prohibited ( <a href="#">sample</a> )
	Trash: No dumping or accumulation of trash ( <a href="#">sample</a> )
Recreational Use ( <a href="#">sample</a> )	
	No commercial recreational structures or facilities.
	Limitations on motorized vehicle use off roadways and outside building envelope.
Water Rights ( <a href="#">sample</a> )	
	Landowner shall retain and reserve all appurtenant water rights.

	Landowner shall not permanently separate water or water rights.
	Water retained in county for agricultural production only.
	Temporary water transfers shall not impair agricultural productivity capacity or open space character.
Responsibilities of the Landowner and Grantee <a href="#">(sample)</a>	
	Landowner reserves all interests not conveyed by easement <a href="#">(sample)</a>
	Landowner solely responsible for payment of all taxes and assessments
	Landowner solely responsible for property upkeep and maintenance
	Indemnification and liability limitations for Grantee and DOC <a href="#">(statement)</a>
Monitoring <a href="#">(sample)</a>	
	Grantee's monitoring, record keeping, and enforcement responsibilities.
	Failure of the Grantee to carry out its responsibilities shall not impair the validity of this Easement or limit its enforceability in any way.
	Grantee's right of access
	Grantee shall report to the Department of Conservation 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.
Enforcement <a href="#">(sample)</a>	
	Grantee shall have the right to prevent and correct violations or threatened violations of the terms, conditions, covenants, and purposes of this Easement.
	Grantee's remedies shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
	Grantee shall apply damages recovered to the cost of undertaking any corrective action on the Property.
	If Grantee fails to enforce any term, condition, covenant or purpose of this Easement, as determined by DOC, DOC shall have the right to enforce the Easement and right of access granted to Grantee.
	Failure or refusal to exercise any rights under the terms of this Easement by the Grantee in the event of a breach by the Landowner of any term herein shall not constitute a waiver or forfeiture of the Grantee's right to enforce any term, condition, covenant, or purpose of this Easement.
Transfer of Easement <a href="#">(sample)</a>	
	Assignee or transferee must have appropriate qualifications.
	Written permission from DOC.
	Transfer by DOC, in consultation with Landowner, if the Grantee or its successors ever ceases to exist or no longer qualifies
Transfer of Property Interest <a href="#">(sample)</a>	
	Landowner shall provide prior written notification to Grantee.
	Documents of conveyance shall expressly reference the easement.
Amendment of Easement <a href="#">(sample)</a>	
	Written consent of all parties.
	Amendment consistent with purpose of easement, Grantee's policies, and applicable laws.
	No diminishment or affect on: The perpetual duration or the purpose of the easement.
	No diminishment or affect on: The status or rights of the Grantee.

	Any amendments to be recorded, with copies to DOC
Termination ( <a href="#">sample</a> )	
	Administrative termination <a href="#">statement</a> , unless waived.
	Other than pursuant to eminent domain or purchase in lieu of eminent domain, no voluntary or involuntary sale, exchange, conversion or conveyance shall limit or terminate the easement.
	Termination of the Easement through condemnation is subject to the requirements of Section 10261 of the Public Resources Code, the eminent domain laws of the State of California, federal law, and this Easement.
	The Easement and the Grantee's property right therein shall have a value equal to the difference between the current fair market value of the Property as if unencumbered by this Easement and the current fair market value of the Property encumbered by this Easement, each as determined on or about the date of termination by an appraiser.
	Appraisal subject to DOC approval, who may have its own appraisal prepared at its own expense.
	If easement terminated on a portion, balance of property remains subject to easement.
	If credit taken for charitable donation, IRS ratio for disbursement of funds.
	Distribution percentages for termination proceeds or for a claim under title insurance policy
Interpretation ( <a href="#">sample</a> )	
	Interpretation under laws of California, resolving ambiguities in favor of conservation purposes.
	References to legal provisions shall be to those in effect when the easement is executed.
	Easement does not constitute government approval of any activities permitted under the easement
Other provisions	
	Perpetual duration <a href="#">clause</a>
	No merger <a href="#">clause</a>
	Notices section, including addresses ( <a href="#">sample</a> )
	Landowner's environmental warranty <a href="#">statement</a>
Landowner's Title Warranty ( <a href="#">sample</a> )	
	Landowner warrants it is fee simple owner
	Existing financial liens/encumbrances subordinated. Other encumbrances of record listed in Exhibit
	Property not subject to other conservation easements
Subsequent Easements ( <a href="#">sample</a> )	
	No diminishment or impairment of productive capacity or open space character.
	No future restrictions on agricultural husbandry practices.
	Grantee's written approval shall be obtained in advance of the Landowner's execution of any proposed subsequent easement, interests in land, or use restriction on the Property.
	Subsequent easements, interests in land, and use restrictions shall make reference to and be subordinate to the easement.
	Grantee shall notify DOC if it approves a subsequent easement or use restriction.
Legal Clauses	
	Severability <a href="#">clause</a>

	Entire agreement <a href="#">clause</a>
	Acceptance <a href="#">clause</a>
	Habendum <a href="#">clause</a>
Exhibits	
	Legal Description (Exhibit A)
	Vicinity Map (Exhibit B)
	Building Envelopes and Existing Improvements. (include linear dimensions of envelope) (Exhibit C)
	Prior Encumbrances (Exhibit D)

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

[Grantee's name & address]

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

0  
1 **DEED OF AGRICULTURAL CONSERVATION EASEMENT**  
2

3 This Deed of Agricultural Conservation Easement is granted on this \_\_\_\_ of  
4 \_\_\_\_\_ 2012, by [Landowner's name], [Ownership status], having an address at  
5 [Landowner's address] ("Landowner"), to [Grantee's name], a California nonprofit  
6 public benefit corporation, having an address at [Grantee's address] ("Grantee"), for the  
7 purpose of forever conserving the agricultural productive capacity and open space  
8 character of the subject property.  
9

10 **RECITALS**  
11

12 A. The Landowner is the sole owner in fee simple of the [farm/rangeland]  
13 property ("Property") legally described in Exhibit A ("Legal Description") and generally  
14 depicted in Exhibit B ("Vicinity Map"), attached to and made a part of this Agricultural  
15 Conservation Easement ("Easement"). The Property consists of approximately [acres]  
16 acres of land and is commonly known as the "[Farm/Ranch name]," together with  
17 buildings and other improvements, is located in [County name] County, California, and is  
18 identified by assessor's parcel number(s) [parcel numbers]. The existing buildings and  
19 improvements on the Property are shown within the Building Envelope as depicted in  
20 Exhibit C ("Building Envelope and Existing Improvements"), also attached to and made  
21 a part of this Easement. Except as shown in Exhibit C, the Property is open farmland,  
22 whose soils have been classified as [prime farmland, farmland of statewide importance,  
23 etc.] by the U.S. Department of Agriculture's Natural Resources Conservation Service,  
24 and by the California Department of Conservation's Farmland Mapping and Monitoring  
25 Program, because this land has the soil quality, growing season, and water supply needed  
26 for sustained agricultural production.  
27

28 B. The agricultural and other characteristics of the Property, its current use  
29 and state of improvement, are documented and described in a Baseline Documentation  
30 Report ("Baseline Report"), prepared by the Grantee with the cooperation of the  
31 Landowner and incorporated herein by this reference. The Landowner and the Grantee  
32 acknowledge that the Baseline Report is complete and accurate as of the date of this  
33 Easement. Both the Landowner and the Grantee shall retain duplicate original copies of  
34 the Baseline Report. The Baseline Report may be used to establish whether or not a  
35 change in the use or condition of the Property has occurred, but its existence shall not  
36 preclude the use of other evidence to establish the condition of the Property as of the date  
37 of this Easement.

