

RECORDING REQUESTED BY AND RETURN TO:

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

Gov. Code § 27383 – Exempt from recording fees, recorded by government agency
Gov. Code § 27388.1 – Exempt from SB2 fees, recorded by government agency
Gov. Code § 27388.2 – Exempt from RCM fees, recorded by government agency
Rev. & Tax. Code § 11922 – Exempt from Documentary Transfer Tax, interest acquired by government agency

FIRST AMENDED AND RESTATED DEED AND AGREEMENT
BY AND BETWEEN
THE TOWN OF WINDSOR
AND
THE SONOMA COUNTY AGRICULTURAL PRESERVATION
AND OPEN SPACE DISTRICT
CONVEYING A CONSERVATION EASEMENT
AND
ASSIGNING DEVELOPMENT RIGHTS

The TOWN OF WINDSOR, a municipal corporation of the State of California ("GRANTOR"), and the SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT, a public agency formed pursuant to the provisions of Public Resources Code sections 5500 *et seq.* ("DISTRICT"), agree as follows:

RECITALS

A. GRANTOR is the owner in fee simple of that certain real property located in Sonoma County and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference ("the Property"). The Property is approximately 9.36 acres and is comprised of the First Keiser Park Expansion Property and the Second Keiser Park Expansion Property, which terms are defined in the recitals below.

B. In 1990, the voters of Sonoma County approved the creation of DISTRICT and the imposition of a transactions and use tax. The purpose for the creation of DISTRICT and the imposition of the tax was to provide for the preservation of agriculture and open space through the acquisition of interests in appropriate properties from willing sellers consistent with a voter-approved Expenditure Plan. DISTRICT was created and the tax imposed in order to further the state policy for the preservation of agricultural and open space lands, to meet the mandatory requirements imposed on the County and each of its cities by Government Code sections 65560 *et seq.* and to advance the implementation of the open space elements of their

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respective general plans. In 2006, the voters of Sonoma County approved an extension of the transaction and use tax and an update of the Expenditure Plan.

C. The DISTRICT is organized pursuant to Public Resources Code sections 5500 *et seq.* and is duly authorized to acquire and hold conservation easement interests pursuant to Civil Code section 815.3 and Public Resources Code section 5540.

D. On August 28, 2002, GRANTOR and DISTRICT executed that certain instrument entitled "Deed and Agreement By and Between The Town of Windsor and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement," which instrument was recorded on August 30, 2002 as Document Number 2002130786 in the Official Records of Sonoma County (the "First Keiser Park Expansion Easement"). A 6.81-acre portion of the Property, as detailed on Exhibit A to the First Keiser Park Expansion Easement, is encumbered by the First Keiser Park Expansion Easement, which portion is sometimes referred to herein as the "First Keiser Park Expansion Property."

E. GRANTOR submitted an application under DISTRICT's 2020 Matching Grant Program for funding toward the acquisition of property to further expand Keiser Park in the amount of \$650,000, and DISTRICT's Board of Directors approved a grant for the second expansion on March 23, 2021.

F. On September 28, 2021, the Planning Commission of the Town of Windsor, determined, pursuant to Government Code section 65402, that GRANTOR's acquisition of 2.55 +/- acres adjacent to the First Keiser Park Expansion Property (the "Second Keiser Park Expansion Property") for purposes of a public park is consistent with the Town of Windsor's 2040 General Plan, and on September 23, 2022, GRANTOR acquired the Second Keiser Park Expansion Property, by that certain Grant Deed recorded as Document No. 2022062114 in the Official Records of Sonoma County.

G. On [date], DISTRICT entered into a Matching Grant Program Agreement ("Grant Agreement") with GRANTOR, pursuant to which DISTRICT contributed funds towards GRANTOR'S acquisition of the Second Keiser Park Expansion Property. As a condition of the Grant Agreement, GRANTOR agreed to convey a conservation easement over the Second Keiser Park Expansion Property.

H. [insert Town of Windsor approval of conservation easement].

I. GRANTOR and DISTRICT now desire to record this Easement over the Property, which amends, replaces, and supersedes the First Keiser Park Expansion Easement and adds the Second Keiser Park Expansion Property. This Easement provides protections equal to or greater than those provided individually by the First Keiser Park Expansion Easement and supersedes the First Keiser Park Expansion Easement in conformance with the requirements of Public Resources Code Section 5540 and DISTRICT's Conservation Easement Amendment Policy.

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J. The First Keiser Park Expansion Easement did not expressly permit GRANTOR to install public art on the First Keiser Park Expansion Property. After execution of the First Keiser Park Expansion Easement, GRANTOR installed a sculpture on a playfield, which DISTRICT previously determined had an impact on recreational values due to its location and size. Through this Easement, public art installations, including the existing sculpture, will be expressly authorized on the Property subject to DISTRICT approval, in recognition of the significant increase in recreational values achieved through the expanded recreational areas created through addition of the Second Keiser Park Expansion Property, and of the educational and recreational value that certain public art can add to the public's experience.

K. On [Date], DISTRICT's Board of Directors, by its Resolution No. [Number], approved this Easement, including the amendment of First Keiser Park Expansion Easement and acquisition of an easement over the Second Keiser Park Expansion Property, and determined that its funding is consistent with the voter-approved Expenditure Plan.

L. This Easement, as further defined below, will further the goals, objectives, and policies of the following adopted local plans: Town of Windsor 2030 Parks and Recreation Plan, the Town of Windsor 2040 General Plan, the Keiser Park Master Plan, and DISTRICT's Vital Lands Initiative, a long-range acquisition plan, by protecting open space and publicly accessible lands in and near cities and communities and connecting people with protected lands.

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

N. In an agreement of even date entitled "Recreation Conservation Covenant," recorded contemporaneously, GRANTOR has obligated itself and its successors to engage in certain recreational operations on the Property. It is the intent of GRANTOR and DISTRICT that the Recreation Conservation Covenant and this Easement will be construed together in order to achieve the purposes of both agreements. If a conflict arises between this Easement and the Recreation Conservation Covenant, the terms of this Easement shall prevail.

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

EASEMENT

PART ONE: GRANT OF EASEMENT

1. Grant and Acceptance of Conservation Easement and Assignment of Development Rights. Pursuant to the common and statutory law of the State of California including the provisions of Civil Code sections 815 through 816, inclusive, GRANTOR hereby grants to DISTRICT and DISTRICT accepts a conservation easement over the Property in perpetuity under

the terms and conditions set forth herein (“the Easement”). GRANTOR hereby irrevocably assigns to DISTRICT all development rights associated with the Property, except as specifically provided by this Easement.

2. Conservation Values. The Property is made up of two sections of parkland. The western 6.81-acre section (First Keiser Park Expansion Property) is developed Keiser Parklands with ballfields, pathways, a playground and a riparian area. The eastern 2.55-acre section (Second Keiser Park Expansion Property) is largely vacant. Critical resources on the Property include the natural plant communities and a vibrant community park, further described below (collectively “the Conservation Values”):

2.1 Urban Open Space. The Property consists of more than 9 acres of open land in a predominantly natural state situated in a highly developed urban area in the fourth largest city in Sonoma County. The open space character of this land provides visual respite for the public, including as a community park with both active and passive recreation areas.

2.2 Recreational and Educational Resources. The Property offers opportunities for active recreational and educational activities and programs, including: a playground, public art, and athletic fields and courts on the First Keiser Park Expansion Property, and suitable land for additional active recreational and educational uses on the Second Keiser Park Expansion Property. Passive recreational and educational opportunities such as nature study, walks, and picnicking are also available on the Property.

2.3 Natural Resources. The Property includes a small unnamed stream, which is a tributary to Starr Creek, with extensive riparian vegetation. Additionally, the Property contains plant communities native to Sonoma County such as blue oak (*Quercus douglasii*), coast live oak (*Quercus agrifolia*), a valley and blue oak hybrid (*Quercus lobata*), coyote brush scrub (*Baccharis pilularis*), and seasonal wetlands, which provide habitat for a variety of native animal species.

2.4 Scenic Resources. The Property is visible from Windsor River Road. The undeveloped openness and wild nature of portions of the Property provide visual respite from surrounding urban development.

3. Conservation Purpose. The purpose of this Easement (“Conservation Purpose”) is to preserve and protect forever the Conservation Values, and to prohibit and prevent any uses and activities of the Property that will materially impair or interfere with the Conservation Values. In the event that an activity or use that requires DISTRICT’s approval causes a substantial conflict between the preservation and protection of multiple Conservation Values, the parties shall attempt to reconcile such conflict and balance preservation and protection of Conservation Values, taking into consideration any material changes to the physical condition of the Property, climate change and associated impacts, zoning and public policy, and surrounding land uses. If such conflict is both substantial and irreconcilable, DISTRICT shall consider the approval and the relative impacts to the affected Conservation Values, with

particular weight given to preservation and protection of urban open space, then to recreational and educational resources, then to natural resources, and finally scenic resources.

PART TWO: RIGHTS OF DISTRICT

4. Affirmative Rights of DISTRICT. DISTRICT shall have the following affirmative rights under this Easement:

4.1 Protecting Conservation Values. DISTRICT shall have the right to preserve, protect and document in perpetuity the Conservation Values of the Property.

