Agenda Item A.8
CONSENT CALENDAR
Meeting Date: December 3, 2019

TO: Mayor and Councilmembers

FROM: Vyto Adomaitis, Neighborhood Services and Public Safety Director

CONTACT: Claudia Dato, Senior Project Manager

SUBJECT: Purchase and Sale Agreement and Grant Contract for Mathilda Drive Parcel Acquisition (APN 079-554-031)

RECOMMENDATIONS:

A. Authorize the City Manager to execute the attached Purchase and Sale Agreement for a parcel located at the south end of Mathilda Drive, identified as Assessor's Parcel Number 079-554-031 (owned by Henrietta Ash/Henrietta A Ash Trust).

B. Authorize the Mayor to execute the attached agreement between the City and the County of Santa Barbara for use of funding from a Coastal Resource Enhancement Fund Grant and a Monarch Butterfly Habitat Acquisition Grant and the accompanying "Conservation Easement Deed and Agreement."

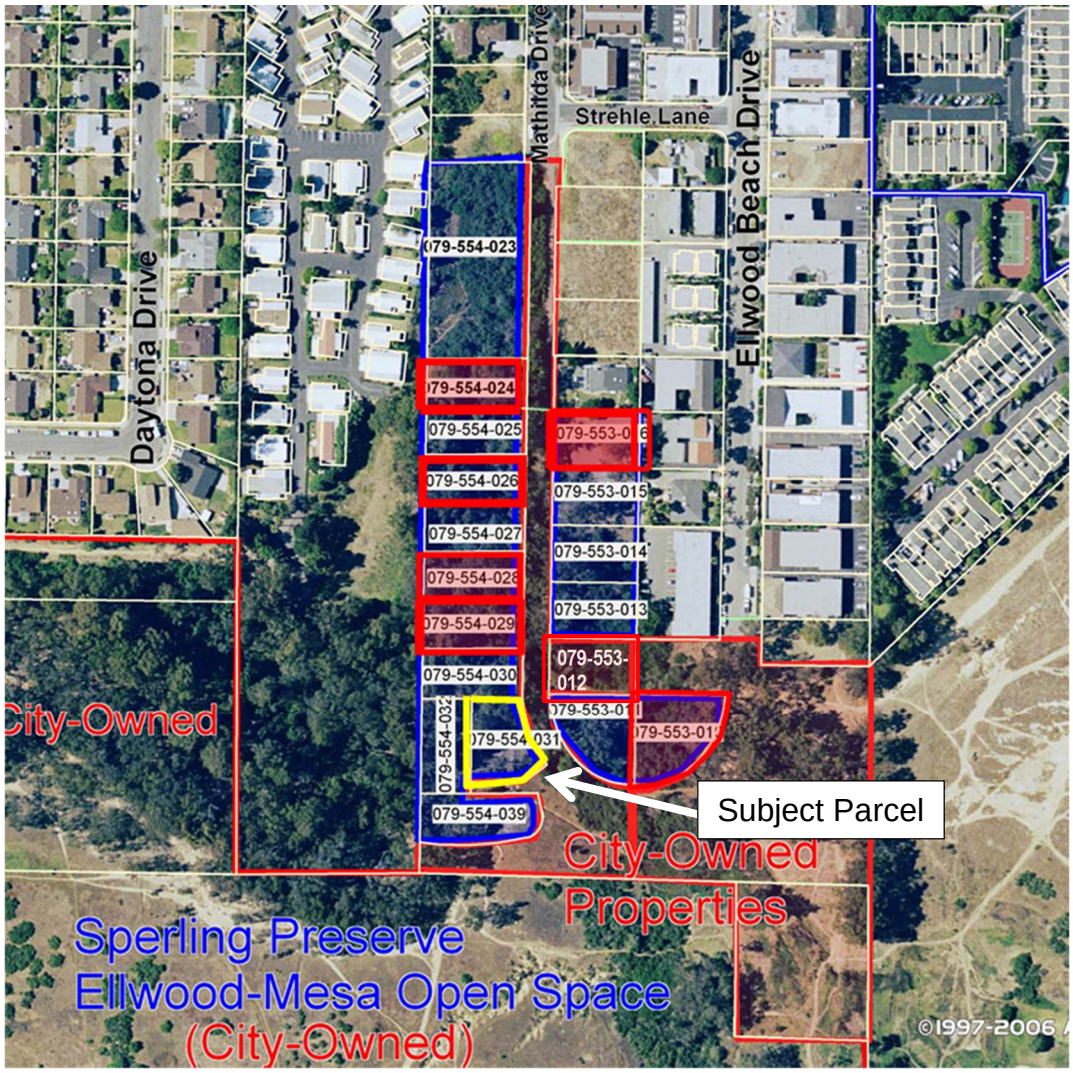
C. Authorize a budget amendment to increase miscellaneous grant revenues by $80,000 and appropriate $80,000 in grant funds and up to $2,300 in Park DIF to the Ellwood Mesa Land Acquisition account for Fiscal Year 2019/20 for acquisition of the parcel.

BACKGROUND:

It has long been a goal of the City to acquire the 18 parcels located at the south ends of Mathilda and Ellwood Beach Drives for resource and open space preservation. The parcels are designated as an Environmentally Sensitive Habitat Area (ESHA) in the City of Goleta's General Plan/Coastal Land Use Plan, and are constrained by the presence of wetlands, existing and potential Monarch Butterfly habitat, eucalyptus groves, willow woodlands, and Devereux Creek with its associated floodplain. These constraints significantly reduce, but do not eliminate the potential for development to occur on these parcels which are currently zoned for residential land uses. Collectively, these parcels are adjacent to the Sperling Preserve/Ellwood Mesa open space area. In 2017, the City Council expanded the scope of the eucalyptus grove health assessment to include the subject property and surrounding parcels acquired by the City. To date, the City has acquired seven of these parcels.

In December 2016, the City received a letter from the property owner offering to sell a 0.26-acre parcel located south of the southerly terminus of Mathilda Drive, APN 079-554-031. The owner's proposed sales price of $80,000 is based on the most recent appraisal commissioned by the City, performed in April 2015, conducted by Hammock, Arnold, Smith & Company. As a requirement of the grant funding, the County required that the appraiser update or confirm the value of the parcel. In September 2019, Hammock, Arnold, Smith & Company conducted a brief appraisal update and confirmed that the property is still valued at $80,000. Please see the below location map. Parcels outlined in red are properties already owned by the City.

Location Map



Following a Closed Session discussion with Council on January 17, 2017, staff applied for County Coastal Resource Enhancement Fund (CREF) grants in 2017 and 2018. Staff is now presenting the Purchase and Sale agreement for Council approval (Attachment 1).

As required by State Law (Govt. Code Section 65402(a)), on September 25, 2017, the Planning Commission made a determination that the acquisition is consistent with the City's General Plan. Pursuant to the requirements of the California Environmental

Quality Act (CEQA), a Categorical Exemption was previously approved by the Planning and Environmental Review Department, and was filed with the County Clerk. The Categorical Exemption explicitly covered acquisition of all the Mathilda area parcels, including the subject parcel. The acquisition qualifies for a Class 13 exemption under Section 15313 of CEQA, entitled "Acquisition of Lands for Wildlife Conservation Purposes."

DISCUSSION:

Staff is pleased to report that in 2017, the City was awarded a Coastal Resource Enhancement Fund (CREF) grant for $10,750 and in 2019 the City was awarded a $66,430 CREF grant and a $2,820 Monarch Butterfly Habitat Conservation grant. These grants collectively total $80,000 (the sales price for acquisition). In addition to the purchase price, Chicago Title Company has estimated no more than $2,400 in closing costs which staff proposes to pay for using City Park DIF. This is consistent with prior acquisitions.

Santa Barbara County established the CREF program in 1988 to help reduce adverse impacts to coastal resources caused by offshore oil and gas development and related onshore support facilities. CREF helps to alleviate the effects by funding proposals to protect or enhance certain coastal resources. Property acquisition is included in the types of projects that CREF regularly funds. The City has received three prior CREF grants that assisted in the purchase of three parcels in this area.

Staff believes the $80,000 purchase price is fair given that the City's original 2008 appraisal valued the parcel at $135,000. In the years between 2008 and 2015, the City was able to acquire a few of the parcels in the subject area for 50%-70% of the 2008 appraised value, the City Council directed staff to proceed with a new property appraisal for all 18 parcels in the subject area in 2015. Based on this Council direction, in March 2015, the firm of Hammock, Arnold, Smith & Company conducted a new appraisal of all 18 parcels including the subject parcel. The 2015 appraisal placed a new value on the subject parcel of $80,000. This price represents just over 59% of the 2008 value and is consistent with the value range of other parcels acquired in the area. As noted above, in September 2019, the appraiser confirmed the $80,000 value.

As a condition of both the CREF and Monarch Butterfly Habitat Acquisition Grants, the City is required to sign a contract with the County for use of the grant funds, and to record a conservation easement over the parcel upon close of escrow (Attachment 2). The conservation easement would apply in perpetuity. Its purpose is to mandate that the parcel remain in conservation, as well as prevent any use of the parcel that will impair or interfere with its "Conservation Values" (i.e. existing wildlife habitat, open space, plants, and natural habitat). This easement is consistent with the conservation easements recorded on the other parcels in which County grants funded all or a portion of acquisition costs.

Per the conservation easement, the property may be used for research and educational uses, as well as noncommercial passive recreational uses such as wildlife viewing, hiking and photography and associated facilities may be constructed for passive

recreational uses including but not limited to creek bridges, hiking and equestrian trails, and any other accessible trails, to provide public access

FISCAL IMPACTS:

Staff is requesting that the City Council authorize a budget amendment to increase the miscellaneous grant revenues account 311-4-9024-220 (Grant Proceeds – Ellwood Mesa) by $80,000 to account for the two CREF grants and the Monarch Butterfly Habitat Acquisition Grant; and appropriate $80,000 in grant funds to 311-5-9024-704 and up to $2,400 in Park DIF to account 221-5-9024-704 (Ellwood Mesa - Land Acquisition) for Fiscal Year 2019/20 for acquisition of APN 079-554-031.

ALTERNATIVES:

The City Council could opt not to approve the purchase and sale agreement and/or the County grant agreement in which case the acquisition of the property would not move forward. The City Council could also elect to turn down the grant funds in which case City funding such as Park Development Impacts Fees (Park DIF) would be needed to complete the acquisition. Given the demand on the use of Park DIF for City park improvement projects, staff would recommend against this option.

