

RECORDING REQUESTED BY AND  
RETURN TO:

Sonoma County Agricultural  
Preservation and Open Space District  
575 Administration Drive, Room 102A  
Santa Rosa, CA 95403

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**FIRST AMENDMENT TO DEED AND AGREEMENT BY AND BETWEEN THE  
HOWLETT FAMILY PARTNERSHIP AND THE SONOMA COUNTY  
AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT CONVEYING A  
CONSERVATION EASEMENT AND ASSIGNING DEVELOPMENT RIGHTS**

The Howlett Family Partnership LP, a California Limited Partnership (“GRANTOR”), and the Sonoma County Agricultural Preservation and Open Space District, a public agency formed pursuant to the provisions of Public Resources Code section 5500 *et seq.* (hereinafter “DISTRICT”), agree as follows:

**R E C I T A L S**

A. On April 7, 2017, GRANTOR and DISTRICT executed that certain instrument entitled “Deed and Agreement By and Between the Howlett Family Partnership and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights,” which instrument was recorded in the Office of the Sonoma County Recorder on April 19, 2017 as Document Number 2017030249 in the Official Records of Sonoma County (“Conservation Easement”);

B. It was and remains the intention of GRANTOR and DISTRICT that the Conservation Easement (i) preserve and protect the Conservation Values of the Property, as defined by the Conservation Easement, in perpetuity; and (ii) comply with Section 170 of the Internal Revenue Code of 1986, as amended, though GRANTOR recognizes that DISTRICT does not guarantee that the Conservation Easement will qualify for a charitable tax deduction and DISTRICT shall have no liability to GRANTOR with respect to such tax matters;

C. Pursuant to Civil Code Section 3399, Grantor and Grantee desire to amend the Conservation Easement for sole purposes of correcting Sections 13.2 and 13.3 of the Conservation Easement to clarify procedures for the allocation of proceeds as specified by Internal Revenue Service regulations.

## A M E N D M E N T

1. Amended Provisions.

(a) Section 13.2 of the Conservation Easement is hereby amended to read as follows:

**“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. GRANTOR and DISTRICT shall each bear their own costs in connection with such actions. All proceeds shall be divided between GRANTOR and DISTRICT in proportion to their interests in the Property, as established by Section 13.3.

(b) Section 13.3 of the Conservation Easement is hereby amended to read as follows:

**“13.3 Property Interest and Fair Market Values.** This Easement constitutes a real property interest immediately vested in DISTRICT. For the purpose of this Section 13, the parties stipulate that the fair market value of the Easement at the time of extinguishment or condemnation (hereinafter “Easement Value”) shall be determined by multiplying (i) the fair market value of the Property, unencumbered by the Easement at the time of extinguishment or condemnation (hereinafter “Unencumbered Property Value”) by (ii) the ratio of the value of the Easement at the time of this grant to the value of the Property, unencumbered by the Easement, at the time of this grant. The values at the time of this grant shall be those values established by GRANTOR's qualified appraisal (prepared in accordance with applicable Treasury Regulations) for federal income tax purposes, a copy of which shall be provided to DISTRICT. The ratio of the Easement Value to the Unencumbered Property Value shall remain constant, and on a subsequent sale, exchange, or involuntary conversion of all or any portion of the Property pursuant to the provisions of Sections 13.1 or 13.2, DISTRICT shall be entitled to a portion of the proceeds equal to such proceeds multiplied by the ratio of the Easement Value to the Unencumbered Property Value.”

2. Unmodified Provisions. Except as expressly modified by this First Amendment, each and every provision of the Conservation Easement shall remain in full force and effect.

3. Authorization of Signatories. By their signatures below, the undersigned represent and warrant that they are authorized to execute this First Amendment on behalf of the party on behalf of whom they have executed below.

IN WITNESS WHEREOF, GRANTOR and DISTRICT have executed this First Amendment this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**GRANTOR:**

THE HOWLETT FAMILY PARTNERSHIP LP, A CALIFORNIA LIMITED PARTNERSHIP



By: Michael Young, General Partner

**DISTRICT:**

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT

\_\_\_\_\_  
By: David Rabbitt  
President of the Board of Directors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Directors

**NOTE: ACKNOWLEDGMENTS MUST BE ATTACHED FOR ALL SIGNATORIES**