4.2 Property Inspections. DISTRICT shall have the right to enter upon the Property and to inspect, observe, and study the Property for the purposes of (i) identifying the current activities and uses thereon and the condition thereof, (ii) monitoring the activities and uses thereon to determine whether they are consistent with the terms, conditions and Conservation Purpose of this Easement, (iii) enforcing the terms, conditions and Conservation Purpose of this Easement, and (iv) exercising its other rights under this Easement. Such entry shall be permitted at least once a year at reasonable times, upon one week's prior notice to GRANTOR, and shall be made in a manner that will not unreasonably interfere with GRANTOR's use and quiet enjoyment of the Property pursuant to the terms and conditions of this Easement. Each entry shall be for only so long a duration as is reasonably necessary to achieve the purposes of this Section 4.2, but shall not necessarily be limited to a single physical entry during a single twenty-four hour period. Notwithstanding the foregoing, should DISTRICT's General Manager have a reasonable belief that GRANTOR is in breach of this Easement, DISTRICT shall have the right at any time, upon twenty-four hours' prior notice to GRANTOR, to enter upon the Property for the purpose of determining whether such breach has occurred. The rights of entry provided by this Section 4.2 shall extend to the officers, agents, consultants, and volunteers of DISTRICT.

4.3 Enforcement. DISTRICT shall have the right to enforce the rights herein granted and to prevent or stop, by any legal means, any activity or use on the Property that is inconsistent with the terms, conditions or Conservation Purpose of this Easement and to require restoration of such areas or features as may be damaged by such activities or uses.

4.4 Audit. DISTRICT shall have the right to inspect, copy and audit GRANTOR's financial and programmatic records, of any type, nature or description, as DISTRICT deems necessary to ensure GRANTOR's compliance with Section 5.

4.4 Approval of Certain Uses. DISTRICT shall have the right to review and approve proposed uses and activities on the Property as more specifically set forth in Section 5 and Section 6.

4.5 DISTRICT Signage. DISTRICT shall have the right to erect and maintain a sign or other appropriate marker in a location on the Property acceptable to GRANTOR, visible from a

public road, bearing information indicating that the Property is protected by DISTRICT and acknowledging the sources of DISTRICT funding for the acquisition of this Easement. The wording and design of the sign or marker shall be determined by DISTRICT with consent of GRANTOR. No such sign or marker shall exceed thirty-two (32) square feet in size nor be artificially illuminated. DISTRICT shall be responsible for the cost of erecting and maintaining such sign or marker.

PART THREE: RESTRICTIONS ON DEVELOPMENT, USE AND ACTIVITIES

5. GRANTOR's Reserved and Restricted Rights. GRANTOR shall confine the use of the Property to activities and uses that are consistent with the Conservation Purpose of this Easement. Any activity or use that is inconsistent with the Conservation Purpose of this Easement is prohibited. GRANTOR and DISTRICT acknowledge that the following list does not constitute an exhaustive recital of consistent and inconsistent activities and uses, but rather (i) establishes specific duties with respect to the preservation of the Property's Conservation Values; (ii) establishes allowed activities and uses; (iii) establishes restricted or prohibited activities and uses; and (iv) provides guidance for determining the consistency of similar activities and uses with this Easement, in accordance with the procedures set forth in Section 6.

5.1 General Requirements for All Uses.

5.1.1 Compliance with Governmental Regulations. All activities and uses on the Property shall be undertaken in a manner consistent with all applicable federal, state, and local statutes, ordinances, rules, and regulations.

5.1.2 Compliance with Terms, Conditions and Conservation Purpose of this Easement. All activities and uses on the Property shall be undertaken in a manner consistent with the terms, conditions and Conservation Purpose of this Easement.

5.1.3 Protection of Conservation Values. All activities and uses on the Property shall be undertaken in a manner that protects and preserves the Conservation Values.

5.1.4 Protection of Soil and Water. No activity or use on the Property shall be undertaken in a manner that results in significant soil degradation or pollution, or significant degradation or pollution of any surface or subsurface waters.

5.1.5 Duty to Prevent Waste, Nuisance, and Trespass. Without limiting the generality of the foregoing, GRANTOR shall maintain the Property in a condition consistent with the Conservation Purpose of this Easement, which obligation shall include the undertaking of reasonable and necessary steps to prevent harm to the Conservation Values of the Property due to foreseeable acts or omissions of third parties.

5.1.6 Notice and Approval Procedures. Whenever this Section 5 requires prior notice to or approval by DISTRICT, such notice shall be given or approval shall be obtained in accordance with Section 6 of this Easement.

5.1.7 Master Plan. In 2008, DISTRICT approved the Keiser Park Master Plan (the "Master Plan"), which detailed uses and development on the First Keiser Park Expansion Property. The Master Plan may be amended, revised, or updated from time to time provided that such amendment, revision or update shall be subject to DISTRICT's approval in accordance with Section 6.1 of this Easement. Such amendment, revision, or update shall not be implemented on the Property until it has been approved by DISTRICT.

5.1.8 Easement Designation Areas. To balance potential conflicts between permitted uses and the conservation values, this Easement identifies and designates geographically specific areas of the Property within which different terms are applicable than on the remainder of the Property (the "Easement Designation Areas"). Within the Easement Designation Areas, otherwise prohibited uses may be permitted and otherwise permitted uses may be prohibited, as described in this Easement. The general locations of the Easement Designation Areas are depicted in Exhibit B (the "Project Structure Map"), attached and incorporated by this reference. More particular descriptions of the locations of the Easement Designation Areas are contained in Exhibit C ("Descriptions of Easement Designation Areas"), attached and incorporated by this reference. In the event of any conflict between the written descriptions of the Easement Designation Areas and the Project Structure Map, the written descriptions in Exhibit C shall prevail. If there is a dispute regarding the location of Easement Designation Area boundaries on the ground, the party raising the dispute may obtain a survey of the area at issue at its own cost. There are three categories of Easement Designated Areas on the Property as noted below:

- a) Active Recreation Area. There are three (3) areas designated "Active Recreation Area" on the Property, designated to concentrate development and more intensive uses, as further described in Section 5.4.
- b) Passive Recreation Area. There is one (1) area designated "Passive Recreation Area" on the Property, designated to preserve and enhance the natural landscape and offer a recreation area available for low intensity recreation, respite and enjoyment, as further described in Section 5.4.
- c) Riparian Area. There is one (1) area designated "Riparian Area" surrounding the tributary to Starr Creek on the Property, designated to preserve, protect, and enhance the natural resources and ecological function of the riparian corridor, as further described in Section 5.4.

5.2 Subdivision and Parcels. At the time of recordation of this Easement, the Property may consist of more than one legal parcel. Notwithstanding the potential existence of multiple underlying parcels, the Property, in its entirety, shall remain under common ownership, and GRANTOR shall not place or convey any portion of the Property into ownership separate from the whole of the Property except as expressly provided in subsection 5.2.1. GRANTOR shall not further divide the Property, or any of its constituent parcels whether by subdivision, conveyance, lot line adjustment, or any other means, nor shall GRANTOR gain or seek to gain recognition, by certificate of compliance under the Subdivision Map Act or otherwise, of additional parcels which may have previously been created on the Property by prior patent or deed conveyances, subdivisions, or surveys.

5.2.1 Exceptions. This prohibition against division of the Property shall be inapplicable to:

a) Leases. GRANTOR may lease a portion(s) of the Property for the permitted recreational and educational uses described in Section 5.3.

b) Lot Line Adjustments. Subject to prior written approval by DISTRICT, GRANTOR may relocate one or more boundary lines between existing parcels within the Property, where the land taken from one parcel is added to a contiguous parcel and does not thereby create a greater number of parcels on the Property than existed at the time of execution of this Easement.

5.2.2 Historic Parcels. GRANTOR acknowledges that one or more additional historic parcels may exist on the Property, previously created by patent or deed conveyances, subdivisions, lot line adjustments, surveys, recorded or unrecorded maps or other documents. GRANTOR waives all rights to recognition of such historic parcels, whether through certificate of compliance under the Subdivision Map Act or otherwise.

5.2.3 Merger. Within 24 months of recordation of this Easement, GRANTOR shall record pursuant to the Subdivision Map Act and local ordinance a merger of all existing parcels or claimed parcels of the Property into a single legal parcel. If the parcels cannot be merged because of their lack of contiguity or for any other reason, GRANTOR shall pursue and secure such other applicable legal restrictions as is necessary and reasonable, to ensure that no portion of the Property may be sold or conveyed separate from the Property as a whole.

5.3 Land Uses. GRANTOR may use the Property only as described in this Section 5.3. All other use is prohibited.

5.3.1 Natural Resource Protection, Preservation, Restoration and Enhancement. GRANTOR may protect, preserve, restore and enhance the natural resources of the Property in accordance with sound, generally-accepted conservation practices and the provisions of Section 5.5.

a) Mitigation. Subject to prior written approval of DISTRICT, the Property may be used for mitigation of on- or off-site projects if DISTRICT determines, in its sole discretion, that the following criteria are met: 1) the proposed mitigation enhances the Conservation Values; 2) the proposed mitigation is consistent with DISTRICT's enabling legislation; 3) the proposed mitigation is aligned with DISTRICT's objectives and goals; and 4) the proposed mitigation does not present a risk to DISTRICT's long-term fiscal stability. Furthermore, any additional protections required by regulatory agencies in association with a mitigation project must be consistent with this Easement; and the sale of mitigation credits are considered a commercial use and subject to the provisions of Section 5.3.3.