Reviewed By:	**Legal Review By:**	**Approved By:**
Kristine Schmidt	Michael Jenkins	Michelle Greene
Assistant City Manager	City Attorney	City Manager

ATTACHMENTS:

1. Purchase and Sale Agreement for APN 079-554-031
2. Agreement Between the County of Santa Barbara and the City of Goleta and Escrow Instructions (including Exhibit A-Legal Description and Exhibit B-Conservation Easement)

Attachment 1

PURCHASE AND SALE AGREEMENT

AND JOINT ESCROW INSTRUCTIONS

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of _____, (the "Effective Date"), by and between Henrietta A. Ash and the Henrietta A. Ash Trust dated July 18, 2003 (the "Seller"), and the CITY OF GOLETA (the "Buyer"). In consideration of the mutual covenants and agreements contained in this Agreement, the Buyer and the Seller agree as follows:

1. BASIC TERMS

1.1 Property. The real property that the Seller is selling and the Buyer is buying is located on the west side of the Mathilda Drive right-of-way in the City of Goleta, County of Santa Barbara, State of California (Assessor's Parcel Number 079-554-031). The real property, together with all other property that is the subject of this Agreement, is defined more fully in Section 2.1 below.

1.2 Purchase Price. The purchase price for such property (the "Purchase Price") is eighty thousand dollars ($80,000.00).

1.3 Escrow. On or promptly after the date this Agreement is executed, an escrow (the "Escrow") shall be opened with Chicago Title Company (the "Escrow Holder"), with an address of 1225 Coast Village Road, Suite E, Santa Barbara, CA 93108, Attn: Anna Ortiz Wines, Telephone: (805) 565-6900, Fax: (805) 565-6905. The day the Escrow is opened is referred to in this Agreement as the "Opening of Escrow." The terms and conditions set forth in this Agreement shall constitute both an agreement between the Seller and the Buyer and escrow instructions for Escrow Holder. The Seller and the Buyer shall promptly execute and deliver to Escrow Holder any separate or additional escrow instructions requested by Escrow Holder which are consistent with the terms of this Agreement. Any separate or additional instructions shall not modify or amend the provisions of this Agreement unless otherwise expressly set forth by mutual consent of the Buyer and the Seller.

1.4 Closing Date. Escrow shall close on or before February 15, 2020 (the "Closing Date"). As used in this Agreement, "Closing" means the recordation of the "Deed" (as defined below) in the Official Records of Santa Barbara County, California.

1.5 Title. The title company (the "Title Company") shall be Chicago Title Company, with an address of 1225 Coast Village Road, Suite E, Santa Barbara, CA 93108, Attn: Anna Ortiz Wines, Telephone: (805) 565-6900, Fax: (805) 565-6905.

1.6 The Seller's Address for Notices. All notices to be provided to the Seller hereunder shall be sent to the following addresses:

Agent for the Sellers:

Ms. Henrietta Ash
P.O. Box 2509
Yountville, CA 94599

1.7 The Buyer's Address for Notices. All notices to be provided to the Buyer hereunder shall be sent to the following addresses:

City of Goleta
Attn: Michelle Greene, City Manager
130 Cremona Drive, Suite B
Goleta, California 93117
Telephone: (805) 961-7500
Fax: (805) 685-2635

With a Copy To:
City of Goleta
Attn: Michael Jenkins, City Attorney
130 Cremona Drive, Suite B
Goleta, California 93117
Telephone: (805) 961-7500
Fax: (805) 685-2635

2. PURCHASE AND SALE

2.1 Agreement to Buy and Sell. Subject to all of the terms and conditions of this Agreement, the Seller hereby agrees to sell and convey to the Buyer and the Buyer hereby agrees to acquire and purchase from the Seller the following (collectively, the "Property"): All of the Seller's right, title and interest in and to the following: the real property described on Exhibit A attached hereto and all easements, privileges and other rights appurtenant thereto (collectively, the "Land").

2.2 Purchase Price. The Purchase Price shall be payable as follows: At least one (1) business day prior to the Closing Date, the Buyer shall deposit into Escrow, by wire transfer of federal funds, the Purchase Price, subject to adjustment by reason of any applicable prorations and the allocation of closing costs described below.

3. BUYER'S INSPECTIONS

3.1 The Buyer's Review of Title. Prior to the execution of this Agreement, the Buyer has reviewed a current preliminary title report issued by the Title Company showing the condition of title to the Property, accompanied by copies of the documents referred to therein (the "Preliminary Title Report"). By execution of this Agreement, the Buyer hereby approves the condition of title as shown on the Preliminary Title Report.

4. ADDITIONAL AGREEMENTS OF THE PARTIES

4.1 Conditions. The Buyer and Seller agree that as a condition to Closing, the Buyer will cover all transaction costs associated with the purchase.

4.2 The Seller's Representations and Warranties. The Seller hereby represents, warrants and covenants to and agrees with the Buyer as follows:

4.2.1 The Seller's Authority. The Seller has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by the Seller in connection herewith are, or when delivered shall be, duly authorized, executed and delivered by the Seller and are, or when delivered shall be, valid, binding and enforceable obligations of the Seller.

4.2.2 Consents. The Seller is not required to obtain any consents or approvals to consummate the transactions contemplated in this Agreement.

4.3 The Buyer's Representations and Warranties. The Buyer hereby represents, warrants and covenants to and agrees with the Seller as follows:

4.3.1 The Buyer has been provided with and reviewed a copy of the Grant Deed and Preliminary Title Report.

4.3.2 "As Is." The Buyer agrees as follows:

(a) Other than those explicitly stated in this Agreement, including specifically the terms of the Access and Indemnity Agreement there are no representations or warranties of any kind whatsoever, express or implied, made by the Seller in connection with this Agreement, the purchase of the Property by the Buyer, the suitability of the Property for the Buyer's intended use, the physical condition of the Property, the potential financial performance of the Property, zoning regulations, other governmental requirements, the ability of the Buyer to obtain permits or entitlements for any proposed use or development of the Property, the existence or nonexistence of Hazardous Materials on the Property, the condition of title to the Property, geologic or soils conditions, location of property lines, size/square footage of the Property and improvements, water/utility use restrictions, or whether the Property complies with applicable laws or otherwise is appropriate for the Buyer's intended use;

(b) On or before the date hereof, the Buyer has (or has chosen not to) fully investigated the Property and all matters pertaining thereto;

(c) The Buyer is not relying on any statement or representation of the Seller, its agents or its representatives nor on any information supplied by the Seller, its agents or its representatives;

(d) The Buyer, in entering into this Agreement and in completing its purchase of the Property, is relying entirely on its own investigation of the Property based on its experience in and knowledge of real property in the areas where the Property is located;

(e) The Buyer is aware (or has chosen not to be aware) of the physical condition of the Property, the potential financial performance of the Property, zoning regulations, other governmental requirements, the ability of the Buyer to obtain permits or entitlements for any proposed use or development of the Property, the existence or nonexistence of Hazardous Materials on the Property, the condition of title

to the Property, geologic or soils conditions, location of property lines, size/square footage of the Property and improvements, water/utility use restrictions, whether the Property complies with applicable laws or otherwise is appropriate for the Buyer's intended use, and other matters affecting the use and condition of the Property; and

(e) The Buyer shall purchase the Property in its "as is" condition as of the date of Closing, subject to the terms and conditions of the Access and Indemnity Agreement.

4.3.3 Authority. The Buyer has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by the Buyer in connection herewith are or when delivered shall be duly authorized, executed and delivered by the Buyer and are valid, binding and enforceable obligations of the Buyer.

4.3.4 Consents. The Buyer is not required to obtain any consents or approvals to consummate the transactions contemplated in this Agreement.

4.4 Reaffirmation. The representations and warranties of the Seller and the Buyer set forth in Sections 4.1 and 4.2, respectively, are true and correct as of the date of this Agreement and shall be true and correct as of the Closing. The Seller shall be entitled to rely upon the Buyer's representations and warranties set forth in Section 4.2.1 above, notwithstanding any inspection or investigation of the Property which was made or could have been made by the Buyer.

4.5 Hazardous Material Waiver.

4.5.1 Waiver. If this transaction closes and the Buyer acquires title to the Property, the Buyer, on behalf of itself, its successors, assigns and successors-in-interest, hereby releases the Seller and its officers, partners, directors, employees, contractors, agents, subsidiaries, affiliates and its and their respective successors and assigns from and against any and all liabilities, claims, demands, suits, judgments, causes of action (including, but not limited to, causes of action arising under the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.), losses, costs, damages, injuries, penalties, enforcement actions, fines, taxes, remedial actions, removal and disposal costs, investigation and remediation costs and expenses (including, without limit, reasonable attorneys' fees, litigation, arbitration and administrative proceeding costs, expert and consultant fees and laboratory costs), sums paid in settlement of claims, whether direct or indirect, known or unknown, arising out of, related in any way to, or resulting from or in connection with, in whole or in part, the presence or suspected presence of Hazardous Materials (defined below) in, on, under, or about the Property.

4.5.2 Waiver of California Civil Code Section 1542. In that connection, and in connection with any other release in this Agreement, the Buyer, on behalf of itself, its successors, assigns and successors-in-interest and such other persons and entities, waives the benefit of California Civil Code Section 1542, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

4.5.3 Definition. "Hazardous Material(s)" means any chemical, substance, material, controlled substance, object, condition, waste living organisms or combination thereof which is or may be hazardous to human health or safety or to the environment due to its radioactivity, ignitability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness or other harmful or potentially harmful properties or effects, including, without limitation, petroleum hydrocarbons and petroleum products, lead, asbestos, radon, polychlorinated biphenyls (PCBs) and all of those chemicals, substances, materials, controlled substances, objects, conditions, wastes, living organisms or combinations thereof which are now or become in the future listed, defined or regulated in any manner by any federal, state or local law based upon, directly or indirectly, such properties or effects.

4.6 Condemnation; Damage or Destruction. In the event of any condemnation of, or damage to or destruction of, more than twenty percent (20%) of the Property, then the Seller shall promptly notify the Buyer and within three (3) business days after receipt of such notice, the Buyer shall deliver written notice to the Seller and Escrow Holder, electing either: (a) to proceed with this transaction and Closing in accordance with this Agreement notwithstanding such condemnation, damage or destruction, in which case all condemnation or any insurance proceeds shall be assigned to Buyer; or (b) to terminate this Agreement in accordance with the terms of Section 5.5. The Buyer's failure to deliver either notice to the Seller and Escrow Holder within such three (3) business day period shall constitute the Buyer's election to proceed to Closing under clause (a).