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C. The Department of Conservation’s California Farmland Conservancy Program (hereinafter alternatively referred to as the “Department” or “Department of Conservation”) has made a grant of funds to the Grantee to support the acquisition of this Agricultural Conservation Easement. The Department’s 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 California Farmland Conservancy Program’s mandatory eligibility criteria and certain selection criteria and have multiple natural resource conservation objectives. The rights vested herein in the State of California arise out of the State’s statutory role in fostering the conservation of agricultural land in California and its role as fiduciary for the public investment represented by the Department’s funds.

D. The Landowner grants this Easement for valuable consideration to the Grantee for the purpose of assuring that, under the Grantee’s perpetual stewardship, the agricultural productive capacity and open space character of the Property will be conserved and maintained forever, and that uses of the land that are inconsistent with these conservation purposes will be prevented or corrected. The parties agree, however, that the current agricultural use of, and improvements to, the Property are consistent with the conservation purposes of this Easement.

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

The 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;

California Constitution Article XIII, section 8, California Revenue and Taxation Code sections 421.5 and 422.5, and California Civil Code section 815.1, 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 10200 et seq. of the California Public Resources Code, which creates the California Farmland Conservancy Program within the Department;

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

88  
89 California Food and Agriculture Code Section 821 states that one of the major  
90 principles of the State's agricultural policy is “to sustain the long-term productivity  
91 of the State's farms by conserving and protecting the soil, water, and air, which are  
92 agriculture's basic resources;”

93  
94 The California General Plan law section 65300 et seq. and Section 65400 et seq.  
95 of the California Government Code, and the [*County name*] County General Plan,  
96 as updated on [*Update date*], which includes as one of its goals to protect  
97 farmlands designated as prime, of statewide importance, unique, or of local  
98 importance from conversion to and encroachment of non-agricultural uses; and,  
99

100 Resolution No. [*Resolution number*], approved by the Board of Supervisors of  
101 [*County name*] County on the [*day*] of [*month*], [*year*], which expresses support  
102 for the acquisition of this Easement and finds that the acquisition is consistent  
103 with the County’s General Plan and the Resolution’s findings. (NOTE: If the  
104 Property lies within the Sphere of Influence of an incorporated city, both the city  
105 and county must pass resolutions of support.)  
106

107 F. The Grantee is a California nonprofit organization within the meaning of  
108 California Public Resources Code section 10221 and California Civil Code section 815.3  
109 and is a tax exempt and “qualified conservation organization” within the meaning of  
110 Sections 501(c)(3) and 170(b)(1)(A)(iv) as defined by the United States Internal Revenue  
111 Code. Grantee, as certified by a resolution of Grantee's Board of Trustees, accepts the  
112 responsibility of enforcing the terms of this Easement and upholding its conservation  
113 purposes forever.  
114

#### 115 GRANT OF AGRICULTURAL CONSERVATION EASEMENT

116  
117 Now, therefore, for the reasons given, and in consideration of their mutual  
118 promises and covenants, terms, conditions and restrictions contained herein, and other  
119 good and valuable consideration, the receipt and adequacy of which are hereby  
120 acknowledged, the Landowner voluntarily grants and conveys to the Grantee, and the  
121 Grantee voluntarily accepts, a perpetual conservation easement, as defined by Section  
122 815.1 and 815.2 of the California Civil Code and California Public Resources Code  
123 section 10211, and of the nature and character described in this Easement for the purpose  
124 described below, and agree as follows:  
125

#### 126 1. *Conservation Purpose.*

127  
128 The conservation purpose (“Conservation Purpose” or “Purpose”) of this Easement is to

129 enable the Property to remain in productive agricultural use in perpetuity by preventing  
130 and correcting uses of the Property prohibited by the provisions of this Easement. To the  
131 extent that the preservation of the open space character and [*scenic, habitat, natural, or*  
132 *historic, etc.*] values of the Property are consistent with such use, it is within the Purpose  
133 of this Easement to protect those values.

134  
135 *2. Right to Use Property for Agricultural Purposes.*

136  
137 The Landowner retains the right to use the Property for agricultural purposes, or to permit  
138 others to use the Property for agricultural purposes, in accordance with applicable law and  
139 this Easement.

140  
141 *3. Prohibited Uses.*

142  
143 The Landowner shall not perform, nor knowingly allow others to perform, any act on or  
144 affecting the Property that is inconsistent with this Easement. Any use or activity that  
145 would diminish or impair the agricultural productive capacity and open space character  
146 [*or scenic, habitat, natural, historic etc. values*] of the Property, or that would cause  
147 significant soil degradation or erosion, restrict agricultural husbandry practices, or that is  
148 otherwise inconsistent with the Conservation Purpose is prohibited (“Prohibited Use”).  
149 “Husbandry practices” means agricultural activities, such as those specified in Section  
150 3482.5(e) of the California Civil Code, conducted or maintained for commercial purposes  
151 in a manner consistent with proper and accepted customs and standards, as established  
152 and followed by similar agricultural operations in the same locality. This Easement  
153 authorizes the Grantee to enforce these covenants in the manner described herein.  
154 However, unless otherwise specified, nothing in this Easement shall require the  
155 Landowner to take any action to restore the condition of the Property after any Act of  
156 God or other event over which it had no control. The Landowner understands that  
157 nothing in this Easement relieves it of any obligation or restriction on the use of the  
158 Property imposed by law.

159  
160 *4. Permission of the Grantee.*

161  
162 Where the Landowner is expressly required to obtain the Grantee’s permission for a  
163 proposed use hereunder, said permission (a) shall not be unreasonably delayed or  
164 withheld by the Grantee, (b) shall be sought and given in writing, with copies of all  
165 documents to be provided to the Department, and (c) shall in all cases be obtained by the  
166 Landowner prior to the Landowner's undertaking of the proposed use. The Grantee shall  
167 grant permission to the Landowner only where the Grantee, acting in the Grantee's sole  
168 reasonable discretion and in good faith, determines that the proposed use is not a  
169 “Prohibited Use” per Section 3.