5.3.2 Recreational and Educational Use. GRANTOR shall make the Property available to the public for low intensity and active public outdoor recreation and education except as set forth in Section 5.6. All public outdoor recreational and educational uses and activities on the Property shall be designed and undertaken in a manner consistent with the Conservation Purpose of this Easement. Such uses must occur in approved locations and may include, but are not limited to, use of ball fields, ball courts, and play structures; gardening; native habitat installation or restoration; environmental or outdoor education; educational programs; community events; afterschool and summer camp programs; hiking; bicycling; picnicking; nature study; and other such uses similar in nature and intensity.

5.3.3 Commercial. GRANTOR may use the Property for the following commercial uses:

a) Recreation and Education. Nominal fee for permitted recreational and educational uses in accordance with Section 5.3.2.

b) Leases and Rentals. Leases or rentals for recreational and educational uses as defined in Sections 5.3.2.

c) Concessions. Food and beverage sales and other similar concessions provided such concessions are necessary for and related to permitted recreational and educational uses of the Property and such concessions are reasonably affordable to the community.

d) Ancillary. Subject to prior written approval of DISTRICT, other minor recreational and educational commercial uses found to be consistent with Conservation Values of this Easement.

5.4 Structures and Improvements. GRANTOR may construct, place, repair, replace, and maintain structures and improvements on the Property only as provided below, and only as

authorized in the Master Plan or Revision approved pursuant to Section 5.1.7 and Section 6.1 of this Easement:

5.4.1 Maintenance, Repair or Replacement of Structures and Improvements.

GRANTOR may maintain, repair or replace structures and improvements existing at the date hereof or constructed subsequently pursuant to the provisions of this Easement, as follows:

- a) If the maintenance, repair or replacement does not increase the height of the structure or improvement, increase the land surface area it occupies or change its location or function, no notice to or approval by DISTRICT shall be required.
- b) Any maintenance, repair or replacement that increases the height of the structure or improvement, increases the land surface area it occupies, or changes its location or function shall be treated as new construction and shall be subject to the provisions of Sections 5.4.2 through 5.4.8.

5.4.2 Structures and Improvements for Recreational and Educational Uses.

GRANTOR may construct or place structures and improvements associated with permitted outdoor recreational and educational uses, including:

- a) Benches, picnic tables, drinking fountains, refuse and recycling containers, bike racks and other similar minor improvements may be placed in the Active Recreation Area and Passive Recreation Area without any notice to or approval from DISTRICT.
- b) Paved or permeable trails and pathways, pathway lighting, community gardens and other similar low intensity uses may be placed in the Active Recreation Area and Passive Recreation Area with prior written approval of DISTRICT.
- c) Public art, play structures, ball courts, ball fields, a pump track, lighting needed for outdoor recreation, and other similar improvements may be placed in the Active Recreation Area with prior written approval of DISTRICT.
- d) No new structures or improvements for recreational and educational uses are permitted in the Riparian Area.

5.4.3 Structures and Improvements Accessory to Natural Resource Protection and Restoration. With prior written notice to DISTRICT, GRANTOR may place or construct within the Active Recreation Area and Passive Recreation Area accessory structures and improvements reasonably necessary for natural resource protection or restoration of the Property, including, sheds and greenhouses. With prior written

approval from DISTRICT, GRANTOR may place or construct temporary accessory structures and improvements in the Riparian Area as necessary during, and in connection with, natural resource protection, restoration, and enhancement activities.

5.4.4 Public Parking and Access Roads. Within the Active Recreation Area and subject to prior written approval of DISTRICT, GRANTOR may construct new roads and public parking area(s) and reconstruct or expand existing roads and parking area(s) provided that such roads and parking area(s) (i) are directly required for uses and activities allowed herein; and (ii) are the minimum necessary for such uses and activities. Roads and parking area(s) shall be constructed and maintained so as to minimize erosion and sedimentation and ensure proper drainage, utilizing Best Management Practices for roads as recommended by California Department of Fish and Wildlife or other similar or successor entity. Roads and parking area(s) constructed subsequent to the Effective Date of this Easement may not be paved with asphalt, concrete or other impervious surface unless such paving is required by any federal, state or local law, code, ordinance or regulation. Roads and parking area(s) that are abandoned, permanently closed and/or decommissioned shall be revegetated with native species, stabilized and ensured of proper drainage.

5.4.5 Fences and Gates.

a) **Boundary Fencing.** GRANTOR may construct, erect, or place boundary fencing deemed by GRANTOR to be reasonably necessary, without prior notice to or approval of DISTRICT, provided however, that such fencing is constructed to allow visibility and is consistent with the Conservation Purpose of this Easement.

b) **Other Fencing.** Subject to prior written approval of DISTRICT, GRANTOR may construct and erect new fencing and gates only as necessary for permitted uses of the Property or as necessary in connection with GRANTOR'S duties to prevent foreseeable trespass pursuant to Section 5.1. All fencing and gates must i) preserve the scenic values of the Property; ii) be the minimum necessary in design and extent; and iii) within the Riparian Area and Passive Recreation Area, comply with the DISTRICT's then current guidelines for fences on conservation lands. Notwithstanding the provisions of Section 5.4.1, whether existing at the date hereof or constructed subsequently in accordance with the provisions of this Easement, GRANTOR may maintain and/or replace such fencing and gates only pursuant to the provisions of this Section 5.4.5. In the event any fence or gate, or portion thereof, becomes obsolete or unnecessary for the uses described in this Section 5.4.5, GRANTOR shall remove such fencing or gate from the Property.

5.4.6 Utilities and Energy Resources. Subject to prior written approval of DISTRICT, GRANTOR may expand existing or develop or construct new utilities, including

electric power, septic or sewer, communication lines, and water storage and delivery systems provided that such utilities are directly required for permitted uses on the Property and are reasonably scaled to serve only those uses. In addition, subject to prior written approval of DISTRICT, GRANTOR may install and maintain or permit the installation and maintenance of underground conduits on the Property for water, sanitation, gas, electricity, or other similar utilities for new or existing offsite public utility purposes, provided that: (1) such installation has no significant adverse impacts on the Conservation Values; (2) any such installation is installed and maintained in the least intrusive manner feasible; and (3) any damage done to the Property or Conservation Values caused by the installation or maintenance of such conduits is repaired promptly. GRANTOR may convey an easement pursuant to Section 5.7 of this Easement as necessary to authorize the installation and maintenance of such conduits.

5.4.7 Public Safety Systems. With prior written approval from DISTRICT, GRANTOR may install communication and geophysical data collection, monitoring, and transmission systems and associated infrastructure directly supportive of public safety operations, including, but not limited to, wildfire detection sensors and cameras, weather stations, stream gauges, seismic sensors, and emergency communication systems ("Public Safety Systems"), provided such infrastructure is the minimum necessary for the public safety purpose and is designed, sited, constructed, and maintained so as to minimize impacts to the Conservation Values of the Property. Public Safety Systems do not include telecommunications facilities designed for use by the general public, such as commercial cell phone towers or antennae, which are subject to the provisions of Section 5.4.6. Vegetation management related to the maintenance and operation of such systems shall be subject to the provisions of Section 5.5.4.

5.4.8 Signs. GRANTOR may construct or place signs as set forth in this Section 5.4.8. No sign shall be artificially illuminated.

a) Without prior written notice to or approval of DISTRICT, GRANTOR may construct or place two signs not to exceed 45 square feet in size to identify the Property from public roadways.

b) Without prior written notice to or approval of DISTRICT, GRANTOR may construct or place four signs not to exceed 32 square feet in size as trailhead or interpretive signs and/or to acknowledge participation of funding agencies for permitted uses on the Property.

c) Without prior written notice to or approval of DISTRICT, GRANTOR may construct or place signs no more than six (6) square feet in size to (i) mark the boundary of the Property; (ii) provide directional, interpretive and educational information; and (iii) set forth park and/or local area rules or regulations applicable to use of the park, provided that the size and number of such signs shall be limited to that which is reasonably necessary to accomplish

the permitted uses herein, and further provided that such signs are sited and constructed in a manner that does not create a significant visual impact.

d) Subject to prior written approval of DISTRICT, GRANTOR may construct or place additional signs necessary or appropriate for allowed uses, provided that any such additional signs are sited and constructed in a manner that does not create a significant visual impact.

5.5 Land and Resource Management. All land and resource management activities must be designed and implemented in accordance with sound, generally-accepted conservation practices.

5.5.1 Surface Alteration. Alteration of the contour of the Property in any manner whatsoever is prohibited, including excavation, removal or importation of soil, sand, gravel, rock, peat or sod, except as reasonably necessary in connection with the uses, structures, and/or improvements allowed under Section 5 of this Easement. In connection with allowed uses, structures, and/or improvements, movement of over 50 cubic yards of material in any calendar year is subject to prior DISTRICT approval.