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5. **CLOSING**

5.1 Deposits Into Escrow.

5.1.1 At least one (1) business day prior to the Closing Date, the Seller shall deposit into Escrow:

(a) A grant deed conveying the Property to the Buyer (the "Deed") on the Title Company's form, subject to (i) easements, encumbrances, covenants, conditions, restrictions, reservations, rights-of-way and other matters of whatever kind or nature shown on the Preliminary Title Report (other than judgment liens, liens securing money loaned and installments of general and special real property taxes and assessments delinquent as of the Closing), (ii) installments of general and special real property taxes and assessments not then delinquent, and (iii) any encumbrance arising from the acts or omissions of the Buyer (collectively, the "Permitted Exceptions").

(b) An affidavit or qualifying statement which satisfies the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Non-Foreign Affidavit").

(c) A "Withholding Exemption Certificate, Form 590-RE", pursuant to the Revenue and Taxation Code Sections 18805 and 26131, stating either the amount of withholding required from the Seller's proceeds or that the Seller is exempt from such withholding requirement (the "Certificate").

5.1.2 At least one (1) business day prior to the Closing Date, the Buyer shall deposit into Escrow funds in accordance with the provisions of Section 2.2.2;

5.1.3 The Seller and the Buyer shall each deposit such other instruments and funds as are reasonably required by Escrow Holder or otherwise required to close Escrow and consummate the sale of the Property in accordance with the terms of this Agreement.

5.2 Prorations. . Real estate taxes shall be prorated as of the Closing on the basis of the most recent tax statement for the Property. If prorations are not made on the basis of the current tax year or if supplemental taxes are assessed after the Closing for the period prior to the Closing, the parties shall make any necessary adjustment after Closing by cash payment upon demand to the party entitled thereto so that the Seller shall have borne all taxes allocable to the period prior to the Closing (including all supplemental taxes which are allocable to the period prior to Closing) and the Buyer shall bear all taxes allocable to the period after the Closing (including all supplemental taxes which are allocable to the period after the Closing).

5.3 Payment of Closing Costs.

5.3.1 Closing Costs Borne by the Seller. No closing costs shall be borne by the Seller.

5.3.2 Closing Costs Borne by the Buyer. The Buyer shall deposit with Escrow Holder for disbursement by Escrow Holder, all costs associated with the transaction, including: (a) all of the Escrow Holder's fee, (b) all costs associated with the standard coverage (CLTA) premium for the "Owner's Policy" (defined below), (c) the documentary transfer tax required in connection with the transfer of the Property to the Buyer, (d) the recording fees and all sales and use taxes required in connection with the transfer of the Property to the Buyer, and (e) any additional charges customarily charged to both the sellers and buyers in accordance with common escrow practices in Santa Barbara County, California.

5.4 Closing of Escrow.

5.4.1 Pursuant to Section 6045 of the Internal Revenue and Taxation Code, Escrow Holder shall be designated the "closing agent" hereunder and shall be solely responsible for complying with the tax reform act of 1986 with regard to reporting all settlement information to the Internal Revenue Service.

5.4.2 Escrow Holder shall hold the Closing on the Closing Date if: (i) it has received in a timely manner all the funds and materials required to be delivered into Escrow by the Buyer and the Seller; and (ii) it has confirmed that the Title Company will issue to the Buyer its standard coverage (CLTA) title insurance policy in the amount of the Purchase Price, insuring the Buyer as the owner of the Property, subject only to the Permitted Exceptions (the "Owner's Policy").

5.4.3 To Close the Escrow, Escrow Holder shall:

(a) Cause the Deed to be recorded and thereafter mailed to the Buyer, and deliver the Owner's Policy, Certificate and Non-Foreign Affidavit to the Buyer; and

(b) Deliver to the Seller by wire transfer of federal funds, funds in the amount of the Purchase Price, plus or less any net debit or credit to the Seller by reason of the prorations and allocations of closing costs provided for in this Agreement.

5.5 Failure to Close; Cancellation. Unless otherwise agreed to in writing by Buyer and Seller, if the Escrow Holder is not in a position to Close the Escrow on the Closing Date, then this Agreement shall terminate and, Escrow Holder shall return to the depositor thereof any funds or other materials previously placed in Escrow and remaining in Escrow. Neither party shall have any further obligations pursuant to this Agreement, except that no such termination shall relieve either party of liability for any failure to comply with the terms of this Agreement.

5.6 Possession. Possession of the Property shall be delivered to the Buyer upon Closing.

6. GENERAL PROVISIONS

6.1 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

6.2 Entire Agreement. This Agreement contains the entire integrated agreement between the parties respecting the subject matter of this Agreement and supersedes all prior and contemporaneous understandings and agreements, whether oral or in writing, between the parties respecting the subject matter of this Agreement.

6.3 Legal Advice; Neutral Interpretation; Headings. Each party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party as the source of the language in question.

6.4 Choice of Law. This Agreement shall be governed by the laws of the State of California.

6.5 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

6.6 Waivers. The waiver by one party of the performance of any covenant, condition or promise under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant, condition or promise under this Agreement.

6.7 Amendment. This Agreement may be amended at any time, but only by the written agreement of the Buyer and the Seller.

6.8 Relationship of Parties. The parties agree that their relationship is that of seller and buyer, and that nothing contained herein shall constitute either party, the agent or legal representative of the other for any purpose whatsoever, nor shall this Agreement be deemed to create any form of business organization between the parties hereto.

6.9 Time of the Essence. Time shall be of the essence as to all dates and times of performance, whether contained herein or contained in any escrow instructions to be executed pursuant to this Agreement.

6.10 Further Acts. Each party agrees to perform any further acts and to execute, acknowledge and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

6.11 Recordation; Actions to Clear Title. The Buyer shall not record this Agreement, any memorandum of this Agreement, any assignment of this Agreement or any other document which would cause a cloud on the title to the Property. If the Buyer fails to complete its purchase of the Property for any reason, then the Buyer shall, at no cost to the Seller, promptly execute, acknowledge and deliver to the Seller, all within five (5) days after written request from the Seller, a quitclaim deed, in recordable form, in favor of the Seller and any other documents requested by the Seller to remove the cloud on title to the Property that may exist as the result of the existence of this Agreement or any escrow relating to this Agreement. In the event the Buyer fails to so execute and deliver any such document, the Buyer shall pay all losses, damages, costs and expenses, including but not limited to the Seller's reasonable attorneys' fees, incurred in connection with the Buyer's breach of its obligations under this Section 6.11.

6.12 Assignment. The Buyer shall not assign the Buyer's rights or delegate its obligations hereunder without the prior written consent of the Seller in each instance, which consent the Seller may withhold in the Seller's sole and absolute discretion. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to this Agreement.

6.13 Attorneys' Fees. In the event of any litigation involving the parties to this Agreement to enforce any provision of this Agreement, to enforce any remedy available upon default under this Agreement, or seeking a declaration of the rights of either party under this Agreement, the prevailing party shall be entitled to recover from the other such attorneys' fees and costs as may be reasonably incurred, including the costs of reasonable investigation, preparation and professional or expert consultation incurred by reason of such litigation. All other attorneys' fees and costs relating to this Agreement and the transactions contemplated hereby shall be borne by the party incurring the same.

6.14 Manner of Giving Notice. All notices and demands which either party is required or desires to give to the other shall be given in writing by personal delivery, express courier service or by telecopy followed by next day delivery of a hard copy to the address or telecopy number set forth in Sections 1.6 and 1.7 for the respective party, provided that if any party gives notice of a change of name, address or telecopy number, notices to that party shall thereafter be given as demanded in that notice. All notices and demands so given shall be effective upon receipt by the party to whom notice or a demand is being given.

6.15 Survival. Only the provisions of Article 4, Sections 5.2, 5.3, and 5.6, and Article 6 shall survive the Closing and the consummation of the transactions contemplated by this Agreement or the termination of this Agreement for any reason without the conveyance of the Property to the Buyer.

IN WITNESS WHEREOF, the parties have duly executed this Agreement effective as of the day and year first written above.

SELLER	**BUYER**
	THE CITY OF GOLETA
By _____ Henrietta A. Ash, Trustee of the Henrietta A. Ash Trust dated July 18, 2003	By _____ Michelle Greene, City Manager
Date: _____	Date: _____
	ATTEST:
	_____ Deborah Lopez, City Clerk
	Date: _____
	APPROVED AS TO FORM:
	_____ Winnie Cai, Deputy City Attorney
	Date: 11/7/19

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Lot 27 in Block 4 of Elwood Acres No. 2, in the City of Goleta, County of Santa Barbara, State of California, as shown on a map recorded June 16, 1927 in Map Book 15, Pages 155 and 156 of Maps, records of Santa Barbara County, California.

APN: 079-554-031

Attachment 2

AGREEMENT BETWEEN
THE COUNTY OF SANTA BARBARA AND THE CITY OF GOLETA
AND ESCROW INSTRUCTIONS

AGREEMENT BETWEEN THE COUNTY OF SANTA BARBARA AND THE CITY OF GOLETA AND ESCROW INSTRUCTIONS

This Agreement is made on this 10th day of December, 2019, by and between the City of Goleta, a general law city within the County of Santa Barbara, California (hereinafter referred to as "GRANTEE"), and the County of Santa Barbara, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), wherein COUNTY agrees to grant certain funds to GRANTEE for the purposes and on the conditions specified herein.

RECITALS

WHEREAS, GRANTEE submitted an application to the Coastal Resource Enhancement Fund ("CREF"), seeking money to purchase a 0.25-acre parcel from a private party located at the south end of Mathilda Drive, adjoining the Sperling Preserve, currently shown as APN No. 079-554-031 in the official records of Santa Barbara County (herein referred to as PROPERTY); and

WHEREAS, COUNTY has chosen to award GRANTEE an $80,000 grant to be paid towards acquisition of PROPERTY once GRANTEE secured all funds necessary to purchase and hold sole interest in PROPERTY; and

WHEREAS, GRANTEE has submitted a certified appraisal dated April 23, 2015 for PROPERTY, with a fair market value of $80,000; and

WHEREAS, GRANTEE has submitted a copy of a letter from the landowner, stating the landowner was a willing seller of PROPERTY for $80,000.