170  
171 *5. Construction or Placement of Buildings and Other Improvements.*

172  
173 The Landowner may undertake construction, erection, installation, or placement of  
174 buildings, structures, or other improvements on the Property only as provided in

175 subsections (a) through (d) below. All other construction, erection, installation, or  
176 placement of buildings, structures, or other improvements on the Property is prohibited.  
177 Before undertaking any construction, erection, installation or placement that requires  
178 permission, the Landowner shall notify the Grantee and obtain prior written permission  
179 from the Grantee.

180  
181 For purposes of this section, the term “improvements” shall not refer to, and specifically  
182 excludes, crops, plants, trees, vines, or other living improvements planted for agricultural  
183 purposes, nor shall it refer to irrigation improvements necessary or desirable to irrigate  
184 the Property for agricultural purposes, all of which may be made without permission of  
185 the Grantee.

186  
187 (a) Fences – Existing fences may be repaired and replaced without permission of  
188 the Grantee. New fences may be built anywhere on the Property for purposes of  
189 reasonable and customary agricultural management, and for security of farm  
190 produce, livestock, equipment, and improvements on the Property, without  
191 permission of the Grantee.

192  
193 (b) Agricultural Structures and Improvements – Existing agricultural structures  
194 and improvements as shown in Exhibit C and more fully described in the Baseline  
195 Report, may be repaired, reasonably enlarged, and replaced at their current  
196 locations within the Building envelope for agricultural purposes without  
197 permission from the Grantee. New buildings and other structures and  
198 improvements to be used solely for agricultural production on the Property or sale  
199 of farm products predominantly grown or raised on the Property, including barns  
200 and equipment sheds, but not including any dwelling or farm labor housing, may  
201 be built on the Property within the Building Envelope depicted in Exhibit B,  
202 without permission of the Grantee. All permissible new agricultural structures  
203 may be repaired, reasonably enlarged, and replaced without permission of the  
204 Grantee. Any other agricultural production or marketing-related structures may  
205 be constructed only with permission of the Grantee pursuant to Section 4.

206  
207 (c) Residential Dwellings – The single-family dwelling shown in Exhibit C may  
208 be repaired, enlarged or replaced at the current location entirely within the  
209 Building Envelope shown in Exhibit C without permission of the Grantee. Said  
210 single-family dwelling shall not exceed three thousand square feet (3,000 sq. ft.)  
211 of living area. No other residential structures may be constructed or placed on the  
212 Property except for agricultural employee housing per Section 5(d).

213  
214 *(NOTE: With approval of the funder(s), this section may need to be modified*  
215 *depending on the circumstances of the property and other factors)*

216  
217 (d) Agricultural Employee Housing – The agricultural employee house shown in  
218 Exhibit C may be repaired, enlarged or replaced at the current location entirely  
219 within the Building Envelope shown in Exhibit C without permission of the  
220 Grantee. No additional agricultural employee housing may be constructed or

221 placed on the Property without permission of the Grantee. Grantee may only  
222 grant permission pursuant to Section 4 and only if the Landowner can  
223 demonstrate to the Grantee's satisfaction that such additional agricultural  
224 employee housing is reasonable and necessary for the agricultural operation of the  
225 Property. The aggregate living area of agricultural employee housing shall not  
226 exceed two thousand five hundred square feet (2,500 sq ft.). All agricultural  
227 employee housing must be located entirely within the Building Envelope shown  
228 in Exhibit C.

229

230 *(NOTE: With approval of the funder(s), this section may need to be modified*  
231 *depending on the circumstances of the property and other factors)*

232

233 (e) Utilities and Septic Systems. Wires, lines, pipes, cables or other facilities  
234 providing electrical, gas, water, sewer, communications, energy generation, or  
235 other utility services solely to serve the improvements permitted herein or to  
236 transmit power generated on the Property may be installed, maintained, repaired,  
237 removed, relocated and replaced. In addition, septic or other underground  
238 sanitary systems serving the improvements permitted herein may be installed,  
239 maintained, repaired, replaced, relocated or improved, but must be located within  
240 the Building Envelope. Power generation and transmission facilities primarily for  
241 agricultural and other permitted uses on the Property may be constructed within  
242 the Building Envelope. Power generated in excess of requirements on the  
243 Property may be sold to appropriate public utilities. Notwithstanding the  
244 foregoing, commercial power generation, collection or transmission facilities,  
245 including wind or solar farms outside of Building Envelope, and the conveyance  
246 of any rights-of-way over, under or on the Property for any such purpose, are  
247 prohibited.

248

249 *6. No Subdivision.*

250

251 The division, subdivision, defacto subdivision, or partition of the Property, including  
252 transfer of development rights, whether by physical, legal, or any other process, is  
253 prohibited.

254

255 The Landowner and Grantee acknowledge and understand that the Property consists of  
256 [number] legal parcel(s), and that no additional, separate legal parcels currently exist  
257 within the Property that may be recognized by a certificate of compliance or conditional  
258 certificate of compliance pursuant to California Government Code section 66499.35  
259 based on previous patent or deed conveyances, subdivisions, or surveys. The Landowner  
260 will not apply for or otherwise seek recognition of additional legal parcels within the  
261 Property based on certificates of compliance or any other authority. The Landowner shall  
262 continue to maintain the legal parcels comprising the Property, and all interests therein,  
263 under common ownership, as though a single legal parcel.

264

265 Lot line adjustment may be permitted only with the written approval of the Grantee  
266 pursuant to Section 4, in conjunction with the approval of the local jurisdiction, and for

267 purposes of maintaining, enhancing or expanding agricultural practices or productivity on  
268 the Property.

269

270 *7. Extinguishment of Development Rights.*

271

272 The Landowner hereby grants to the Grantee all development rights except as specifically  
273 reserved in this Easement, that were previously, are now or hereafter allocated to,  
274 implied, reserved, appurtenant to, or inherent in the Property, and the parties agree that  
275 such rights are released, terminated, and extinguished, and may not be used on or  
276 transferred by either party to any portion of the Property as it now or later may be  
277 bounded or described, or to any other property adjacent or otherwise, or used for the  
278 purpose of calculating permissible lot yield of the Property or any other property. This  
279 Easement shall not create any development rights.

280

281 *8. Mining.*

282

283 The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other  
284 mineral substance, using any method that disturbs the surface of the land, is prohibited.