5.5.2 Water Resources. Draining, filling, dredging, diking, damming or other alteration, development or manipulation of watercourses, subsurface water, springs, ponds and wetlands is prohibited except as reasonably necessary in connection with (i) the maintenance, replacement, development and expansion of water storage and delivery systems allowed under Section 5.4.6; ii) reconstruction, expansion and new construction of roads or trails (allowed under Sections 5.4.4 and 5.4.2, respectively; and (iii) the preservation, restoration and enhancement of natural resources allowed under Section 5.5.5.

5.5.3 Mineral Exploration. Exploration for, or development and extraction of, minerals and hydrocarbons by any surface or sub-surface mining or any other method is prohibited.

5.5.4 Vegetation and Fuel Management. GRANTOR may undertake vegetation and fuel management activities to reduce wildfire risk as provided in this Section. All vegetation and fuel management activities shall be designed and implemented to minimize harm to native wildlife, plant communities, and non-target plants. If vegetation and fuel management activities are to take place during nesting season, GRANTOR shall ensure that nesting surveys are conducted in coordination with a qualified biologist and shall modify activities based on survey results to prevent harm to identified nests.

a) Within 100 feet of structures, except for Public Safety Systems installed pursuant to Section 5.4.7, and without need for notice to or approval from DISTRICT, GRANTOR may undertake brush removal, mowing, grazing, tree

trimming, targeted tree removal, and other vegetation management methods of similar nature and intensity.

b) Farther than 100 feet from structures, or in relation to Public Safety Systems installed pursuant to Section 5.4.7, GRANTOR may undertake vegetation management pursuant to a Vegetation Management Plan (defined below) approved in advance by DISTRICT. A "Vegetation Management Plan" is a document designed to guide GRANTOR's conduct of vegetation management pursuant to this section and may describe either an individual vegetation management project or a more comprehensive plan covering multiple projects. Any Vegetation Management Plan must incorporate the best available science and must identify the following: a) the purpose of proposed work, b) the location of the treatment area(s), c) a timeline for completion, d) the "before" condition of the treatment area(s), e) management objectives, f) treatment methods including any new infrastructure, g) post-treatment maintenance, and h) best management practices, such as soil protection, appropriate tree spacing, special-status species protection, invasive species management, and snag retention. Any Vegetation Management Plan must be consistent with any then-current DISTRICT wildfire management policy, the Master Plan and any Revisions (as defined in Section 6.1), and the terms of this Easement. Any Vegetation Management Plan may include the following treatment methods:

- i. Limited brush removal and mowing, or other methods of similar nature and intensity;
- ii. Limited grazing undertaken in accordance with sound, generally accepted conservation practices;
- iii. Limited tree trimming and limited tree removal within a fuel break area or calming zone (as designated in the approved Vegetation Management Plan), and, if recommended by a fire protection agency having jurisdiction, vegetation removal within a fire break (as designated in the approved Vegetation Management Plan); and
- iv. Prescriptive or cultural burning consistent with the standards and requirements of the local fire protection agency having jurisdiction.

c) Following any such vegetation management, GRANTOR shall promptly provide to DISTRICT a record of the "after" condition of the treatment areas, such as photographs and descriptions of the results of treatment.

5.5.5 Natural Resource Preservation, Restoration, and Enhancement. With prior written approval of DISTRICT, GRANTOR may undertake natural resource preservation, restoration and enhancement activities, including but not limited to, bank and soil stabilization, and practices to enhance water quality, native plant and wildlife habitat and connectivity, and to promote biodiversity.

5.5.6 Native Tree Removal. Harvesting, cutting, trimming, transplanting, or destruction of any native trees is prohibited, except as reasonably necessary (i) to control insects and disease; (ii) to prevent personal injury and property damage; (iii) for the purpose of fire management, in accordance with Section 5.5.4; (iv) for natural resource preservation, restoration and enhancement, as set forth in Section 5.5.5; and (v) with prior written approval of DISTRICT, within the footprint of permitted trails and pathways. Native trees removed pursuant to this Section 5.5.6 may be used for personal firewood.

5.5.7 Native Vegetation Removal. Removal or destruction of any native non-tree vegetation is prohibited, except as reasonably necessary (i) within footprint of permitted structures and improvements; (ii) to control insects and disease; (iii) to prevent personal injury and property damage; (iv) for the purpose of fire management, in accordance with Section 5.5.4; and (v) for natural resource preservation, restoration and enhancement, as set forth in Section 5.5.5.

5.5.8 Native Animal Removal. Killing, hunting, trapping, injuring or removing native animals is prohibited except (i) under imminent threat to human life or safety; and (ii) as reasonably necessary in accordance with Section 5.5.5, using selective control techniques consistent with the policies of the Sonoma County Agricultural Commissioner and other governmental entities having jurisdiction.

5.5.9 Non-Native Plants and Animals.

a) Removal. GRANTOR may remove or control non-native plant and animal species provided that techniques used minimize harm to native wildlife and plants and are in accordance with sound, generally-accepted conservation practices.

b) Introduction. GRANTOR shall not establish or plant non-native plant and animal species within the Riparian Area.

5.5.10 Off-road Motorized Vehicle Use. Use of motorized vehicles off roadways is prohibited, except for the minimum necessary in connection with permitted construction, maintenance, emergency access, and property management activities, and except for motorized equipment used by members of the public with qualifying disabilities in accordance with the Americans with Disabilities Act.

5.5.11 Dumping. Dumping, releasing, burning, or other disposal of wastes, refuse, debris, non-operative motorized vehicles, or hazardous substances is prohibited. GRANTOR shall remove garbage or materials dumped on the Property by third parties.

5.5.12 Outdoor Storage. Outdoor storage shall be prohibited except as provided in this section.

a) Materials Required For Permitted Uses. GRANTOR may store materials and supplies required for permitted uses outdoors, provided such storage shall be located so as to minimize visual impacts and is not located in the Riparian Area.

b) Storage of Construction Materials. GRANTOR may store construction and other work materials outdoors needed during construction of permitted structures and improvements on the Property while work is in progress and for a period not to exceed thirty (30) days after completion or abandonment of construction. Construction shall be deemed abandoned if work ceases for a period of 180 days.

5.6. **Public Access Limitations**. GRANTOR and DISTRICT understand and agree that the Property is partially and will be fully developed for and will continue to be a public park in perpetuity. GRANTOR, however, may exclude the public from the Property prior to the completion of the construction and installation of the initial improvements thereto, and after the completion of the initial improvements to the Property may exclude the public from the Property on a temporary basis to the extent necessary for public health or safety, for construction, installation, maintenance, repair or replacement of structures and improvements, or for preservation of the Conservation Values of the Property. Nothing in this Easement shall be construed to preclude GRANTOR's right to grant access to third parties to the Property consistent with the terms, conditions and Conservation Purpose of this Easement.

5.7. Easements. GRANTOR may continue the use of existing easements of record granted prior to this Easement. The granting of new temporary or permanent easements, and the modification or amendment of existing easements is prohibited without the prior written approval of the DISTRICT. It is the duty of GRANTOR to prevent the use of the Property by third parties that may result in the creation of prescriptive rights.

PART FOUR: PROCEDURES AND REMEDIES

6. **Notice and Approval Procedures**. Some activities and uses permitted by this Easement require that prior written notice be given by GRANTOR to DISTRICT, while other activities and uses permitted by this Easement require the prior written approval of DISTRICT. Unless and until such notice is given or approval is obtained in accordance with this Section 6, any such activity or use shall be deemed to be prohibited on the Property. GRANTOR shall use the procedures set forth below to provide notice to DISTRICT or to obtain DISTRICT's approval. All notices and requests for approval shall include all information necessary to permit DISTRICT to make an informed judgment as to the consistency of the GRANTOR's request with the terms, conditions and Conservation Purpose of this Easement. The DISTRICT may request such additional or supplemental information as it deems necessary to evaluate any notice or request

for approval. Forms for notices and requests for approval shall be available at DISTRICT's offices.

6.1 Approval, Amendments, Revisions, and Updates of the Master Plan. GRANTOR and DISTRICT acknowledge that GRANTOR intends to revise the approved Master Plan to define and guide future use and development of the Property and to streamline DISTRICT approvals under this Easement. Pursuant to Section 5.1.7 of this Easement, GRANTOR shall secure DISTRICT's approval of any such amendments, revisions, or updates (collectively "Revisions") prior to their implementation.

The Master Plan and any Revisions must identify, at a minimum, (a) all major components of park use (including recreational, educational, and natural resource management use), (b) the nature of each proposed use and its intended location, (c) all proposed structures, and (d) all actions to be taken to protect natural resources.

DISTRICT's approval shall be based solely upon its reasonable determination as to whether the Master Plan or Revisions are consistent with the terms, conditions, and Conservation Purpose of this Easement, and does not constitute issuance of entitlements. DISTRICT acknowledges that, in light of the public processes required for development of the Property for recreation and educational use and natural resource preservation, time is of the essence and DISTRICT's approval may not be unreasonably withheld or delayed. GRANTOR shall use the following procedure to obtain DISTRICT's approval for the Master Plan and Revisions.