GRANT TERMS AND CONDITIONS

Now, therefore, in consideration of the mutual promises hereinafter set forth, it is agreed as follows:

1. PURPOSE:

The purpose of this Agreement is to award GRANTEE a grant of CREF funds and Planning & Development mitigation funds towards purchase of the fee interest in PROPERTY and subsequently upon close of escrow convey a perpetual Conservation Easement over PROPERTY to COUNTY for the protection of plants, animals, and other natural resources and habitat, and to provide public access. The Conservation Easement shall be the "Conservation Easement Deed and Agreement" attached hereto as Exhibit "B", incorporated herein by reference.

(a) CREF GRANT FOR ACQUISITION: COUNTY shall pay a total of eighty thousand dollars ($80,000) towards the purchase of fee interest of PROPERTY as stipulated herein:

i. sixty-six thousand and four hundred and thirty dollars ($66,430) from the Coastal Resource Enhancement Fund (Fund #0063, Dept. #053, Program #5090, Account #7863, Project #1803);

ii. ten thousand seven hundred and fifty dollars ($10,750) from the Coastal Resource Enhancement Fund (Fund #0063, Dept. #053, Program #5090, Account #7863, Project #1706); and

iii. two thousand and eight hundred and twenty dollars ($2,820) from the Planning & Development Mitigation Fund (Fund 1392) in accordance with permit conditions on development projects.

Hereinafter referred to as "Grant Funds" towards the purchase of fee interest of PROPERTY as stipulated herein.

(b) **DEFINITION OF PROPERTY**: The PROPERTY purchased with this grant is defined as Assessor Parcel Number Book 79, Page 554, Parcel 31, in the County of Santa Barbara, State of California, inclusive of maps in the office of the County Recorder of said County. The property is described as "Lot 27 in Block 4 of Ellwood Acres No. 2, in the City of Goleta, County of Santa Barbara, State of California, as shown on a map recorded June 16, 1927, in Map Book 15, at Pages 155 and 156, records of Santa Barbara County, California" as shown in Exhibit "A," attached hereto and incorporated herein by reference.

(c) **CONSERVATION EASEMENT AREA**: The PROPERTY's 0.25 acres of open space has natural resources and recreational value. The Conservation Easement area shall include the entire PROPERTY. The easement boundary is legally described and shown on Exhibit "A" of this Agreement.

The land use restrictions and management measures applied to the Conservation Easement area shall be recorded through the Conservation Easement.

2. **GRANTEE'S RESPONSIBILTY**: The GRANTEE hereby agrees to acquire the fee interest in said PROPERTY and further agrees to convey a Conservation Easement over said PROPERTY substantially in the form attached hereto as Exhibit "B."

Provided the COUNTY meets its funding and escrow obligations described herein, GRANTEE shall pay to PROPERTY owner the necessary consideration for the purchase of the PROPERTY and grant the Conservation Easement to COUNTY.

(a) GRANTEE is purchasing PROPERTY from a private party for $80,000.00. Upon close of escrow, GRANTEE shall obtain a California Land Title Association owner's policy of title insurance covering GRANTEE's interest in the Property. Upon the conveyance of the Conservation Easement to COUNTY, COUNTY will obtain a California Land Title Association owner's policy of title insurance covering COUNTY's interest in the Conservation Easement. Costs of each such policy shall be paid by GRANTEE.

(b) GRANTEE guarantees that, in the event a loan is obtained as partial purchase money for the PROPERTY, GRANTEE shall use other assets as collateral for the loan and shall not encumber the PROPERTY.

(c) The COUNTY must provide the certificate of acceptance of the COUNTY Board of Supervisors of the Conservation Easement and deposit the same into escrow for recording.

(d) GRANTEE shall request the Escrow Officer to release a certified copy of the PROPERTY Grant Deed, as executed by the property owner, prior to the close of escrow in order to receive "acceptance" by the GRANTEE's City Council Board. GRANTEE shall provide the

COUNTY prior to the close of escrow a GRANTEE executed Conservation Easement in order to receive "acceptance" by COUNTY's Board of Supervisors.

(e) GRANTEE represents and warrants to the County that to the best of GRANTEE's knowledge, after appropriate due diligence, including a title report, that there are no outstanding monetary or mechanic's liens to which the Conservation Easement will be subject, the foreclosure of which would cause the Conservation Easement to be extinguished.

(f) GRANTEE shall hold COUNTY harmless and reimburse COUNTY for any and all of COUNTY's losses and expenses occasioned by reason of any easements, contracts, leases, agreements, permits, and voluntary or involuntary liens encumbering said PROPETY which causes the Conservation Easement not to be held in perpetuity.

(g) GRANTEE shall ensure sufficient financial resources to retain fee ownership and manage PROPERTY. Any transfer of ownership shall be limited to governmental entities or financially solvent, non-profit organizations mutually agreeable to GRANTEE and COUNTY to assure sufficient financial responsibility associated with post-acquisition management and use.

3. COUNTY'S RESPONSIBILITY: COUNTY agrees to deposit into escrow the Grant Funds ($80,000) to fund the purchase of the PROPERTY. At least one (1) day prior to the close of escrow, COUNTY shall deposit in escrow the Grand Funds. If for any reason COUNTY shall have deposited the Grant Funds into escrow, and escrow shall have failed to close, the Grant Funds shall be returned in its entirety to COUNTY within thirty (30) days of the date escrow was to have closed.

Notwithstanding any other provision of the Agreement, the maximum contribution of the COUNTY with regard to the CREF award and the terms of this Agreement shall not, under any circumstances, exceed the Grant Funds sum of $80,000, which may only be used toward the purchase price of the PROPERTY. GRANTEE shall be responsible for all costs of acquisition, including escrow and title insurance fees and any portion of the purchase price in excess of the CREF Grant Funds.

4. ESCROW INSTRUCTIONS AND FEES:

(a) Opening of Escrow:

Upon execution of this Agreement by all parties, GRANTEE shall open an escrow, and shall deliver to the Escrow Officer a copy of this fully executed Agreement along with the fully-executed Purchase Contract for the PROPERTY. This Agreement shall become a part of the Escrow and shall constitute the basic instructions between the COUNTY and GRANTEE to the Escrow Officer.

The parties agree to execute such additional instructions and documents as are reasonably required to complete the closing of the transaction contemplated herein in accordance with the terms and conditions of this Agreement. On behalf of the COUNTY, the Director of General Services Department, or designee, shall execute the necessary escrow instructions and/or additional instructions, which may be required to complete the closing of this real property transaction. On behalf of the GRANTEE, the City Manager, or designee, shall execute the necessary escrow instructions and/or additional instructions, which may be required to complete the closing of this real property transaction. In case of conflict between this Agreement and any such escrow documents, the terms of this Agreement shall govern.

(b) Close of Escrow and Payment Obligations:

Escrow shall close concurrently with GRANTEE's close of escrow for the PROPERTY, or on such other date as the parties may mutually agree in writing. The close of escrow shall occur upon the recordation of:

i. The Grant Deed vesting fee title to the PROPERTY in GRANTEE,

ii. The Conservation Easement Deed and Agreement vesting title to the Conservation Easement in COUNTY,

iii. Release of purchase funding for the PROPERTY to the property owner, and

iv. Payment of all escrow-related fees and costs, including title insurance.

GRANTEE shall pay or cause to be paid all escrow and recording fees as well as the documentary stamp tax, if any, incurred in the conveyance of the Conservation Easement to the COUNTY. Said escrow and recording charges shall include any partial reconveyance and subordination fees as may be required. GRANTEE shall pay all escrow fees in the event that this escrow is canceled prior to the conveyance of the Conservation Easement to COUNTY.

(c) Escrow Officer's Obligations:

The escrow officer shall be responsible for the following:

i. To obtain subordination or full reconveyance agreements from any holders of liens against the PROPERTY, provided that OWNER shall cooperate with the Escrow Officer in obtaining such documents from any and all such creditors; and

ii. To record the executed documents described in Section 4 (b) above, with the Santa Barbara County Recorder's Office, and deliver the recorded documents to COUNTY upon close of escrow; and

iii. To deliver the Grant Funds to GRANTEE prior to the close of escrow of the PROPERTY; and

iv. To issue a California Land Title Association owner's policy of title insurance covering County.

5. GOOD FAITH DISCLOSURES BY GRANTEE: GRANTEE shall make a good faith disclosure to COUNTY of any and all facts, findings, and information concerning the PROPERTY in GRANTEE's knowledge or possession, including without limitation historical uses; prior permitted uses; current uses including, but not limited to, express or implied contracts, leases and/or permits; geological conditions; biological conditions; archaeological sites; flood hazard area(s); special studies zones; zoning report; environmentally hazardous material such as asbestos, dioxins, oils, PCB's, solvents, waste disposal, gasoline tank leakage, pesticide use and spills, herbicide use or spills or any other substances and/or products of environmental contamination. Any and all facts or information known by GRANTEE concerning the condition of the PROPERTY shall be delivered to COUNTY no later than thirty (30) days following COUNTY'S execution of this Agreement.

If such facts, findings or information provided by GRANTEE disclose conditions that adversely affect the continued or contemplated use of the PROPERTY and that COUNTY reasonably deems unacceptable, or if COUNTY otherwise discovers such facts or information through tests and/or surveys conducted pursuant to COUNTY'S authority, as hereinabove provided, which disclose such conditions, and GRANTEE is unwilling or unable to correct such conditions to the reasonable satisfaction of COUNTY or any governmental body having jurisdiction over the Property, then COUNTY, in its sole option, may terminate this Agreement. Within ten (10) business days of actual receipt of GRANTEE's disclosure information, COUNTY shall notify GRANTEE of any condition it deems unacceptable and the correction desired and shall ask GRANTEE, at GRANTEE'S expense, to correct the identified condition(s) to the reasonable satisfaction of COUNTY or any governmental body having jurisdiction over the PROPERTY. GRANTEE'S failure to make the requested corrections shall be grounds for termination of this Agreement.

Upon the close of escrow, copies of any and all original documents and/or information relating to the PROPERTY, to the extent they exist and are in GRANTEE'S custody, shall be delivered by GRANTEE to COUNTY. Nothing will obligate GRANTEE to provide any privileged documents or information or attorney work product.