285

286 *(NOTE: With approval of the funder(s), this section may need to be modified depending*  
287 *on the circumstances of the property and other factors)*

288

289 *9. Paving and Road Construction.*

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291 Other than existing roads shown within the Building Envelope as identified in the Baseline  
292 Report, no portion of the Property presently unpaved shall be paved or otherwise covered  
293 with concrete, asphalt, or any other impervious paving material, unless such measures are  
294 required by air quality laws or regulations applicable to the Property. Except as otherwise  
295 permitted herein, no road for access or other purposes shall be constructed without the  
296 permission of the Grantee pursuant to Section 4. Notwithstanding the foregoing,  
297 construction of unpaved farm roads, as necessary or desirable by agricultural operations,  
298 is permitted without permission from the Grantee. The Landowner shall notify the  
299 Grantee of any significant net relocation or addition of unpaved farm roads.

300

301 *10. Trash and Storage.*

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303 The dumping or accumulation on the Property of any kind of trash, refuse, vehicle bodies  
304 or parts, or "Hazardous Materials," as defined in Section 25 is prohibited. Farm-related  
305 trash and refuse produced on the Property may be temporarily stored on the Property  
306 subject to all applicable laws. The storage of agricultural products and byproducts  
307 produced on the Property and materials reasonably required for agricultural production  
308 on the Property, including Hazardous Materials, is permitted as long as it is done in  
309 accordance with all applicable government laws and regulations.

310

311 *11. Commercial Signs.*

312

313 Commercial signs (including billboards) unrelated to permitted activities conducted on  
314 the Property are prohibited.

315

316 12. *Recreational Uses; Motorized Vehicle Use Off Roadways*

317

318 Resort structures, athletic fields, golf courses, non-residential swimming pools, public or  
319 commercial airstrips, commercial equestrian facilities, public or commercial helicopter  
320 pads, and any other non-agricultural recreational structures or facilities are prohibited on  
321 the Property. Recreational structures or improvements for the personal use of the  
322 Landowner and its guests (e.g. swimming pool, tennis court) are permitted only within  
323 the Building Envelope. The use of motorized vehicles off roadways and outside of the  
324 Building Envelope is prohibited except where used for agricultural production, property  
325 maintenance and security, or for the purpose of monitoring this Easement.

326

327 13. *Water Rights.*

328

329 The Landowner shall retain and reserve all ground water, and all appropriative,  
330 prescriptive, contractual or other water rights appurtenant to the Property at the time this  
331 Easement becomes effective. The Landowner shall not permanently transfer, encumber,  
332 lease, sell, or otherwise separate such quantity of water or water rights from title to the  
333 Property itself. Permanent separation of water or water rights is prohibited. All water  
334 shall be retained in [*County name*] County for agricultural production and used in  
335 conjunction with the improvements permitted by Section 5 of this Easement only. Water  
336 may be distributed to a contiguous property or other property owned or leased by the  
337 Landowner on an annual basis for agricultural production only. Any temporary  
338 distribution of water shall not impair the long-term agricultural productive capacity or  
339 open space character of the Property.

340

341 14. *Rights Retained by the Landowner.*

342

343 Subject to Section 7 and to interpretation under Section 22, as owner of the Property, the  
344 Landowner reserves all interests in the Property not transferred, conveyed, restricted or  
345 prohibited by this Easement. These ownership rights include, but are not limited to, the  
346 right to sell, lease, or otherwise transfer the Property to anyone the Landowner chooses,  
347 as well as the right to privacy, the right to exclude any member of the public from  
348 trespassing on the Property, and any other rights consistent with the Purpose of this  
349 Easement. Nothing contained herein shall be construed as a grant to the general public of  
350 any right to enter upon any part of the Property.

351

352 Nothing in this Easement relieves the Landowner of any obligation or restriction on the  
353 use of the Property imposed by law.

354

355 15. *Responsibilities of the Landowner and the Grantee Not Affected.*

356

357 Other than as specified herein, this Easement is not intended to impose any legal or other  
358 responsibility on the Grantee, or in any way to affect any existing obligation of the

359 Landowner as owner of the Property. Among other things, this shall apply to:

360  
361 (a) Taxes – The Landowner shall be solely responsible for payment of all taxes  
362 and assessments levied against the Property. If the Grantee ever pays any taxes or  
363 assessments on the Property, or if the Grantee pays levies on the Landowner’s  
364 interest in order to protect Grantee’s interests in the Property, the Landowner will  
365 reimburse the Grantee for the same. It is intended that this Easement constitute an  
366 enforceable restriction within the meaning of Article XIII, Section 8 of the  
367 California Constitution and that this Easement qualify as an enforceable  
368 restriction under the provisions of California Revenue and Taxation Code  
369 Sections 402.1(a)(8) and 423.

370  
371 (b) Upkeep and Maintenance – The Landowner shall be solely responsible for the  
372 upkeep and maintenance of the Property, to the extent it may be required by law.  
373 The Grantee shall have no obligation for the upkeep or maintenance of the  
374 Property. If the Grantee acts to maintain the Property in order to protect the  
375 Grantee’s interest in the Property, the Landowner will reimburse the Grantee for  
376 any such costs.

377  
378 (c) Liability and Indemnification – In view of the Grantee’s and the Department  
379 of Conservation’s negative rights, limited access to the land, and lack of active  
380 involvement in the day-to-day management activities on the Property, the  
381 Landowner shall indemnify, protect, defend and holds harmless the Grantee, the  
382 Department of Conservation, their officers, directors, members, employees,  
383 contractors, legal representatives, agents, successors and assigns (collectively,  
384 “Agents and Assigns”) from and against all liabilities, costs, losses, orders, liens,  
385 penalties, claims, demands, damages, expenses, or causes of action or cases,  
386 including without limitation reasonable attorneys’ fees, arising out of or in any  
387 way connected with or relating to the Property or the Easement. The Landowner  
388 shall be solely liable for injury or the death of any person, or physical damage to  
389 any property, or any other costs or liabilities resulting from any act, omission,  
390 condition, or other matter related to or occurring on or about the Property,  
391 regardless of cause, unless due to the negligence or willful misconduct of the  
392 Grantee, the Department of Conservation, and/or their respective Agents and  
393 Assigns. The Grantee shall be named as an additional insured on Landowner’s  
394 general liability insurance policy.