6.1.1 GRANTOR may, at its discretion, at any time, submit the Master Plan or Revisions to DISTRICT for its review and approval. DISTRICT shall have sixty (60) days from the receipt of the Master Plan or Revisions, plus twenty-one (21) days from any subsequent or follow up submittal, to review the Master Plan or Revisions and either approve the Master Plan or Revisions or notify GRANTOR of any objection thereto. DISTRICT's response, whether approval or objection, shall be in writing and delivered to GRANTOR in accordance with Section 19. If DISTRICT has any objections to the Master Plan or Revisions, it shall state such objections in sufficient detail to enable GRANTOR to modify the Master Plan or Revisions so as to bring it into compliance with the terms, conditions, and Conservation Purpose of this Easement.

6.1.2 In connection with any environmental review of the Master Plan or Revisions under the California Environmental Quality Act ("CEQA") or any successor statute then in effect, GRANTOR shall provide DISTRICT with notification of and opportunity to comment on any draft environmental document made public under the statute, prior to adoption or certification of that environmental document.

6.1.3 Until a revised Master Plan for the Property has been approved by DISTRICT, all uses and improvements must be consistent with those described in the original Master Plan. Once Revisions are approved by DISTRICT, all uses and activities shall be conducted in a manner consistent with the Master Plan, as revised, and the

Revision shall be treated as the “Master Plan” governing use and development on the Property. Upon DISTRICT’s approval and GRANTOR’s adoption of a Master Plan or Revisions, all uses and improvements described therein and all development reasonably necessary to implement those described uses and improvements, shall be deemed to be consistent with the terms, conditions, and Conservation Purpose of this Easement and shall be permitted on the Property with no further notice to or approval by DISTRICT required. All such uses and improvements shall be undertaken in accordance with the terms and conditions of this Easement and in compliance with all applicable laws and regulations.

6.1.4 DISTRICT may require GRANTOR to revise or update the Master Plan to address changed conditions on the Property. In the event of such a request by DISTRICT, GRANTOR shall submit proposed revisions to the Master Plan to DISTRICT within 120 days of DISTRICT’s request. Such revisions will be subject to the review and approval procedures set forth in Section 6.1.

6.2 Uses and Activities Requiring Notice or Approval to DISTRICT. In the absence of a Master Plan approved by DISTRICT, or for uses and activities not described in a Master Plan or Revisions approved by DISTRICT, the following procedures shall be followed for giving notice or obtaining DISTRICT approval where such notice or approval is required by this Easement. Unless and until such notice is given or approval is obtained in accordance with this Section 6.2, any such activity or use shall be deemed to be prohibited on the Property. In any instance in which DISTRICT approval is required, DISTRICT’s approval shall be based solely upon its reasonable determination as to whether the activity or use is consistent with the terms, conditions and Conservation Purpose of this Easement. DISTRICT acknowledges that, in light of the public processes required for development of the Property for recreation and educational use and natural resource preservation, time is of the essence and DISTRICT’s approval shall not be unreasonably withheld or delayed.

6.2.1 Uses/Activities Requiring Notice to DISTRICT. For any activity or use that requires prior written notice to DISTRICT, GRANTOR shall deliver such notice to DISTRICT at least forty-five (45) days prior to the commencement of such activity or use. That forty-five (45) day time period provides DISTRICT an opportunity to evaluate whether the proposed activity or use is consistent with the terms, conditions and Conservation Purpose of this Easement before the activity or use is begun.

6.2.2 Uses/Activities Requiring Prior Approval from DISTRICT. For any activity or use that requires prior written approval from DISTRICT, GRANTOR shall file a request for such approval (“GRANTOR’s request”) at least forty-five (45) days prior to the intended commencement of such activity or use. DISTRICT shall have forty-five (45) days from the receipt of a complete request to review the request and to approve, conditionally approve, disapprove or notify GRANTOR of any objection thereto. In order to consider GRANTOR’s request complete, DISTRICT may require that GRANTOR submit additional information and/or a plan for such proposed activity or use. Disapproval or

objection, if any, shall be based on DISTRICT's determination that the proposed activity or use is inconsistent with the terms, conditions or Conservation Purpose of this Easement or that GRANTOR's request is incomplete or contains material inaccuracies. If, in DISTRICT's judgment, the proposed activity or use would not be consistent with the terms, conditions or Conservation Purpose of this Easement or the request is incomplete or contains material inaccuracies, DISTRICT's notice to GRANTOR shall inform GRANTOR of the reasons for DISTRICT's disapproval or objection. Only upon DISTRICT's express written approval, given by DISTRICT's General Manager, may the proposed activity or use be commenced, and then only in accordance with the terms and conditions of DISTRICT's approval.

6.2.3 DISTRICT's Failure to Respond. Should DISTRICT fail to respond to GRANTOR's request for approval within forty-five (45) days of the receipt of GRANTOR's request, GRANTOR may, after giving DISTRICT ten (10) days written notice by registered or certified mail, commence an action in a court of competent jurisdiction to compel DISTRICT to respond to GRANTOR's request. In the event that such legal action becomes necessary to compel DISTRICT to respond and GRANTOR prevails in that action, DISTRICT shall reimburse GRANTOR for all reasonable attorney fees incurred in that action. In the alternative, GRANTOR may commence a proceeding in arbitration under Section 13.

6.2.4 Uses/Activities Not Expressly Addressed: DISTRICT's Approval. In the event GRANTOR desires to commence an activity or use on the Property that is neither expressly permitted nor expressly prohibited in Section 5, GRANTOR shall seek DISTRICT's prior written approval of such activity or use in accordance with the procedure set forth in Section 6.2. The exercise of any activity or use not expressly permitted in Section 5 may constitute a breach of this Easement and may be subject to the provisions of Section 10.

7. Costs and Liabilities Related to the Property.

7.1 Operations and Maintenance of the Property. GRANTOR agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property and does hereby indemnify and hold DISTRICT harmless therefrom. Without limiting the foregoing, GRANTOR agrees to pay any and all real property taxes, fees, exactions, and assessments levied or imposed by local, state or federal authorities on the Property. GRANTOR further agrees to maintain general liability insurance or adequate self-insurance covering acts on the Property. Except as specifically set forth in Section 8.2 below, DISTRICT shall have no responsibility whatsoever for the operation of the Property, the monitoring of hazardous conditions thereon, or the protection of GRANTOR, the public, or any third parties from risks relating to conditions on the Property. Except as otherwise provided in Section 8.1, GRANTOR hereby agrees to indemnify and hold DISTRICT harmless from and against any damage, liability, claim, or expense, including attorneys' fees, relating to such matters, in accordance with the requirements of Section 8.1.

7.2 Hazardous Materials.

7.2.1 No DISTRICT Obligation or Liability. Notwithstanding any other provision of this Easement to the contrary, the parties do not intend and this Easement shall not be construed such that it creates in DISTRICT:

- a) The obligations or liabilities of an “owner” or “operator” as those words are defined and used in environmental laws, as defined below, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 United States Code, sections 9601 *et seq.*) (“CERCLA”);
- b) The obligations or liabilities of a person described in 42 United States Code section 9607(a)(3) or any successor statute then in effect;
- c) The right to investigate and remediate any hazardous materials, as defined below, on or associated with the Property; or
- d) Any control over GRANTOR’s ability to investigate and remediate any hazardous materials, as defined below, on or associated with the Property.

7.2.2 Warranty of Compliance. GRANTOR represents, warrants, and covenants to DISTRICT that GRANTOR’s use of the Property shall comply with all environmental laws, as defined below.

7.2.3 Definitions. For the purposes of this Easement:

- a) The term “hazardous materials” includes, but is not limited to, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 United States Code sections 1801 *et seq.*), the Resource Conservation and Recovery Act of 1976, as amended (42 United States Code sections 6901 *et seq.*), sections 25117 and 25316 of the California Health & Safety Code, and in the regulations adopted and publications promulgated pursuant to them, or any other federal, state, or local environmental laws, ordinances, rules, or regulations concerning the environment, industrial hygiene or public health or safety now in effect or enacted after the date of this Easement.
- b) The term “environmental laws” includes, but is not limited to, any federal, state, local or administrative agency statute, regulation, rule, ordinance, order or requirement relating to environmental conditions or hazardous materials.

8. Indemnification.

8.1 GRANTOR's Indemnity. GRANTOR shall hold harmless, indemnify, and defend DISTRICT, its agents, employees, volunteers, successors and assigns, from and against all damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with (i) injury to or the death of any person, or physical damage to any property resulting from any act, omission, condition or other matter related to or occurring on or about the Property, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of DISTRICT; and (ii) the obligations specified in Section 7; and (iii) any approvals given under Section 6. In the event of any claim, demand, or legal complaint against DISTRICT, the right to the indemnification provided by this Section 8.1 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to DISTRICT's written notice of such claim, demand, or legal complaint to GRANTOR, unless GRANTOR has acquired knowledge of the matter by other means, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by GRANTOR, which approval shall not be unreasonably withheld.