6. **TERMINATION**: COUNTY shall have the right to terminate this Agreement only following GRANTEE'S failure to cure a material breach following ten (10) days written notice. GRANTEE shall have the right to terminate this Agreement at any time prior to the close of escrow upon the terms herein. Should GRANTEE terminate this Agreement, it shall within thirty (30) days of notice of termination return all GRANT FUNDS to COUNTY, if such GRANT FUNDS were previously disbursed to GRANTEE, and pay COUNTY an additional sum of SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS ($7,500.00) as partial reimbursement of COUNTY'S professional staff costs accrued in the preparation of this Agreement and its attachments.

7. **TIME OF PERFORMANCE**: This Agreement shall expire July 1, 2020 unless GRANTEE enters into a binding escrow agreement as discussed in Article 4b and such escrow closes no later than 60 days thereafter. COUNTY's Director of Planning & Development Department may extend the time of performance by up to one year for good cause.

8. **DISCLAIMER BY COUNTY**: Nothing in this Agreement is intended to nor does it commit the COUNTY with regard to the approval or disapproval of any future land use, Comprehensive Plan, Zoning, CEQA, or their discretionary review or approval, in which the COUNTY as a governmental entity may be involved.

9. **FINAL REPORT**: GRANTEE agrees to provide within 45 days of the acquisition, a final report that includes the following:

(a) brief summary of PROJECT's objectives and how these objectives were accomplished,

(b) itemize list and support documentation of all expenses (including transaction costs) incurred to complete PROJECT, and

(c) photographs showing PROJECT.

10. PERIOD FOR WHICH RECORDS ARE AVAILABLE: GRANTEE shall maintain all records regarding performance of this contract for a minimum of four years after the close of escrow on PROPERTY. GRANTEE agrees that the COUNTY may, at any time during normal working hours and up to four years after the full performance or termination of this contract, review or audit all records regarding performance of this contract.

11. INDEMNIFICATION: COUNTY shall have no authority or control over completion of PROJECT except as stipulated herein. GRANTEE shall defend, indemnify, and save harmless COUNTY, its agents, employees and officers from any and all claims, demands, damages, costs, and expenses (including attorneys' fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of GRANTEE or its agents or employees or other independent contractors directly responsible to it; except those claims, demands, damages, costs, expenses (including attorneys' fees), judgments or liabilities resulting solely from the negligent acts or omissions or willful misconduct of COUNTY. GRANTEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with the Agreement.

12. ALIENATION OR ASSIGNMENT: Neither party shall assign, subordinate, or transfer this Agreement or any right or duty hereunder without the other party's prior written consent. Any attempt to assign, sublet, subordinate or transfer in violation of this provision shall be void and without legal effect.

13. NOTICES: Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY:

County of Santa Barbara
Planning & Development, Energy & Minerals Division
123 E. Anapamu Street
Santa Barbara, CA 93101
Attn: Kathy McNeal Pfeifer, 568-2507
kathypm@countyofsb.org

AND

For all escrow related matters:

General Services Department
Real Property Division
1105 Santa Barbara Street, East Courthouse Wing, 2nd Floor
Santa Barbara, CA. 93101
Attn: Carlo Achdjian
dgrady@co.santa-barbara.ca.us
(805) 568-3065

To GRANTEE:

The City of Goleta
Michelle Greene, City Manager
130 Cremona Drive, Suite B

Goleta, CA 93117
mgreene@cityofgoleta.org
(805) 961-7501

Either party may change its point of contact by providing 30 days written notice to the other party. The Director or Deputy Director may designate a new point of contact for COUNTY.

14. **SECTION HEADINGS**: The headings of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

15. **ACKNOWLEDGMENT**: GRANTEE shall publicly identify on press releases to the public that the acquisition is partially financed by the "County of Santa Barbara's Coastal Resource Enhancement Fund (CREF), a partial mitigation of impacts from the following offshore oil and gas projects: Point Arguello, Point Pedernales, and Santa Ynez Unit." In addition, GRANTEE shall post the acknowledgment on GRANTEE's homepage in the News section and identify the acknowledgment in an article in GRANTEE's Monarch Press.

16. **NON-PARTNERSHIP**: This Agreement is not intended by the parties to constitute or create a joint venture, pooling arrangement, or formal business organization of any kind. The rights and obligations of the parties shall be only those expressly set forth herein.

17. **REMEDIES NOT EXCLUSIVE**: No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

18. **NO WAIVER OF DEFAULT**: No delay or omission of either party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to either party shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of that party.

19. **ENTIRE AGREEMENT AND AMENDMENT**: In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

20. **SUCCESSORS AND ASSIGNS**: The provision of this Agreement shall be fully binding on all successors and assigns of the parties.

21. **CALIFORNIA LAW**: This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in southern California, if in federal court.

22. NONDISCRIMINATION CLAUSE: GRANTEE shall abide by the Unlawful Discrimination Ordinance, Article XIII of Chapter 2 of the Santa Barbara County Code, as it may be amended from time to time, as if set forth fully herein.

23. TAXES: GRANTEE shall be responsible for payment of all taxes due as a result of the Agreement. GRANTEE's Federal Tax Identification Number is 77-0590291.

24. EXECUTION IN COUNTERPARTS: This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

25. CERTIFICATION OF SIGNATORY: The signatory of this Agreement represents and warrants that he/she is authorized by the GRANTEE to execute this Agreement and that no additional signatures are required to bind GRANTEE to its terms and conditions or to carry out the duties contemplated herein.

26. FACSIMILE SIGNATURES: In the event that the parties hereto utilize facsimile or electronically transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided within seventy-two (72) hours of the electronic or facsimile transmission , except that funds shall not be released upon a scanned or facsimile signature nor shall scanned or facsimile signed documents be accepted for recordation by the Clerk Recorder of the County.

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This Agreement between the COUNTY and GRANTEE is executed on the dates shown below and shall be effective when signed by all parties.

COUNTY OF SANTA BARBARA

ATTEST:

CLERK OF THE BOARD

By _____

Deputy Clerk of the Board

_____

Chair, Board of Supervisors

COUNTY APPROVAL AS TO FORM

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy

BETSY SCHAFFER, CPA
AUDITOR-CONTROLLER

By: _____

REAL PROPERTY

By: _____
Carlo Achdjian,
Real Property Manager

RISK MANAGEMENT

By: _____
Ray Aromatorio, ARM, AIC
Risk Manager

CITY OF GOLETA

GRANTEE

ATTEST:
DEBORAH LOPEZ
CITY CLERK

By _____
Deputy

BY: _____
Paula Perotte, Mayor
City of Goleta

Date: _____

APPROVED AS TO FORM:
City Attorney

By _____ for
MIKE JENKINS

Exhibit A

LEGAL DESCRIPTION AND MAP OF EASEMENT BOUNDARY

That certain real property in the City of Goleta, County of Santa Barbara, State of California described as follows:

The subject conservation easement is defined as Lot 27 in Block 4 of Ellwood Acres No. 2, in the County of Santa Barbara, State of California, according to the map thereof recorded in Book 15, at Pages 155 and 156, records of Santa Barbara, County.

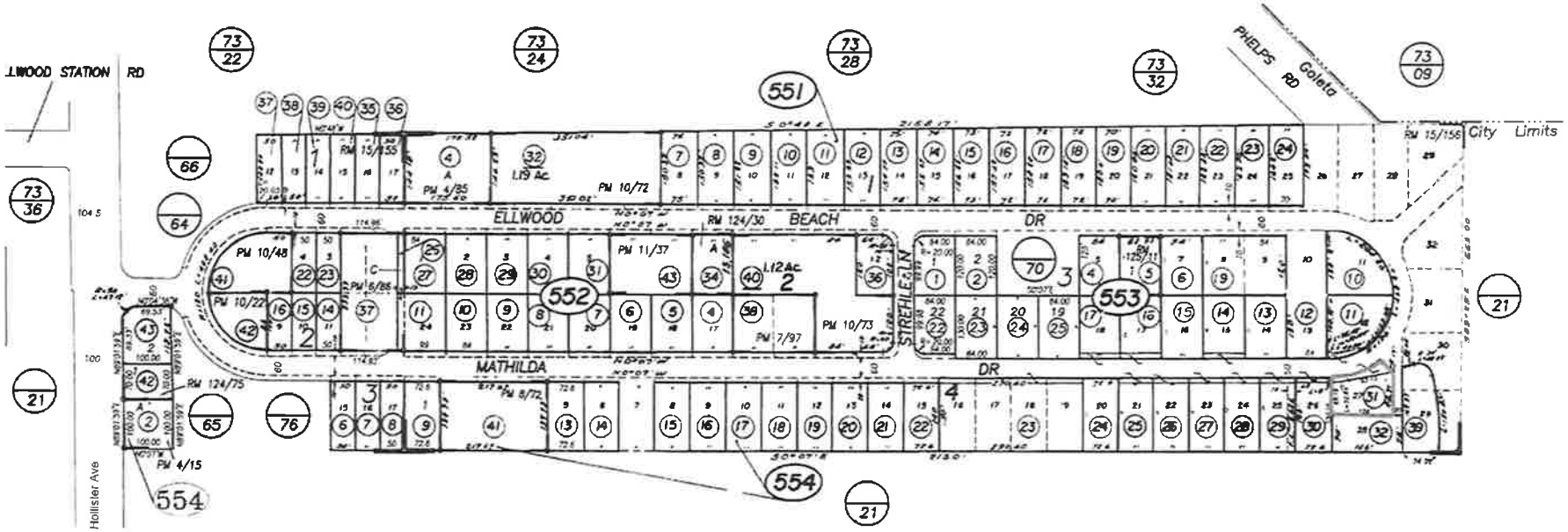
APN: 079-554-031

POR. RANCHO LOS DOS PUEBLOS

079–55

rotation= 90°

1" = 200'
scale ±



6/16/1927 R.M. Bk. 15, Pg. 155, Tract "Elwood Acres No. 1"
6/16/1927 R.M. Bk. 15, Pg. 156, Tract "Elwood Acres No. 2"
7/7/1983 R.M. Bk. 124, Pg. 30–31, Tract 13186
10/5/1983 R.M. Bk. 124, Pg. 75–76, Tract 13409
11/18/1983 R.M. Bk. 125, Pg. 11–12, Tract 13091

NOTICE
Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

City of Goleta
Assessor's Map Bk, 079–Pg, 55
County of Santa Barbara, Calif.