395  
396 Neither the Grantee, the Department of Conservation, nor their Agents and  
397 Assigns shall have responsibility for the operation of the Property, monitoring of  
398 hazardous conditions on it, or the protection of the Landowner, the public or any  
399 third parties from risks relating to conditions on the Property. Without limiting  
400 the foregoing, neither the Grantee, the Department, nor their respective Agents  
401 and Assigns shall be liable to the Landowner or other person or entity in  
402 connection with consents given or withheld, or in connection with any entry upon  
403 the Property occurring pursuant to this Easement, or on account of any claim,  
404 liability, damage or expense suffered or incurred by or threatened against the

405 Landowner or any other person or entity, except as the claim, liability, damage, or  
406 expense is the result of the gross negligence or intentional misconduct of the  
407 Grantee, the Department, and/or their respective Agents and Assigns.  
408

409 16. *Monitoring.*  
410

411 The Grantee shall manage its responsibilities as holder of this Easement in order to  
412 uphold the Purpose of this Easement. The Grantee's responsibilities include, but are not  
413 limited to, annual monitoring, such additional monitoring as circumstances may require,  
414 record keeping, and enforcement of this Easement, for the purpose of preserving the  
415 Property's agricultural productive capacity and open space character in perpetuity.  
416 Failure of the Grantee to carry out these responsibilities shall not impair the validity of  
417 this Easement or limit its enforceability in any way. With reasonable advance notice  
418 (except in the event of an emergency circumstance or prevention of a threatened breach),  
419 Grantee shall have the right to enter upon, inspect, observe, monitor and evaluate the  
420 Property to identify the current condition of, and uses and practices on the Property and  
421 to determine whether the condition, uses and practices are consistent with this Easement.  
422

423 Grantee shall indemnify, defend with counsel of Landowner's choice, and hold  
424 Landowner harmless from, all expense, loss, liability, damages and claims, including  
425 Landowner's attorneys' fees, if necessary, arising out of Grantee's entry on the Property,  
426 unless caused by a violation of this Easement by Landowner or by Landowner's  
427 negligence or willful misconduct.  
428

429 The Grantee shall report to the Department of Conservation by June 30 of each year after  
430 the annual monitoring visit, describing method of monitoring, condition of the Property,  
431 stating whether any violations were found during the period, describing any corrective  
432 actions taken, the resolution of any violation, and any transfer of interest in the Property.  
433 Failure to do so shall not impair the validity of this Easement or limit its enforceability in  
434 any way.  
435

436 17. *Enforcement.*  
437

438 The Grantee may take all actions that it deems necessary to ensure compliance with the  
439 terms, conditions, covenants, and purposes of this Easement. The Grantee shall have the  
440 right to prevent and correct violations of the terms, conditions, covenants, and purposes  
441 of this Easement. If the Grantee finds what it believes is a violation or potential  
442 violation, it may at its discretion take appropriate legal action to ensure compliance with  
443 the terms, conditions, covenants, and purposes of this Easement and shall have the right  
444 to correct violations and prevent the threat of violations. Except when an ongoing or  
445 imminent violation could irreversibly diminish or impair the agricultural productive  
446 capacity and open space character of the Property, the Grantee shall give the Landowner  
447 written notice of the violation or potential violation, and thirty (30) days to correct it,  
448 before filing any legal action.  
449

450 If a court with jurisdiction determines that a violation may exist, has occurred, or is about

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

462  
463 Without limiting the Landowner's liability therefor, the Grantee shall apply damages  
464 recovered to the cost of undertaking any corrective action on the Property. Should the  
465 restoration of lost values be impossible or impractical for whatever reason, the Grantee  
466 shall apply any and all damages recovered to furthering its mission, with primary  
467 emphasis on agricultural conservation easement acquisition and enforcement.

468  
469 In the event the Grantee fails to enforce any term, condition, covenant or purpose of this  
470 Easement, as determined by the Director of the Department of Conservation, the Director  
471 of the Department and his or her successors and assigns shall have the right to enforce the  
472 Easement after giving notice to the Grantee and the Landowner and providing a  
473 reasonable opportunity under the circumstances for the Grantee to enforce any term,  
474 condition, covenant, or purpose of the Easement. In the event that the Director of the  
475 Department determines that the Grantee has failed to enforce any of the terms,  
476 conditions, covenants, or purposes of the Easement, the Director of the Department and  
477 his or her successors and assigns shall be entitled to exercise the same right to enter the  
478 Property granted to the Grantee, including right of immediate entry in the event of an  
479 emergency or suspected emergency where the Director of the Department or his or her  
480 successor or assign determines that immediate entry is required to prevent, terminate or  
481 mitigate a violation of this Easement.

482  
483 Failure or refusal to exercise any rights under the terms of this Easement by the Grantee  
484 in the event of a violation by the Landowner of any term herein shall not constitute a  
485 waiver or forfeiture of the Grantee's right to enforce any term, condition, covenant, or  
486 purpose of this Easement.

487  
488 18. *Transfer of Easement.*

489  
490 This Easement may only be assigned or transferred to a private nonprofit organization  
491 that, at the time of transfer, is a "qualified organization" under Section 170(h) of the  
492 United States Internal Revenue Code and meets the requirements of Section 815.3(a) of  
493 the California Civil Code and has similar purposes to preserve agricultural lands and  
494 open space. If no such private nonprofit organization exists or is willing to assume the  
495 responsibilities imposed by this Easement, then this Easement may be transferred to any  
496 public agency authorized to hold interests in real property as provided in Section 815.3(b)

497 of the California Civil Code. Such an assignment or transfer may proceed only if the  
498 organization or agency expressly agrees to assume the responsibility imposed on the  
499 Grantee by the terms of this Easement and is expressly willing and able to hold this  
500 Easement for the Purpose for which it was created. All assignment and assumption  
501 agreements transferring the Easement shall be duly recorded in <County name> County.  
502

503 If the Grantee should desire to assign or transfer this Easement, the Grantee must obtain  
504 written permission from the Landowner and the Department of Conservation, which  
505 permission shall not be unreasonably withheld.  
506

507 If the Grantee or its successors ever ceases to exist or no longer qualifies under Section  
508 170(h) of the U.S. Internal Revenue Code, or applicable state law, the Department of  
509 Conservation, in consultation with the Landowner, shall identify and select an  
510 appropriate private or public entity to whom this Easement shall be transferred.  
511

512 *19. Perpetual Duration and No Merger of Title.*  
513

514 Pursuant to California Civil Code at Part 2, Chapter 4, (commencing with section 815),  
515 which defines and authorizes perpetual conservation easements; this Easement shall run  
516 with the land in perpetuity. Every provision of this Easement that applies to the  
517 Landowner or the Grantee shall also apply to their respective agents, heirs, executors,  
518 administrators, assigns, and all other successors as their interests may appear.  
519

520 No merger of title, estate or interest shall be deemed effected by any previous,  
521 contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the  
522 Property, or any portion thereof, to the Grantee, or its successors or assigns. It is the  
523 express intent of the parties that this Easement not be extinguished by, merged into,  
524 modified, or otherwise deemed affected by any other interest or estate in the Property  
525 now or hereafter held by the Grantee or its successors or assigns.  
526