8.2 DISTRICT's Indemnity. DISTRICT shall hold harmless, indemnify, and defend GRANTOR, its agents, employees, volunteers, , successors and assigns, from and against all damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property and attributable to DISTRICT, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of GRANTOR (it being the intent of this provision to limit DISTRICT's indemnity to the proportionate part of GRANTOR's damage, liability, claim or expense for which DISTRICT is responsible). In the event of any claim, demand, or legal complaint against GRANTOR, the right to the indemnification provided by this Section 8.2 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to GRANTOR's written notice of such claim, demand, or legal complaint to DISTRICT, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by DISTRICT, which approval shall not be unreasonably withheld. DISTRICT hereby also agrees to hold harmless, indemnify and defend GRANTOR, and its agents, employees, volunteers, successors and assigns, from and against all damages, liabilities, claims and expenses, including attorneys' fees, asserted against GRANTOR by any officer, agent, employee, or volunteer of DISTRICT, for personal injury and/or property damage arising out of any inspection or visit to the Property by any such officer, agent, employee or volunteer on behalf of DISTRICT, except to the extent that such injury is attributable to the negligence, gross negligence or intentional misconduct of GRANTOR.

9. Baseline Documentation for Enforcement. In order to establish the present condition of the Property, DISTRICT will prepare a new Baseline Documentation Report for the Property

as of the Effective Date, which will be on file with DISTRICT and will serve as an objective information baseline for monitoring compliance with the terms of this Easement. Before the Baseline Documentation Report is finalized, GRANTOR shall be provided a complete copy of the Report and shall be given forty-five (45) days in which to inform DISTRICT of any errors or omissions in the Report. If any errors or omissions in the Baseline Documentation Report are identified by GRANTOR and verified by DISTRICT, appropriate corrections shall be made and then GRANTOR shall sign the Report. The parties agree that, once finalized by DISTRICT, the Baseline Report will provide an accurate representation of the Property at the time of the recordation of this Easement.

10. Remedies for Breach.

10.1 DISTRICT's Remedies. In the event of a violation or threatened violation by GRANTOR of any term, condition or restriction contained in this Easement, DISTRICT may, following notice to GRANTOR, institute a suit to enjoin and/or recover damages for such violation and/or to require the restoration of the Property to the condition that existed prior to such violation. The DISTRICT's notice to GRANTOR shall contain a general description of the condition claimed by DISTRICT to be a violation and shall contain a reasonable and specific cure period by which the violation is to cease and the Property is to be restored to the condition that existed prior to the violation. The notice shall be provided in accordance with Section 19. If DISTRICT reasonably determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values protected by this Easement, DISTRICT (a) may pursue any and all remedies available under law without waiting for the cure period to expire, (b) shall have the right, upon the giving of 24 hours' notice, to enter the Property for the purpose of assessing damage or threat to the Conservation Values protected by this Easement and determining the nature of curative or mitigation actions that should be taken, and (c) shall have the right to record a notice of violation in the Office of the Sonoma County Recorder. DISTRICT's rights under this Section 10 shall apply equally in the event of either actual or threatened violations of the terms of this Easement. GRANTOR agrees that DISTRICT's remedies at law for any violation of the terms of this Easement are inadequate and that DISTRICT shall be entitled to seek injunctive relief, both prohibitive and mandatory and including specific performance, in addition to seeking such other relief, including damages, to which DISTRICT may be entitled, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies.

10.2 DISTRICT's Discretion. Enforcement of the terms of this Easement shall be at the sole discretion of DISTRICT, and any forbearance by DISTRICT to exercise its rights under this Easement in the event of any violation or threatened violation of any term of this Easement shall not be deemed or construed to be a waiver by DISTRICT of such term or of any subsequent violation or threatened violation of the same or any other term of this Easement. Any failure by DISTRICT to act shall not be deemed a waiver or forfeiture of DISTRICT's right to enforce any terms or conditions of this Easement in the future.

10.3 Liquidated Damages. Inasmuch as the actual damages that would result from the loss or deprivation of the Conservation Values of the Property caused by a violation by GRANTOR of the terms of this Easement are uncertain and would be impractical or extremely difficult to measure, GRANTOR and DISTRICT agree that the damages allowed by Civil Code section 815.7(c) shall be measured as follows:

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

10.4 GRANTOR's Compliance. If DISTRICT, in the notice to GRANTOR, demands that GRANTOR remove an improvement, discontinue a use or both and claims the damages allowed by Civil Code section 815.7(c), then GRANTOR may mitigate damages by fully complying with DISTRICT's notice within the cure period provided therein. If GRANTOR so complies, then in the event of litigation arising out of the notice, brought either by GRANTOR or by DISTRICT, if GRANTOR prevails, then GRANTOR shall be entitled to economic damages, if any, resulting from its compliance with DISTRICT's notice. Neither DISTRICT nor GRANTOR shall be entitled to damages where DISTRICT has not claimed damages in its notice.

10.5 Remedies Nonexclusive. The remedies set forth in this Section 10 are in addition to, and are not intended to displace, any other remedy available to either party as provided by this Easement, Civil Code sections 815 *et seq.* or any other applicable local, state or federal law.

11. Acts Beyond GRANTOR's Control. Except as otherwise provided in Section 5.1 and this Section 11, nothing contained in this Easement shall be construed to entitle DISTRICT to bring any action against GRANTOR for any injury to or change in the Property resulting from causes beyond GRANTOR's control, including wildfire, flood, storm, earth movement, or a tortious or criminal act of a third party which GRANTOR could not have reasonably prevented, or from any prudent action taken by GRANTOR under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes so long as such action, to the extent that GRANTOR has control, is designed and carried out in such a way as to further the Conservation Purpose of this Easement. Notwithstanding the foregoing, GRANTOR shall be liable to DISTRICT for modifications or damage to the Property that impair or damage the Conservation Values of the Property when those modifications or damage result from the acts

or omissions of third parties whose use of or presence on the Property is authorized or requested by GRANTOR. In the event that the Conservation Values of the Property are damaged or impaired as a result of the acts or omissions of third parties, GRANTOR shall diligently pursue all available legal remedies against such parties to ensure restoration of the Property. Nothing contained herein shall limit or preclude GRANTOR's or DISTRICT's rights to pursue any third party for damages to the Property's Conservation Values.

12. Arbitration. If a dispute arises between the parties concerning the consistency of any activity or use, or any proposed activity or use, with the terms, conditions or Conservation Purpose of this Easement, or any other matter arising under or in connection with this Easement or its interpretation, either party, with the written consent of the other, may refer the dispute to arbitration by a request made in writing upon the other. Provided that GRANTOR agrees not to proceed with any activity or use that is the subject of the dispute pending resolution of the dispute, the parties shall select a single arbitrator to hear the matter. If the parties are unable to agree on the selection of a single arbitrator, then each party shall name one arbitrator and the two arbitrators thus selected shall select a third arbitrator who shall be a retired United States District Court or California Superior Court judge; provided, however, if either party fails to select an arbitrator within fourteen (14) days of delivery of the request for arbitration, or if the two arbitrators fail to select a third arbitrator within fourteen (14) days after the appointment of the second arbitrator, then in each such instance, a proper court, on petition of any party, shall appoint the second or third arbitrator or both, as the case may be, in accordance with California Code of Civil Procedure sections 1280 *et seq.*, or any successor statutes then in effect. The arbitration shall be conducted in accordance with said statute, including the provisions of Section 1283.05 of the Code of Civil Procedure which are incorporated into, made a part of, and made applicable to any arbitration pursuant to this Section. The Conservation Purpose of this Easement, the terms and conditions of this Easement, and the applicable laws of the State of California shall be the bases for determination and resolution, and a judgment of the arbitration award may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration, including the fees and expenses of the arbitrators, but excluding attorneys' fees, which sum shall be determined by the arbitrators and any court of competent jurisdiction that may be called upon to enforce or review the award.

13. Extinguishment and Condemnation.

13.1. Extinguishment. Subject to the requirements and limitations of California Public Resources Code section 5540, or any successor statute then in effect, if circumstances arise in the future that render the Conservation Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which DISTRICT shall be entitled from any sale, exchange or involuntary conversion of all or any portion of the Property after such termination or extinguishment, shall be determined, unless otherwise provided by California law at the time, in accordance with Section 13.2. All proceeds

paid to DISTRICT shall be used by DISTRICT for the purpose of the preservation of agriculture and open space within Sonoma County.

13.2 Condemnation. 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, either GRANTOR or DISTRICT (or both, on such conditions as they may agree) may commence appropriate actions to recover the full value of the Property (or portion thereof) subject to the condemnation or in-lieu purchase and all direct or incidental damages resulting therefrom. Any expense incurred by GRANTOR or DISTRICT in any such action shall first be reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between GRANTOR and DISTRICT in proportion to their interests in the Property, as established by Section 13.3.

13.3 Property Interest and Fair Market Value. This Easement constitutes a real property interest immediately vested in DISTRICT. For the purpose of this Section 13, the parties stipulate that, in the event of condemnation of the Property or any portion thereof, the fair market value of the Property for purposes of just compensation shall be determined as though this Easement did not exist. GRANTOR and DISTRICT shall share the compensation on the following basis: GRANTOR 50% and DISTRICT 50% (which percentages are derived from the ratio of the price paid for the Easement to the appraised value of the Property before being encumbered by the Easement), or as otherwise agreed upon by them in writing at the time of condemnation. In the apportionment of the proceeds from any eminent domain proceeding, an adjustment shall be made in GRANTOR's favor for any increase in value attributable to improvements made on the Property after the date of this Easement, provided that such improvements were not made or funded by DISTRICT and further provided that such improvements do not constitute a breach of this Easement.