(LD/06) 553-20 into 553-22 & 23
553-21 into 553-24 & 25

Exhibit B

CONSERVATION EASEMENT
DEED and AGREEMENT

Recording requested by
County of Santa Barbara

When recorded mail to:
County of Santa Barbara
General Services Department
Real Property Division
Will Call

No Fee per Cal. Gov. Code 6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 079-554-031

CONSERVATION EASEMENT
DEED and AGREEMENT

This Conservation Easement Deed and Agreement ("Conservation Easement") is effective upon recordation in the Official Records of the County of Santa Barbara, State of California by the CITY OF GOLETA, a general law city within the County of Santa Barbara, California, ("CITY"), to the COUNTY OF SANTA BARBARA, a political subdivision of the State of California ("COUNTY"), each a "party" and together the "parties" to this Conservation Easement, for the purpose of establishing in perpetuity the Conservation Easement and associated rights described below.

Recitals

A. COUNTY provided to CITY, pursuant to a separate agreement dated December 10, 2019 (the "Grant Agreement") funds from COUNTY'S Coastal Resource Enhancement Fund ("CREF") to fund the purchase of that certain real property commonly identified as Assessor's Parcel Nos. 079-554-031, consisting of approximately 0.25 acre, located in the City of Goleta, State of California, described in Attachment "A" and depicted on Attachment "B," attached hereto and incorporated herein by this reference ("Property"); and

B. The Grant Agreement requires CITY to convey or cause to be conveyed a conservation easement on the Property in favor of COUNTY and CITY has elected to comply with the Grant Agreement by acquiring title to the Property and convey this Conservation Easement; and

C. COUNTY is a political subdivision of the State of California and is authorized to acquire and hold a conservation easement in accordance with the terms of Section 815.3 of the California Civil Code; and

D. The Property possesses certain environmental attributes of great importance to the people of the City of Goleta, Santa Barbara County, and the people of the State of California: valuable wildlife habitat, open space, plant, and relatively natural riparian habitat (hereinafter "Conservation Values"); and

E. To comply with the Grant Agreement, CITY must include use of the Property for public access consistent with the Conservation Values of the Property; and

G. CITY agrees to convey this Conservation Easement to COUNTY to assure that the Conservation Values will be conserved and sustained forever as provided in this Conservation Easement, and that uses of the land that are inconsistent with the Purpose of this Easement (as defined herein below) will be prevented or corrected; and

H. COUNTY recognizes that the Conservation Values associated with the physical environment of the Property depend on the future good stewardship decisions of CITY, and its successors. CITY is entrusted with those future management decisions, provided that any changes do not significantly impair the Conservation Values. COUNTY is entrusted with determining that the Conservation Values are protected.

Deed and Agreement

In consideration of the recitals set forth above, and in consideration of their mutual promises and covenants, CITY hereby grants and conveys to COUNTY, its successors and assigns, and COUNTY hereby accepts, a perpetual Conservation Easement as defined by Section 815.1 of the Conservation Easement Act of 1979 (California Civil Code Section 815, *et seq.*), of the nature and character described in this Conservation Easement.

1. PURPOSE. The Purpose of this Conservation Easement is to prevent any use of the Property that will materially impair or interfere with the Conservation Values ("Purpose"). The parties intend that this Conservation Easement will limit the use of the Property to activities that are not inconsistent with the Purpose, including, without limitation, those involving the preservation and protection of the Conservation Values and the provision of public access to enjoy the Property.

2. AFFIRMATIVE RIGHTS CONVEYED TO COUNTY. To accomplish the Purpose, the CITY hereby conveys the following rights and interests to COUNTY by this Conservation Easement:

(a) Identify Resources and Values. To identify, preserve and protect in perpetuity the character, use, utility, soil and water quality, and the Conservation Values of the Property.

(b) Monitor Uses and Practices. To enter upon, inspect, observe, and study the Property for the purposes of identifying the current uses and practices thereon and to monitor the uses and practices of the Property to determine whether they are consistent with this Conservation Easement. Such entry shall be permitted upon at least five (5) business days' prior written notice to CITY, and shall be made in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property.

(c) **Prevent Inconsistent Uses.** To prevent or enjoin any activity on or use of the Property that is inconsistent with the Purpose and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use. However, it is not the intent of COUNTY to limit CITY's discretion to implement uses and management practices in the Property, as described in Paragraph 3 below and provided that those uses and practices are consistent with the terms of this Conservation Easement.

3. **PERMITTED USES AND PRACTICES.** CITY and COUNTY intend that this Conservation Easement shall limit the uses of the Property to conservation activities that are consistent with the Purpose and such other related uses as are described herein. The following uses and practices, if in accordance with federal, state and county laws and ordinances, and in a manner to minimize impact on the Conservation Values are specifically permitted:

(a) **Existing Improvements:** No existing improvements occur onsite.

(b) **Additional Structures and Improvements:** CITY may enlarge existing structures and construct new structures that are reasonably necessary to support activities that take place solely to protect and promote the Conservation Values on the Property; provided together that any enlargement of existing structures exceeding twenty percent (20%) of the existing footprint or the construction of new structures shall require the prior written consent of COUNTY, as set forth in Paragraph 6 below.

(c) **Grading and Mowing** Soil grading in conjunction with permitted activities under this Conservation Easement or to control erosion in accordance with sound, generally accepted management practices is permitted. Any other grading is not permitted without the prior written approval from the COUNTY, as set forth in Paragraph 6 below. Mowing is allowed in the Property, in accordance with sound, generally accepted management practices.

(d) **Fences:** Existing fences may be repaired or replaced at their existing locations for purposes of reasonable and customary management of the Property. New fences may be constructed for such purposes without further permission from COUNTY, provided that any new fence shall be sited and designed in accordance with the Purpose and will not materially impair or interfere with the Conservation Values. New Fences must be wildlife-friendly.

(e) **Water Resources:** An irrigation system consisting of tanks and drip lines, and/or watering trucks may be used in the Property for the purpose of maintaining appropriate plant species and preventing dust within the Property. Any other artificial surface water reservoirs, water resources, water-related improvements, or ponds may not be developed or maintained in the Property without prior approval of the COUNTY, as set forth in Paragraph 6 below.

(f) **Control of Plants and Animals:** Pests, bullfrogs, and non-native plants may be controlled by the use of selective control techniques consistent with preservation of the Conservation Values on the Property. As used in this Conservation Easement, "selective control techniques" mean the use of techniques or methods that are targeted to control pests, bullfrogs, and non-native plants with the least practicable impact on humans and other plants or animals.

(g) Utility Easements: With approval by County, as set forth in Paragraph 6, utility easements may be granted to public and quasi-public utilities, so long as such easements are subject to this Conservation Easement and will not materially impair or interfere with the Conservation Values. Any proceeds from the sale of a utility easement shall be used by the CITY for operation and maintenance of the Property.

(h) Public Access: The Property may be used for research and educational uses, as well as noncommercial passive recreational uses such as wildlife viewing, hiking and photography and associated facilities may be constructed for passive recreational uses including but not limited to creek bridges, hiking and equestrian trails, and any other accessible trails, to provide public access, ("public access purposes") provided that all public access purposes shall be compatible with the Conservation Values of the Property.

(i) Roads: CITY may utilize roads, if any, in the Property existing at the time of execution of this Conservation Easement. All roads within the Property shall be limited to light dirt roads used for operations, maintenance, and emergencies only.

4. PROHIBITED AND LIMITED USES. Unless otherwise permitted under this Conservation Easement, any activity on or use of the Property that is inconsistent with the Purpose or would materially impair or interfere with the Conservation Values or the public access purposes is prohibited. CITY shall not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with the covenants set forth in this Conservation Easement. Without limiting the generality of the foregoing, the following activities and uses are deemed inconsistent with the Purpose of this Conservation Easement and are expressly prohibited:

(a) Residential Use. Construction and use of any residential and accessory structures within the Property is prohibited.

(b) Subdivision. CITY shall not apply for or otherwise seek recognition of additional legal parcels within the Property based on certificates of compliance or any other authority. Notwithstanding the existence of legal parcels, assessor's parcels, or the previous granting of certificates of compliance by public agencies, the following uses are inconsistent with the Purpose and are prohibited: (i) the division or subdivision of the Property (whether by physical, legal, or any other process); and (ii) the sale or conveyance of any portion of the Property, separate from the sale or conveyance of the Property as a whole.

(c) Development Rights. CITY and COUNTY hereby agree that all development rights, except as specifically reserved to CITY herein, that are now or hereafter allocated to, implied, reserved or inherent in the Property, are terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded and described, or to any other property adjacent or otherwise. The Property may not be used for the purpose of calculating permissible development or lot yield of any other property. CITY and COUNTY agree that the Property consists of one (1) legal parcel and that no additional separate legal parcels currently exist within the Property that may be recognized by a

certificate of compliance pursuant to Government Code Section 66499.35, based upon previous patent or deed conveyances, subdivisions or surveys. CITY will not apply for or otherwise seek recognition of additional legal parcels within the Property that affect the Property, based on certificates of compliance or any other authority.

(d) Construction of Buildings, Facilities and Other Structures. The construction of any structure of any type within the Property, unless specifically authorized by Paragraph 3 above, is prohibited.

(e) Signs. No billboards shall be erected in the Property. Signs describing the permitted activities in the Property, erected to control unauthorized entry or use, or for public access purposes, or as required by COUNTY or by the CITY are permitted, so long as such signs do not materially impair or interfere with the Conservation Values.

(f) Paving and Road Construction CITY shall not pave any existing unpaved road or construct any new paved road within the Property, whether for access or for another purpose, without prior notice to and approval of COUNTY, as set forth in Paragraph 6 below. COUNTY's approval of additional road paving or construction shall be based upon CITY's demonstration that the proposed improvements and location of any such road is consistent with the Purpose or, if this finding cannot be made, that the road improvements and location are necessary to provide access to structures or improvements or fulfill public access purposes permitted by this Conservation Easement or are necessary to meet governmental requirements. Subject to prior notice to COUNTY, CITY may relocate existing unpaved roads within the Property as unpaved roads, provided that abandoned roads shall be allowed to return to a natural condition as may be permitted under this Conservation Easement. For purposes of this paragraph, references to "paving" shall include covering of the soil surface with concrete, asphalt, or other impervious material, provided that in order to make unpaved roads passable, the CITY may apply a limited amount of gravel sufficient to maintain a light dirt road to existing or future unpaved roads in the Property. Nothing in this Paragraph 4(f) shall be interpreted to prevent the installation of a trail to serve passive recreational use of the Property pursuant to Paragraph 3(h).