527 *20. Transfer of Property Interest.*  
528

529 Any time the Property itself, or any interest in it, is transferred by the Landowner to any  
530 third party, the Landowner shall notify the Grantee and the Department of Conservation  
531 in writing at least thirty (30) days prior to the transfer of the Property or interest, and the  
532 document of conveyance shall expressly incorporate by reference this Easement. Any  
533 document conveying a lease of the Property shall expressly incorporate by reference this  
534 Easement. Failure of the Landowner to do so shall not impair the validity of this  
535 Easement or limit its enforceability in any way.  
536

537 *21. Amendment of Easement.*  
538

539 This Easement may be amended only with the written consent of the Landowner, the  
540 Grantee, and the Director of the Department of Conservation. Any such amendment shall  
541 be consistent with the Purpose of this Easement and with the Grantee's easement  
542 amendment policies, and shall comply with all applicable laws, including Section 170(h)

543 of the Internal Revenue Code, or any regulations promulgated in accordance with that  
544 section, and with Section 815 et seq. of the California Civil Code, and the California  
545 Farmland Conservancy Program Act as codified in Section 10200 et seq. of the California  
546 Public Resources Code, and any regulations promulgated thereunder. No amendment  
547 shall diminish or affect the perpetual duration or the Purpose of this Easement, nor the  
548 status or rights of the Grantee under the terms of this Easement.

549  
550 This Easement and any amendment to it shall be recorded in [County name] County.  
551 Copies of any amendments to this Easement shall be provided to the Department of  
552 Conservation within 30 days of recordation.

553  
554 **22. Termination of Easement.**

555 *(NOTE: Landowners may waive the administrative termination provision defined in*  
556 *Public Resources Code sections 10270-77, in which case Scenario A shall be used below,*  
557 *with potential easement termination shall be governed solely by judicial termination*  
558 *proceedings. Otherwise, Scenario B on page 15 shall be used.)*

559  
560 **[Scenario A: Landowner's Administrative Termination Rights Waived]**

561  
562 (a) It is the intention of the parties that the Conservation Purpose of this Easement  
563 shall be carried out forever as provided in the Section 10211 of the Public  
564 Resources Code and Section 815 et seq. of the Civil Code. Accordingly,  
565 Landowner hereby waives on behalf of the Landowner and the Landowner's  
566 successors and assigns all rights at law or inequity to request a termination of this  
567 Easement pursuant to Public Resources Code Sections 10270 et seq.

568  
569 **Waiver of Right to Request Administrative Termination:**

570  
571 Landowner's Initials: \_\_\_\_\_ [and \_\_\_\_\_]

572  
573 (b) Other than pursuant to eminent domain or purchase in lieu of eminent  
574 domain, no other voluntary or involuntary sale, exchange, conversion, or  
575 conveyance of any kind of all or part of the Property, or of any interest in it, shall  
576 limit or terminate the provisions of this Easement. This Easement can only be  
577 terminated or extinguished, whether in whole or in part, by judicial proceedings in  
578 a court of competent jurisdiction. The fact that the land is not in agricultural use  
579 is not reason for termination of this Easement.

580  
581 Termination of the Easement through condemnation is subject to the requirements  
582 of Section 10261 of the Public Resources Code, the eminent domain laws of the  
583 State of California, federal law, and this Easement. The Property may not be  
584 taken by eminent domain or in lieu of eminent domain if the planned use is more  
585 than seven (7) years in the future (California Code of Civil Procedure section  
586 1240.220). Grantee shall be paid by the condemnor the value of the Easement at  
587 the time of condemnation (Public Resources Code section 10261(a)(2)). Purchase  
588 in lieu of condemnation, or settlement of an eminent domain proceeding, shall

589 occur pursuant to applicable laws and procedures, including but not limited to  
590 California Government Code sections 7267.1 and 7267.2, and shall require  
591 approval of the Grantee, the Director of the Department, and the [match funder].  
592 Grantee shall have an opportunity to accompany the appraiser for the condemning  
593 agency when the appraiser goes on the Property with Landowner. Should this  
594 Easement be condemned or otherwise terminated on any portion of the Property,  
595 the balance of the Property shall remain subject to this Easement. In this event,  
596 all relevant related documents shall be updated and re-recorded by the Grantee to  
597 reflect the modified easement area. Encumbrances junior to this Easement shall  
598 remain subordinate to the Easement as amended.  
599

600 (c) In the event the Landowner is notified that a public entity intends or proposes  
601 to acquire the Easement Area in whole or in part by eminent domain, the  
602 Landowner shall provide the Grantee, the Department, and the [match funder]  
603 with a copy of the notification within five (5) business days of having received  
604 such notification. In the event the Landowner intends to seek termination of the  
605 easement pursuant to initiation of a judicial proceeding which is not based on  
606 eminent domain, the Landowner shall notify the Grantee, the Department and the  
607 [match funder] of such intent no later than sixty (60) days before initiating such  
608 proceedings. No inaction or silence by the Grantee, the Department, or the  
609 [match funder] shall be construed as abandonment of the Easement.  
610

611 (d) The grant of this Easement gives rise to a property right immediately vested in  
612 the Grantee. For the purpose of determining the amount to be paid by the  
613 Landowner in a repurchase of the Easement pursuant to judicial proceedings, and  
614 for the purpose of allocating proceeds from a sale or other disposition of the  
615 Property at the time of termination, the Easement and the Grantee's property right  
616 therein shall have a value equal to the difference between the current fair market  
617 value of the Property as if unencumbered by this Easement and the current fair  
618 market value of the Property encumbered by this Easement, each as determined  
619 on or about the date of termination. The values shall be determined by an  
620 appraisal performed by an appraiser jointly selected by the Landowner and the  
621 Grantee. The Landowner shall pay the cost of the appraisal, and it is subject to  
622 approval by the Department and the [match funder]. Nothing herein shall prevent  
623 the Landowner, the Grantee, the Department, or the [match funder] from having  
624 an appraisal prepared at its own expense.  
625

626 (e) Upon approval of termination of this Easement or any portion thereof, the  
627 Landowner shall reimburse the State of California, Department of Conservation  
628 California Farmland Conservancy Program Fund and [match funder], the amount  
629 equal to the value of the Easement that is terminated. If the entire Easement is  
630 terminated, the amount required to be paid in connection with the Landowner's  
631 repurchase shall be distributed as follows: (i) to the State of California,  
632 Department of Conservation, California Farmland Conservancy Program Fund,  
633 ?%; and (ii) to the [match funder], ?%, representing the proportion of easement  
634 value originally contributed by these agencies for the purchase of this Easement.

635 If only a portion of the Easement is so terminated, the reimbursement shall be  
636 pro-rated. This Easement shall not be deemed terminated under a judicial  
637 termination proceeding until such payment is received by the State of California,  
638 Department of Conservation California Farmland Conservancy Program Fund, the  
639 [match funder] and Grantee [if any bargain sale occurred]. Grantee, in using any  
640 funds received from the termination of this Easement, shall use the funds in a  
641 manner consistent with the Purpose of this Easement.