PART FIVE: MISCELLANEOUS

14. Approvals. Whenever in this Easement the consent or approval of one party is required as to an act of the other party, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

15. Interpretation and Construction. To the extent that this Easement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that best promotes the Conservation Purpose of this Easement. In the event of a conflict between the Project Structure Map and the Baseline Site Map, the Project Structure Map will control.

16. Easement to Bind Successors. The Easement herein granted shall be a burden upon and shall continue as a restrictive covenant and equitable servitude running in perpetuity with the Property and shall bind GRANTOR, GRANTOR's heirs, personal representatives, lessees, executors, successors, including purchasers at tax sales, assigns, and all persons claiming under them forever. The parties intend that this Easement shall benefit and burden, as the case may

be, their respective successors, assigns, heirs, executors, administrators, agents, officers, employees, and all other persons claiming by or through them pursuant to the common and statutory law of the State of California. Further, the parties agree and intend that this Easement creates an easement encompassed within the meaning of the phrase "easements constituting servitudes upon or burdens to the property," as that phrase is used in California Revenue & Taxation Code section 3712(d), or any successor statute then in effect, such that a purchaser at a tax sale will take title to the Property subject to this Easement.

17. Subsequent Deeds and Leases. GRANTOR agrees that a clear reference to this Easement will be made in any subsequent deed, or other legal instrument, by means of which any interest in the Property (including a leasehold interest) is conveyed and that GRANTOR will provide a copy of this Easement to any party acquiring an interest in the Property from GRANTOR. GRANTOR further agrees to give written notice to DISTRICT of the conveyance of any interest in the Property at least thirty (30) days prior to any such conveyance. These obligations of GRANTOR shall not be construed as a waiver or relinquishment by DISTRICT of rights created in favor of DISTRICT by Section 16 of this Easement, and the failure of GRANTOR to perform any act required by this Section 17 shall not impair the validity of this Easement or limit its enforceability in any way.

18. Warranty of Ownership. GRANTOR warrants that it is the owner in fee simple of the Property, and that on the date it executed this Easement the Property is not subject to any liens or deeds of trust.

19. Notices.

19.1 Method of Delivery. Except as otherwise expressly provided herein, all notices, (including requests, demands, approvals or communications) under this Easement shall be in writing and either served personally or sent by first class mail, postage prepaid, private courier or delivery service addressed as follows:

To GRANTOR: Town Manager
 Town of Windsor
 PO Box 100
 Windsor, CA 95492

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

Or to such other address as such party from time to time may designate by written notice pursuant to this Section 19.

19.2 Effective Date of Notice. Notice shall be deemed given for all purposes as follows:

a) When mailed first class postage prepaid to the last address designated by the recipient pursuant to Section 19.1, notice is effective one business day following the date shown on the postmark of the envelope in which such notice is mailed or, in the event the postmark is not shown or available, then one business day following the date of mailing. A written declaration of mailing executed under penalty of perjury by the GRANTOR or DISTRICT or an officer or employee thereof shall be sufficient to constitute proof of mailing.

b) In all other instances, notice shall be deemed given at the time of actual delivery.

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

20. Amendment. If circumstances arise under which an amendment or modification of this Easement would be appropriate, GRANTOR and DISTRICT shall be free to jointly amend this Easement, provided that any amendment shall be consistent with the Conservation Purpose of this Easement, shall ensure protection of the Conservation Values of the Property, shall not affect the Easement's perpetual duration and shall be consistent with Public Resources Code section 5540 and any successor statute then in effect. Any such amendment shall be in writing, executed by GRANTOR and DISTRICT, and recorded in the Office of the Sonoma County Recorder.

21. No Forfeiture. GRANTOR represents and warrants that nothing contained in this Easement shall result in a forfeiture or reversion of GRANTOR's title in any respect. If a forfeiture or reversion does occur, GRANTOR shall return, with interest, all consideration paid by DISTRICT for the acquisition of this Easement. If a forfeiture or reversion does occur, GRANTOR shall return, with interest calculated in accordance with the rate established pursuant to the next sentence, all consideration paid by DISTRICT for the acquisition of this Easement. The interest rate applicable to the amount owed to DISTRICT pursuant to this paragraph shall be the greater of (a) 5% or (b) the percentage change in the Consumer Price Index for All Urban Consumers (base year 1982-1984 = 100) for San Francisco Oakland and San Jose published by the United States Department of Labor, Bureau of Labor Statistics from the date the Easement is recorded to the date of DISTRICT's demand for reimbursement pursuant to this paragraph.

22. Assignment of Rights and Obligations. GRANTOR's rights and obligations under this Easement will be assigned to GRANTOR's successor-in-interest upon transfer of GRANTOR's

interest in the Property to such successor, except that GRANTOR's liability for acts or omissions occurring prior to the transfer shall survive the transfer.

23. Enforceable Restriction. This Easement and each and every term contained herein is intended for the benefit of the public and constitutes an enforceable restriction pursuant to the provisions of Article XIII, section 8 of the California Constitution, California Public Resources Code section 5540, and California Revenue and Taxation Code section 421 *et seq.*, or any successor constitutional provisions or statutes then in effect.

24. Applicable Law and Forum. This Easement shall be construed and interpreted according to the substantive law of California, excluding the law of conflicts. Any action to enforce the provisions of this Easement or for the breach thereof shall be brought and tried in the County of Sonoma.

25. DISTRICT's General Manager. Wherever used herein, the term DISTRICT's General Manager, and any pronoun used in place thereof, shall mean and include the General Manager of DISTRICT and his or her duly authorized representatives.

26. Fees and Charges. DISTRICT shall have the right to establish and impose on GRANTOR reasonable fees and charges, including attorney's fees, on GRANTOR for inspections, approvals, and other services performed by or for DISTRICT pursuant to this Easement. Such fees and charges shall not exceed the reasonable costs of providing such services, and shall be adopted and imposed in accordance with laws regarding public agency property-related fees and charges if and to the extent applicable.

27. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment prepared, executed and recorded in accordance with Section 20.

28. Severability. In the event any provision of this Easement is determined by the appropriate court to be void and unenforceable, all remaining terms and conditions shall remain valid and binding. If the application of any provision of this Easement is found to be invalid or unenforceable as to any particular person or circumstance, the application of such provisions to persons or circumstances, other than those as to which it is found to be invalid, shall not be affected thereby.

29. Counterparts. This Easement may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement.

30. Estoppel Certificates. DISTRICT shall, at any time during the existence of this Easement, upon not less than thirty (30) days' prior written notice from GRANTOR, execute and deliver to GRANTOR a statement in writing certifying that this Easement is unmodified and in full force

and effect (or, if modified, stating the date of recordation of the respective amendment) and acknowledging that there is not, to DISTRICT's knowledge, any default by GRANTOR hereunder, or, if DISTRICT alleges a default by GRANTOR, specifying such default. DISTRICT's obligation to deliver the statement of certification is conditioned on GRANTOR's reimbursing DISTRICT for all costs and expenses reasonably and necessarily incurred in its preparation as determined by DISTRICT's General Manager.

31. No Liens, Encumbrances, or Conveyances. GRANTOR warrants that after it has executed this Easement, it will not record any lien, encumbrance, or otherwise convey any right, title, or interest in and to the Property until such time as this Easement has been accepted and recorded by DISTRICT.

32. Effective Date. This Easement shall be effective as of the date of its acceptance by DISTRICT pursuant to California Public Resources Code sections 5500 *et seq.*

[Remainder of Page Intentionally Blank – Signature Page Follows]

ATTACHMENT 5

IN WITNESS WHEREOF, GRANTOR and DISTRICT have executed this Easement this _____ day of _____, 2024.

GRANTOR:

By: _____
Jon Davis, Town Manager

DISTRICT:

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE
DISTRICT

By: _____
David Rabbitt, President of the Board of Directors

ATTEST:

Christina Rivera, Clerk of the Board of Directors

NOTE: ACKNOWLEDGMENTS MUST BE ATTACHED FOR ALL SIGNATORIES.

Exhibit A: Legal Description

Exhibit B: Project Structure Map

Exhibit C-1, C-2, C-3: Descriptions of Easement Designation Areas

ATTACHMENT 5

EXHIBIT 'A' Keiser Park Expansion Area Description

Lying within the State of California, County of Sonoma, Town of Windsor and being all of the lands of the Town of Windsor as described in the grant deed recorded under Document Numbers 2002-108393, 2022-062114 and 2002-130785, all Sonoma County Records, said lands being shown on the record of survey filed in Book 231 of Maps, Page 7, Sonoma County Records, said lands being more particularly described as follows:

Excepting therefrom the following described portion:

A strip of land measuring 30 feet southerly from the centerline of the road known as Windsor River Road, said centerline being common with the northerly line of said lands of the Town of Windsor as described under Document Number 2002-108393, Sonoma County Records, and the northerly line of said lands of the Town of Windsor as described under Document Number 2002-130785, Sonoma County Records.