(g) Motorized Vehicles. The use of motorized vehicles off of roads within the Property is prohibited, except by CITY for management uses of the Property; provided that other uses of motorized and/or off-road vehicles may be permitted within the Property when necessary for maintenance of utilities, retrieval of animals and plants, use of the Property by persons with disabilities or for emergency purposes.

(h) Erosion. Any use or activity that causes significant degradation of topsoil quality, pollution or an increase in the risk of erosion in the Property is prohibited.

(i) Mining.

(i) Surface Mining. The mining, extraction, or removal of soil, sand, gravel, oil, natural gas, fuel, or any other mineral substance, using any surface mining method, is prohibited in the Property.

(ii) Mineral Rights. Any right, title, and interest in subsurface oil, gas, and minerals shall not be sold separately from the surface property, and the manner of exploration for, and extraction of any oil, gas or minerals shall be only by a subsurface method, and shall not materially impair or interfere with the Conservation Values of the Property, and shall not involve disturbance of the surface of the Property.

(j) Watercourses. Except for creek restoration and water quality improvement purposes, the alteration or manipulation of watercourses located on or near the Property is prohibited.

(k) Native Tree and Vegetation Management. Cutting or clearing of native trees and vegetation is prohibited in areas outside of existing or approved roads, trails and utility easements, except as provided below. Selective control and removal of non-native invasive vegetation is permitted and encouraged. CITY may clear or trim native trees and vegetation only:

(i) To maintain defensible space, pursuant to the requirements of the Santa Barbara Fire Department, around existing structures, roads and utilities.

(ii) In an emergency when necessary to prevent personal injury or property damage such as flood or fire. CITY shall notify COUNTY prior to or as soon as possible after beginning any emergency clearing as set forth in Paragraph 6 below.

(iii) To control insects and disease or promote the ecological health of the trees or vegetative community, including thinning of undergrowth and removal of senescent, dead and decadent plant material, under the direction of a qualified biologist or certified arborist and in a manner consistent with the Conservation Values.

(iv) To protect and preserve the Property under the direction of a qualified biologist.

(v) As part of a native habitat restoration project or program.

(l) Trash. The disposal, dumping, or accumulation of any kind of trash, refuse or derelict equipment in the Property is prohibited.

(m) Agricultural Intensification and Other Incompatible Uses. There shall be no disking, row crop cultivation, vineyard installation, plowing, agricultural grading or till operations within the Property. The use of the Property for construction or operation of a golf course, or similar high intensity activity is prohibited.

(n) Industrial and Non Agricultural Commercial Uses. All industrial, commercial, and commercial recreational uses of the Property not expressly authorized herein are prohibited. Nothing in this Paragraph will prohibit the CITY from charging a fee or allowing a fee to be charged for passive recreational activities where needed to defray the cost of such activities, for example, providing a docent or wildlife biologist for guided activities. However, no fees shall be charged Property admittance alone.

(o) Animal Feedlots or Greenhouses. The construction, maintenance or use of any animal feedlot, livestock pen or greenhouse structure in the Property is prohibited.

(p) Storage of excess material. Long-term (longer than three (3) consecutive months) storage of excess material (pipes, lumber, and other construction material for work to be done on the Property, etc.) is prohibited.

(q) Harm to Small Mammals. Except as provided in Section 3(f) above, poisoning, trapping, shooting, or otherwise harming native mammals or their burrows within Property is prohibited without the prior written approval of COUNTY as set forth in Paragraph 6 below.

(r) Hunting Uses. Recreational hunting is not permitted on the Property.

(s) Mitigation Use of Property. Use of the Property for mitigation purposes is expressly prohibited. CITY shall not use or allow the use of any portion of the Property for mitigation purposes (in other words, to compensate for adverse changes to the environmental elsewhere).

(t) Transfer of the Property. CITY shall not transfer the Property (or any interest in it) without the prior written approval of COUNTY.

(u) Use of the Property as Security for a Debt. CITY shall not use the Property as security for any debt.

(v) Use of the Property for Solar or Wind Energy Generation: Use of the property for solar or wind energy generation is prohibited.

5. RESERVED RIGHTS. CITY reserves to itself, and to its representatives, heirs, successors and assigns, all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the Purpose of this Conservation Easement.

Without limiting the generality of the foregoing, the following rights are expressly reserved:

(a) Water Rights. CITY shall retain, maintain and preserve the right to use all water rights associated with the Property, consistent with preservation of the Conservation Values on the Property s. CITY shall not transfer, encumber, lease, sell, or otherwise separate any water rights from the Property.

(b) Mineral Rights. CITY reserves all right, title, and interest in subsurface oil, gas, and minerals, subject to Paragraph 3(i) above.

(c) Responsibilities of CITY and COUNTY Not Affected. Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the COUNTY, or in any way to affect any existing obligation of the CITY, as owner of the Property. Among other things, this shall apply to:

(i) Taxes/Special Assessments. CITY shall pay before delinquency all taxes, assessments, fees and charges of whatever description legally and properly levied on or assessed against the Property. If COUNTY is ever required to pay any taxes or assessments on the Property, CITY will promptly reimburse COUNTY for the same.

(ii) Upkeep and Maintenance. CITY shall continue to be solely responsible for the upkeep and maintenance of the Property. COUNTY shall have no obligation for the upkeep or maintenance of the Property.

(iii) Liability and Indemnification. In view of COUNTY's negative rights, limited access to the land, and lack of active involvement in the day-to-day management activities on the Property, CITY shall indemnify, protect, defend and hold COUNTY, its officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns harmless from and against all liabilities, costs, losses, orders, liens, penalties, damages, expenses, or causes of action, claims, demands, or judgments, including without limitation reasonable attorney's fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, or any other costs or liabilities resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless arising from the gross negligence or willful misconduct of the COUNTY. COUNTY shall be named as an additional insured on all of CITY's third party insurance policies related to the Property.

6. NOTICE AND APPROVAL. The purpose of requiring CITY to notify COUNTY to obtain COUNTY's approval before undertaking certain permitted activities is to afford COUNTY an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the Purpose of this Conservation Easement. CITY shall notify COUNTY in writing not less than thirty (30) days prior to the date CITY intends to undertake the activity in question. For notices during emergency situations, CITY shall provide written notice at least 2 full business days prior to CITY's proposed activity. CITY's notice shall describe the nature, scope, design, location and any other material aspect of the proposed activity in sufficient detail to permit COUNTY to make an informed judgment as to its compliance with this Conservation Easement. COUNTY shall respond in writing within one hundred and eighty (180) days of receipt of CITY's written

request. COUNTY'S approval may be withheld only upon a reasonable determination by COUNTY that the action as proposed would be inconsistent with the Purpose of this Conservation Easement, and any denial of approval must be accompanied by written reasons given in detail for such denial.

7. PROPERTY MANAGEMENT AND ISSUE RESOLUTION.

(a) Management Practices. CITY recognizes that the Conservation Values of the Property are best protected if CITY conducts all operations in accordance with generally accepted, sustainable practices that address soil and water conservation, erosion control, pest management, nutrient management, and habitat protection. COUNTY has responsibility under this Conservation Easement to undertake regular monitoring of the Property. The parties agree that, whenever possible, they will take a cooperative approach to monitoring and management of the Property and will conduct joint qualitative monitoring to ensure that the Conservation Values are being protected. Monitoring will also consider issues such as site potential, weather conditions, unusual economic circumstances, vegetative variety and quality and trends in resource conditions.

(b) Management Plan. There is no management plan contemplated by this Conservation Easement. If in the future a management plan is developed for the Property, then the preservation activities for the Property shall be governed by the terms of this Conservation Easement.

(c) Mediation and Arbitration. If a dispute arises between the parties concerning the consistency of any existing or proposed use, structure or activity with the language and purpose of this Conservation Easement, and if the parties agree, the dispute may be mediated by one to three persons familiar with agricultural and conservation practices and conservation easements in Santa Barbara County. If the parties agree, they may next request arbitration, supervised by the Santa Barbara County Superior Court, unless extraordinary relief or injunction is necessary to protect against irreparable injury as provided in herein.

(d) Notice of Violation. Where CITY is alleged to be in violation of this Conservation Easement, COUNTY may give CITY written notice of a violation. Not later than fourteen (14) days after the delivery of such written notice, the parties shall meet to discuss the circumstances of the violation and to attempt to agree on appropriate corrective action. If the parties are unable to agree on corrective action, COUNTY may demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the Purpose of this Conservation Easement, to restore that portion of the Property so injured.

(d) Judicial Enforcement; Injunctive Relief. When an ongoing or imminent violation of this Conservation Easement could substantially diminish or impair the Conservation Values of the Property, or if CITY fails to cure a violation within a thirty (30) day period after receipt of notice thereof from COUNTY, or fails to continue diligently to cure such violation until finally cured, then COUNTY may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation

by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any Conservation Values, including damages for any loss thereof, and to require the restoration of the Property to the condition that existed prior to any such injury.

(f) Damages. COUNTY shall be entitled to recover damages for violation of the terms of this Conservation Easement or injury to any of the Conservation Values protected by this Conservation Easement, including, without limitation, damages for the loss of Conservation Values. Without limiting CITYs liability therefore, COUNTY shall apply any damages recovered to the cost of undertaking any corrective action in the Property.

(g) Scope of Relief. COUNTY's rights under this Paragraph shall apply equally to threatened as well as actual violations of the terms of this Conservation Easement, and CITY agrees that COUNTY's remedies at law for any violation of the terms hereof are inadequate and that COUNTY shall be entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in addition to such other relief to which COUNTY may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. COUNTY's remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Furthermore, the provisions of California Civil Code Section 815 *et seq.*, are incorporated herein by this reference and this Conservation Easement is made subject to all of the rights and remedies set forth therein. COUNTY retains the discretion to choose the appropriate method to enforce the provisions of this Conservation Easement, and shall not be required to exhaust the provisions of one subsection hereof in order to be entitled to the benefits of another.

(h) Costs of Enforcement. Any reasonable costs incurred by COUNTY in non-judicial enforcement of the terms of this Conservation Easement against CITY, and any costs of restoration necessitated by CITY's violation of the terms hereof shall be borne by CITY; provided however that CITY shall not be responsible for the costs of restoration necessary to remedy damage to Property caused by the conduct of third parties acting without permission or knowledge of CITY. The prevailing party in any judicial action brought pursuant to the provisions of this Conservation Easement, including without limitation mediation or arbitration, shall be entitled to recovery of its reasonable costs of suit, including, without limitation, attorneys' and experts' fees, from the other party.