642

643 *(NOTE: Additional language IRS language may need to be used for landowners*  
644 *seeking IRS recognition of a charitable donation)*

645

646 (f) If the Grantee obtains payment on a claim under a title insurance policy  
647 insuring this Easement, payment shall be distributed as set forth in Section 22(e).

648

649 ***[Scenario B: Landowner's Administrative Termination Rights NOT Waived]***

650

651 (a) Other than pursuant to eminent domain or purchase in lieu of eminent domain,  
652 no other voluntary or involuntary sale, exchange, conversion, or conveyance of  
653 any kind of all or part of the Property, or of any interest in it, shall limit or  
654 terminate the provisions of this Easement. This Easement can only be terminated  
655 or extinguished, whether in whole or in part, by judicial proceedings in a court of  
656 competent jurisdiction or by administrative termination pursuant to Section  
657 10270-10277 of the Public Resources Code. The fact that the land is not in  
658 agricultural use is not reason for termination of this Easement.

659

660 Termination of the Easement through condemnation is subject to the requirements  
661 of Section 10261 of the Public Resources Code, the eminent domain laws of the  
662 State of California, federal law, and this Easement. The Property may not be  
663 taken by eminent domain or in lieu of eminent domain if the planned use is more  
664 than seven (7) years in the future (California Code of Civil Procedure section  
665 1240.220). Grantee shall be paid by the condemnor the value of the Easement at  
666 the time of condemnation (Public Resources Code section 10261(a)(2)). Purchase  
667 in lieu of condemnation, or settlement of an eminent domain proceeding, shall  
668 occur pursuant to applicable laws and procedures, including but not limited to  
669 California Government Code sections 7267.1 and 7267.2, and shall require  
670 approval of the Grantee, the Director of the Department, and the [match funder].  
671 Grantee shall have an opportunity to accompany the appraiser for the condemning  
672 agency when the appraiser goes on the Property with Landowner. Should this  
673 Easement be condemned or otherwise terminated on any portion of the Property,  
674 the balance of the Property shall remain subject to this Easement. In this event,  
675 all relevant related documents shall be updated and re-recorded by the Grantee to  
676 reflect the modified easement area. Encumbrances junior to this Easement shall  
677 remain subordinate to the Easement as amended.

678

679 (b) In the event the Landowner is notified that a public entity intends or proposes  
680 to acquire the Easement Area in whole or in part by eminent domain, the

681 Landowner shall provide the Grantee, the Department, and the [match funder]  
682 with a copy of the notification within five (5) business days of having received  
683 such notification. In the event the Landowner intends to seek termination of the  
684 easement pursuant to administrative termination or judicial proceeding that is not  
685 based on eminent domain, the Landowner shall notify the Grantee, the  
686 Department and the [match funder] of such intent no later than sixty (60) days  
687 before initiating such proceedings. No inaction or silence by the Grantee, the  
688 Department, or the [match funder] shall be construed as abandonment of the  
689 Easement.

690  
691 (c) The grant of this Easement gives rise to a property right immediately vested in  
692 the Grantee. For the purpose of determining the amount to be paid by the  
693 Landowner in a repurchase of the Easement at the time of a administrative  
694 termination or pursuant to judicial proceedings, and for the purpose of allocating  
695 proceeds from a sale or other disposition of the Property at the time of  
696 termination, the Easement and the Grantee's property right therein shall have a  
697 value equal to the difference between the current fair market value of the Property  
698 as if unencumbered by this Easement and the current fair market value of the  
699 Property encumbered by this Easement, each as determined on or about the date  
700 of termination. The values shall be determined by an appraisal performed by an  
701 appraiser jointly selected by the Landowner and the Grantee. The Landowner  
702 shall pay the cost of the appraisal, and it is subject to approval by the Department  
703 and the [match funder]. Nothing herein shall prevent the Landowner, the Grantee,  
704 the Department, or the [match funder] from having an appraisal prepared at its  
705 own expense.

706  
707 (d) Upon approval of termination of this Easement or any portion thereof, the  
708 Landowner shall reimburse the State of California, Department of Conservation  
709 California Farmland Conservancy Program Fund and [match funder], the amount  
710 equal to the value of the Easement that is terminated. If the entire Easement is  
711 terminated, the amount required to be paid in connection with the Landowner's  
712 repurchase shall be distributed as follows: (i) to the State of California,  
713 Department of Conservation, California Farmland Conservancy Program Fund,  
714 ?%; and (ii) to the [match funder], ?%, representing the proportion of easement  
715 value originally contributed by these agencies for the purchase of this Easement.  
716 If only a portion of the Easement is so terminated, the reimbursement shall be  
717 pro-rated. This Easement shall not be deemed terminated under a judicial  
718 termination proceeding until such payment is received by the State of California,  
719 Department of Conservation California Farmland Conservancy Program Fund, the  
720 [match funder] and Grantee [if any bargain sale occurred]. Grantee, in using any  
721 funds received from the termination of this Easement, shall use the funds in a  
722 manner consistent with the Purpose of this Easement.

723  
724 (NOTE: Additional language IRS language may need to be used for landowners  
725 seeking IRS recognition of a charitable donation)

726

727 (s) If the Grantee obtains payment on a claim under a title insurance policy  
728 insuring this Easement, payment shall be distributed as set forth in Section 22(d).

729

730 23. *Interpretation.*

731

732 (a) This Easement shall be interpreted under the laws of the State of California,  
733 resolving any ambiguities and questions of the validity of specific provisions so as  
734 to give maximum effect to its conservation purposes.

735

736 (b) References to specific authorities in this Easement shall be to the statute, rule,  
737 regulation, ordinance, or other legal provision that is in effect at the time this  
738 Easement becomes effective.

739

740 (c) No provision of this Easement shall constitute governmental approval of any  
741 improvements, construction or other activities that may be permitted under this  
742 Easement.