Containing 9.23 acres, more or less.

END OF DESCRIPTION

Being a portion of APN 066-180-028, APN 066-170-015 & 016

Basis of Bearings

Being South 4°31'46" West 658.32 feet between found 3/4" iron pipes with 2" aluminum caps stamped "Sonoma Marin Area Rail Transit Project Control PLS 7935" and being monuments 300 and 301 as shown on the Record of Survey of the Project Control for the Sonoma-Marin Area Rail Transit District filed in Book 741 of Maps, Pages 1-24, Sonoma County Records.

Prepared by Cinquini & Passarino, Inc.

J



5/1/24

Date

ATTACHMENT 5

EXHIBIT 'C-1'
Active Recreation Area

Lying within the Town of Windsor, County of Sonoma, State of California and being a portion of the Lands of Cornwell, as described by Deed filed under Document No. 2017-011835, Official Records of Sonoma County, said portion is more particularly described as follows:

BEGINNING at the southwestern corner of said lands, monumented by an untagged 1" iron pipe as shown on the Record of Survey filed in Book 231 of Maps Page 07, Sonoma County Records; thence North 01°28'52" East 391.98 feet; to the northeast corner of said lands monumented by an untagged 3/4" iron pipe, as shown on the Subdivision Map filed in Book 611 Maps Page 14 through 16, Sonoma County Records; thence along the northerly boundary of said lands North 88°03'23" West 66.06 feet to a 3/4" iron pipe tagged LS5316 as shown on the Record of Survey filed in Book 734 of Maps Page 13; thence leaving said northerly boundary South 0°41'34" West 239.65 feet parallel with the most westerly boundary of said lands; thence North 89°07'06" West 152.30 feet parallel with the most southerly boundary of said lands; thence North 0°41'34" East 86.55 feet parallel with the most westerly boundary of said lands; thence North 89°07'06" West 83.04 feet parallel with the most southerly boundary of said lands to the westerly boundary of said lands; thence along said westerly boundary, South 0°41'34" West 169.11 feet to a point from which a 1" iron pipe tagged LS2757 monumenting the southwest corner of said lands as shown on the Record of Survey filed in Book 231 of Maps Page 07, Sonoma County Records, bears South 0°41'34" West 70.70 feet; thence leaving said westerly boundary South 89°07'06" East 235.98 feet parallel with the most southerly boundary of said lands; thence South 0°41'34" West 70.70 feet parallel with the most westerly boundary of said lands to the southerly boundary of said lands; thence along said boundary, South 89°07'06" East 45.89 feet to the POINT OF BEGINNING.

The Basis of Bearing for this description is based on the Record of Survey, filed at Book 830 of Maps at Page 12 through 13, Sonoma County Records.

Containing 1.05 Acres more or less

END OF DESCRIPTION

Being a portion of APN 066-170-016

Prepared by  & Passarino, Inc.



6/25/24
Date

ATTACHMENT 5

EXHIBIT 'C-2'
Passive Recreation Area

Lying within the Town of Windsor, County of Sonoma, State of California and being a portion of the Lands of Cornwell, as described by Deed filed under Document No. 2017-011835, Official Records of Sonoma County, said portion is more particularly described as follows:

All said lands excepting therefrom:

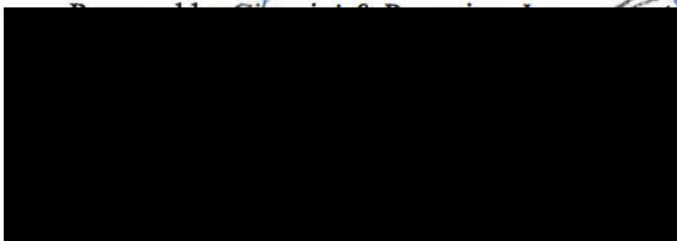
BEGINNING at the southwestern corner of said lands, monumented by an untagged 1" iron pipe as shown on the Record of Survey filed in Book 231 of Maps Page 07, Sonoma County Records; thence North 01°28'52" East 391.98 feet; to the northeast corner of said lands monumented by an untagged 3/4" iron pipe, as shown on the Subdivision Map filed in Book 611 Maps Page 14 through 16, Sonoma County Records; thence along the northerly boundary of said lands North 88°03'23" West 66.06 feet to a 3/4" iron pipe tagged LS5316 as shown on the Record of Survey filed in Book 734 of Maps Page 13; thence leaving said northerly boundary South 0°41'34" West 239.65 feet parallel with the most westerly boundary of said lands; thence North 89°07'06" West 152.30 feet parallel with the most southerly boundary of said lands; thence North 0°41'34" East 86.55 feet parallel with the most westerly boundary of said lands; thence North 89°07'06" West 83.04 feet parallel with the most southerly boundary of said lands to the westerly boundary of said lands; thence along said westerly boundary, South 0°41'34" West 169.11 feet to a point from which a 1" iron pipe tagged LS2757 monumenting the southwest corner of said lands as shown on the Record of Survey filed in Book 231 of Maps Page 07, Sonoma County Records, bears South 0°41'34" West 70.70 feet; thence leaving said westerly boundary South 89°07'06" East 235.98 feet parallel with the most southerly boundary of said lands; thence South 0°41'34" West 70.70 feet parallel with the most westerly boundary of said lands to the southerly boundary of said lands; thence along said boundary, South 89°07'06" East 45.89 feet to the POINT OF BEGINNING.

The Basis of Bearing for this description is based on the Record of Survey, filed at Book 830 of Maps at Page 12 through 13, Sonoma County Records.

Containing 1.53 Acres more or less

END OF DESCRIPTION

Being a portion of APN 066-170-016



6/25/24
Date

ATTACHMENT 5

EXHIBIT 'C-3'

Keiser Park Riparian Area Description

Lying within the State of California, County of Sonoma, Town of Windsor and being a portion of the lands of Town of Windsor as described in the grant deed recorded under Document Number 2002-108393 and Document Number 2002-130785, Sonoma County Records, said lands being shown on the record of survey filed in Book 231 of Maps, Page 7, Sonoma County Records, said portion being more particularly described as follows:

BEGINNING at the northeast corner of the lands of Town of Windsor as described under Document Number 2002-130785, Sonoma County Records; thence along the east line of said lands, South 1°16'46" West 125.74 feet; thence leaving said east line, North 87°58'16" West 67.37 feet; thence on a curve to the left with a radius of 40.00 feet, through a central angle of 79°44'22" for a length of 55.67 feet; thence South 12°17'22" West 3.33 feet; thence on a curve to the right with a radius of 10.00 feet, through a central angle of 81°37'40" for a length of 14.25 feet; thence North 86°04'58" West 33.69 feet; thence on a curve to the left with a radius of 182.00 feet, through a central angle of 21°32'59" for a length of 68.45 feet; thence south 72°22'03" West 32.91 feet; thence on a curve to the left with a radius of 155.00 feet, through a central angle of 39°02'37" for a length of 105.62 feet; thence South 33°19'26" West 45.78 feet; thence on a curve to the left with a radius of 104.00 feet, through a central angle of 18°34'57" for a length of 33.73 feet; thence South 14°44'29" West 15.84 feet to the west line of the lands of Town of Windsor as described under Document Number 2002-130785, Sonoma County Records; thence along said west line, North 0°55'39" East 10.66 feet to the southeast corner of the lands of the Town of Windsor as described under Document Number 2002-108393, Sonoma County Records; thence along the south line of said lands, North 88°57'34" West 123.27 feet to the southwest corner of said lands; thence along the west line of said lands, North 1°18'00" East 7.15 feet; thence leaving said west line on a tangent that bears North 56°40'15" East on a curve to the left with a radius of 20.00 feet, through a central angle of 40°16'00" for a length of 14.06 feet; thence on a curve to the right with a radius of 100.00 feet, through a central angle of 26°16'34" for a length of 45.86 feet; thence North 42°40'48" East 48.23 feet; thence North 38°55'08" East 19.95 feet; thence on a curve to the right with a radius of 155.00 feet, through a central angle of 51°17'42" for a length of 138.77 feet; thence North 84°24'51" East 86.18 feet; thence on a curve to the left with a radius of 60.00 feet, through a central angle of 77°41'31" for a length of 81.36 feet; thence North 6°43'21" East 42.33 feet to a point on the southerly right-of-way of Windsor River Road, thence along said southerly right-of-way, South 88°55'03" East 143.60 to the POINT OF BEGINNING.

Containing 1.28 acres, more or less.

END OF DESCRIPTION

Being a portion of APN's 066-180-028 & 066-170-015

ATTACHMENT 5

Basis of Bearings

Being South 4°31'46" West 658.32 feet between found 3/4" iron pipes with 2" aluminum caps stamped "Sonoma Marin Area Rail Transit Project Control PLS 7935" and being monuments 300 and 301 as shown on the Record of Survey of the Project Control for the Sonoma-Marin Area Rail Transit District filed in Book 741 of Maps, Pages 1-24, Sonoma County Records.

Prepared by Cinquini & Passarino, Inc.



5/1/24

Date