743

744 24. *Notices.*

745

746 Any notices to the Landowner and the Grantee required by this Easement shall be in  
747 writing and shall be personally delivered or sent by First-Class Mail to the following  
748 addresses, unless a party has been notified by the other of a change of address:

749

750 To the Landowner:

751

752 \_\_\_\_\_

753 \_\_\_\_\_

754 \_\_\_\_\_

755

756 To the Grantee:

757

758 \_\_\_\_\_

759 \_\_\_\_\_

760 \_\_\_\_\_

761

762 Any notices required by this Easement to be sent to the Department shall be in writing  
763 and shall be personally delivered or sent by first class mail, at the following address,  
764 unless a party has been notified by the Department of a change of address:

765

766 To the Department of Conservation:

767

768 Department of Conservation

769 801 K Street, MS 18-01

770 Sacramento, CA 95814

771 Attn: California Farmland Conservancy Program

772

773 25. *The Landowner's Environmental Warranty.*  
774

775 (a) Nothing in this Easement shall be construed as giving rise to any right or  
776 ability in the Grantee or the Department of Conservation to exercise physical or  
777 management control over the day-to-day operations of the Property, or any of the  
778 Landowner's activities on the Property, or otherwise to become an "owner" or  
779 "operator" with respect to the Property as those words are defined and used in  
780 environmental laws, including the Comprehensive Environmental Response,  
781 Compensation, and Liability Act of 1980 ("CERCLA"), as amended or any  
782 corresponding state and local statute or ordinance.  
783

784 (b) The Landowner warrants that it has no actual knowledge of a release or  
785 threatened release of any Hazardous Materials on, at, beneath or from the  
786 Property. Moreover the Landowner hereby promises to defend and indemnify the  
787 Grantee and the Department of Conservation against all litigation, claims,  
788 demands, penalties and damages, including reasonable attorneys' fees, arising  
789 from or connected with the release or threatened release of any Hazardous  
790 Materials on, at, beneath or from the Property, or arising from or connected with a  
791 violation of any Environmental Laws. The Landowner's indemnification  
792 obligation shall not be affected by any authorizations provided by the Grantee to  
793 the Landowner with respect to the Property or any restoration activities carried  
794 out by the Grantee at the Property; provided, however, that the Grantee shall be  
795 responsible for any Hazardous Materials contributed after this date to the Property  
796 by the Grantee.  
797

798 (c) The Landowner warrants that it shall remain in compliance with, all applicable  
799 Environmental Laws. The Landowner warrants that there are no notices by any  
800 governmental authority of any violation or alleged violation of, non-compliance  
801 or alleged non-compliance with or any liability under any Environmental Law  
802 relating to the operations or conditions of the Property.  
803

804 (d) "Environmental Law" or "Environmental Laws" means any and all Federal,  
805 state, local or municipal laws, rules, orders, regulations, statutes, ordinances,  
806 codes, guidelines, policies or requirements of any governmental authority  
807 regulating or imposing standards of liability or standards of conduct (including  
808 common law) concerning air, water, solid waste, Hazardous Materials, worker  
809 and community right-to-know, hazard communication, noise, radioactive  
810 material, resource protection, subdivision, inland wetlands and watercourses,  
811 health protection and similar environmental health, safety, building and land use  
812 as may now or at any time hereafter be in effect.  
813

814 (e) "Hazardous Materials" means any petroleum, petroleum products, fuel oil,  
815 waste oils, explosives, reactive materials, ignitable materials, corrosive materials,  
816 hazardous chemicals, hazardous wastes, hazardous substances, extremely  
817 hazardous substances, toxic substances, toxic chemicals, radioactive materials,  
818 infectious materials and any other element, compound, mixture, solution or

819 substance which may pose a present or potential hazard to human health or the  
820 environment or any other material defined and regulated by Environmental Laws.

821

822 (f) If at any time after the effective date of this Easement there occurs a release,  
823 discharge or other incident in, on, or about the Property of any substance now or  
824 hereafter defined, listed, or otherwise classified pursuant to any federal, state, or  
825 local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise  
826 contaminating to the air, water, or soil, or in any way harmful or threatening to  
827 human health or the environment, the Landowner agrees to take any steps that are  
828 required of the Landowner with respect thereto under federal, state, or local law  
829 necessary to ensure its containment and remediation, including any cleanup.

830

831 *26. The Landowner's Title Warranty; No Prior Conservation Easements.*

832

833 The Landowner represents and warrants that it owns the entire fee simple interest in the  
834 Property, including the entire mineral estate, and hereby promises to defend this  
835 Easement against all claims that may be made against it. Any and all financial liens or  
836 financial encumbrances with priority over this Easement existing as of the date of the  
837 recording of this Easement have been subordinated. Exhibit C (Prior Encumbrances) sets  
838 forth all prior encumbrances. The Landowner represents and warrants that the Property  
839 is not subject to any other conservation easement whatsoever.

840

841 *27. Granting Subsequent Easements, Interests in Land, or Use Restrictions.*

842

843 With permission of the Grantee pursuant to Section 4, the Landowner may grant  
844 subsequent easements, including conservation easements, interests in land, or use  
845 restrictions on the Property. Under no circumstances shall the Grantee approve the  
846 granting of subsequent easements, interests in land, or use restrictions that might diminish  
847 or impair the agricultural productive capacity or open space character of the Property.  
848 The Grantee's written approval shall be obtained at least thirty (30) days in advance of  
849 the Landowner's execution of any proposed subsequent easement, interests in land, or use  
850 restriction on the Property, and such subsequent easements, interests in land, and use  
851 restrictions shall make reference to and be subordinate to this Easement. The Grantee  
852 shall notify the Department immediately upon receipt of request by the Landowner to  
853 grant a subsequent easement, interest in land, or use restriction on the Property. The  
854 Grantee shall notify the Department in the event that it approves the grant of any  
855 subsequent easement, interest in land, or use restriction on the Property.

856

857 *28. Severability.*

858

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

863

864 29. *Entire Agreement.*

865

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

870

871 30. *Acceptance.*

872

873 As attested by the signature of its [*Position title*] affixed hereto, as authorized by  
874 Grantee's Board of Directors/Trustees, in exchange for consideration, the Grantee hereby  
875 accepts without reservation the rights and responsibilities conveyed by this Deed of  
876 Agricultural Conservation Easement.

877

878 To Have and To Hold, this Deed of Agricultural Conservation Easement unto the  
879 Grantee, its successors and assigns, forever.

880

881 In Witness Whereof, the Landowner and the Grantee, intending to legally bind  
882 themselves, have set their hands on the date first written above.

883

884 LANDOWNER

885

886 [*Landowner's Name*].

887

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

889

890 Name: \_\_\_\_\_

891

892 Title: \_\_\_\_\_

893

894 GRANTEE

895

896 [*Grantee's Name*],  
897 a California nonprofit public benefit corporation

898

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

900

901 Name: \_\_\_\_\_

902

903 Title: \_\_\_\_\_

904

905

ACKNOWLEDGEMENTS

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STATE OF CALIFORNIA } ss  
COUNTY OF }

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public of the State of California, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name 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 \_\_\_\_\_

STATE OF CALIFORNIA } ss  
COUNTY OF }

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public of the State of California, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name 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.

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WITNESS my hand and official seal.

Signature \_\_\_\_\_

949

950 Exhibit A (Legal Description) Attached

951 Exhibit B (Vicinity Map) Attached

952 Exhibit C (Building Envelope and Existing Improvements) Attached

953 Exhibit D (Prior Encumbrances) Attached