(j) Enforcement Discretion. Enforcement of the terms of this Conservation Easement shall be at the discretion of COUNTY, and any forbearance by COUNTY to exercise its rights hereunder shall not be deemed or construed to be a waiver by COUNTY of such rights or of any subsequent breach of the same or any other terms of this Conservation Easement, or of its rights hereunder. No delay or omission by COUNTY in the exercise of any right or remedy upon any breach by CITY shall impair such right or remedy or be construed as a waiver, and CITY hereby waives any defense of laches, estoppel or prescription.

(k) Acts Beyond CITY Control. Nothing contained in this Conservation Easement shall be construed to entitle COUNTY to bring any action against CITY for any injury

to or change in the Property resulting from causes beyond CITY's control, including, without limitation, fire, flood, storm and earth movement, or actions by persons outside the control and knowledge of CITY, or from any prudent action by CITY under emergency conditions, to prevent, abate or mitigate significant injury to the Property resulting from such causes.

8. NO PUBLIC DEDICATION OR GENERAL RIGHT OF PUBLIC ACCESS. Nothing contained in this Conservation Easement shall be deemed to be a gift or dedication of any portion of the Property. This instrument does not convey a general right of access to the public.

9. CITY'S TITLE WARRANTY. CITY represents and warrants that CITY has good fee simple title to the Property, subject to such liens, encumbrances and matters of record as may be approved by COUNTY, and hereby promises to defend the same against all claims that may be made against it. COUNTY's failure to object to any item or exception shown on a preliminary title report of the Property prior to the Closing Date shall constitute an approval by COUNTY of such item or exception.

10. ENVIRONMENTAL PROVISIONS.

(a) CITY's Environmental Warranty. CITY warrants that CITY has no knowledge of a release or threatened release of hazardous substances or wastes on or that could affect the Property and, as more generally set out in Paragraph 5(c) above, agrees to indemnify, defend, protect and hold COUNTY, its directors, officers, employees, agents, and contractors, and their heirs, successors, and assigns, harmless from and against all litigation costs, demands, penalties, damages, liabilities, claims or expenses (including reasonable attorney fees) arising from or connected with any release of hazardous waste or violation of federal, state, or local environmental laws as a result of or arising out of the activities of CITY in the Property, or any breach of this Conservation Easement.

(b) COUNTY Not an Owner, Operator, or Responsible Party. Notwithstanding any other provision herein to the contrary, the parties do not intend this Conservation Easement to be construed such that it creates in or gives the COUNTY:

(i) the obligations or liability of an "owner" or "operator" as those words are defined and used in applicable environmental laws, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC § 9601 *et seq*. and hereinafter "CERCLA");

(ii) the obligations or liability of a person described in 42 USC § 9607(a)(3) or (4);

(iii) the obligations of a responsible person under any applicable environmental laws;

(iv) the right to investigate and remediate any hazardous materials associated with the Property; or

(v) any control over CITY's ability to investigate, remove, remediate, or otherwise clean up any hazardous materials associated with the Property.

11. TRANSFER BY COUNTY. COUNTY may transfer this Conservation Easement to any public or non-profit agency authorized to hold conservation easements pursuant to Section 815.3 of the California Civil Code.

(a) Voluntary Transfer. In selecting an appropriate transferee entity, preference will be given to a qualified agency or organization with a conservation purpose that has board, staff, or consultants with practical management experience, which agency or organization expressly agrees to assume the responsibility imposed on the COUNTY by this Conservation Easement. If such agency or organization cannot be found, or is not suitable for any reason, then another qualified agency or organization that expressly agrees to assume the responsibility imposed on the COUNTY by this Conservation Easement may be selected. COUNTY shall provide to CITY notice of any proposed transfer, information about the proposed transferee(s), and an opportunity for input. If more than one qualified agency or organization meets the foregoing criteria and all are equally capable of affecting the purposes of this Conservation Easement, COUNTY may select the organization that shall be the transferee. As a condition of such transfer or assignment, COUNTY shall require that the Purpose set forth in Section 1 hereof shall be carried out and enforced in perpetuity. Notice of such restrictions, including the Conservation Easement, shall be recorded in the County where the Property is located. The failure of COUNTY to perform any action required by this paragraph shall not impair the validity of this Conservation Easement or its enforcement in any way.

(b) Involuntary Transfer. If COUNTY ever ceases to exist or no longer qualifies under applicable state law or fails to perform its responsibilities under this Conservation Easement, CITY shall have the right to seek transfer, through a court of competent jurisdiction, of this Conservation Easement to another qualified organization having substantially similar purposes that agrees to assume the responsibilities imposed on COUNTY by this Conservation Easement.

12. TRANSFER OF PROPERTY. Any time the Property or any interest in it is transferred by CITY to any third party, CITY shall notify COUNTY and obtain approval in writing prior to the transfer of the Property or any interest in it, and CITY's deed of conveyance shall expressly refer to this Conservation Easement and incorporate the terms of this Conservation Easement. Such transfer shall not result in a merger of the Conservation Easement and the Property in a single Property owner (thereby extinguishing the Conservation Easement) if no method or mechanism deemed adequate to preserve, protect, and sustain the Conservation Values of the Property in perpetuity has been established. Failure to notify COUNTY or include the required reference to this Conservation Easement in the deed shall not affect the continuing validity and enforceability of this Conservation Easement.

13. AMENDMENT. This Conservation Easement may be amended only with the written consent of CITY and COUNTY. Any such amendment shall be consistent with the Purpose of this Conservation Easement and shall comply with California Civil Code Section 815 *et seq.*, and any regulations promulgated in accordance with these statutes, and with the adopted amendment policy of COUNTY.

14. EXTINGUISHMENT. If circumstances arise in the future which render the Purpose impossible to accomplish, this Conservation Easement shall be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction.

15. 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 Conservation Easement, in whole or in part, CITY and COUNTY shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by CITY and COUNTY in connection with the taking or in lieu purchase shall be paid out of the amount recovered. If only a portion of the Property is subject to such exercise of eminent domain, this Conservation Easement shall remain in effect as to all other portions of the Property.

16. VALUATION. This Conservation Easement constitutes a real property interest immediately vested in COUNTY. For the purpose of this Conservation Easement, the parties stipulate that this Conservation Easement has a fair market value determined by multiplying (a) the fair market value of the Property unencumbered by the Easement (minus any increase in value attributable to improvements made after the date of this Conservation Easement) by (b) the ratio of the value of the Conservation Easement to the value of the Property unencumbered by the easement.

17. SUBORDINATION. If, at the time of conveyance of this Conservation Easement, the Property is subject to any mortgage or deed of trust encumbering the Property, CITY shall obtain from the holder of any such mortgage or deed of trust an agreement to subordinate its rights in the Property to this Conservation Easement to the extent necessary for the COUNTY to enforce the purpose hereof in perpetuity and to prevent any modification or extinguishment of this Conservation Easement by the exercise of any rights of the mortgage or deed of trust holder.

18. GENERAL PROVISIONS.

(a) Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California and applicable Federal law.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to affect the purpose of this Conservation Easement. If any provision in this instrument is found to

be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions hereof, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

19. PERPETUAL DURATION. The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Conservation Easement that applies to CITY and COUNTY shall also apply to and be binding upon their respective agents, heirs, beneficiaries, executors, administrators, successors and assigns.

20. NOTICES. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by United States certified mail, return receipt requested, or by another common method or service where receipt is confirmed, addressed as follows or such other address as either party from time to time shall designate by written notice to the other.

To CITY:

City of Goleta
Michelle Greene, City Manager
130 Cremona Drive, Suite B
Goleta, CA 93117
(805) 961-7501
mgreene@cityofgoleta.org

With a copy to:

City of Goleta
Mike Jenkins, City Attorney
130 Cremona Drive, Suite B
Goleta, CA 93117
(805) 961-7534
mjenkins@cityofgoleta.org

To COUNTY:

Real Property Division
County of Santa Barbara
General Services Department
1105 Santa Barbara Street,
Second Floor, Courthouse East Wing
Santa Barbara, CA 93101
Attn: Carlo Achdjian, Real Property Manager
(805) 568-3065
cachdjian@countyofsb.org

With a copy to:

County of Santa Barbara
Planning & Development Department

123 E. Anapamu Street
Santa Barbara, CA 93101
Attn: Kathy McNeal Pfeifer, Planner
(805) 568-2507
Kathypm@countyofsb.org

21. LAWS CURRENTLY IN EFFECT. All references in this Conservation Easement to statutes, regulations and other laws shall be deemed to refer to those statutes, regulations and laws currently in effect, or as amended (or any successor provision then applicable).

22. ENTIRE AGREEMENT. This instrument with the Attachments incorporated herein sets forth the entire agreement of the parties with respect to the Property and supersedes all prior discussions, negotiations, understandings or agreements relating to the Property, all of which are herein merged.

23. COUNTERPARTS. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

24. ATTACHMENTS. The Attachments attached hereto are incorporated herein by this reference:

ATTACHMENT A: Property legal description

ATTACHMENT B: Property map depiction

25. EFFECTIVE DATE; RECORDATION. This Conservation Easement is effective upon recordation in the Official Records of the County of Santa Barbara, State of California, as provided in California Civil Code section 815.5. GRANTOR shall cause this Conservation Easement to be recorded.

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IN WITNESS WHEREOF, the parties have executed this Conservation Easement Deed and Agreement by the respective authorized signatories as set forth below to be effective upon final execution by all parties hereto and recordation.

COUNTY OF SANTA BARBARA

By: _____:
Steve Lavagnino, Chair
Board of Supervisors

ATTEST
CLERK OF THE BOARD

Date: _____

By: _____
Deputy

[Page Intentionally Left Blank; Insert Notary for County Signature here.]

COUNTY APPROVAL AS TO FORM

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: Deputy

REAL PROPERTY

By:
Carlo Achdjian
Real Property Manager

BETSY ~~SCAHAFFER~~ SCHAFFER, CPA
AUDITOR-CONTROLLER

By:

RISK MANAGEMENT

By:
Ray Aromatorio, ARM, AIC
Risk Manager

IN WITNESS WHEREOF, the parties have executed this Conservation Easement Deed and Agreement by the respective authorized signatories as set forth below to be effective upon final execution by all parties hereto and recordation.

GRANTEE
City of Goleta

BY: _____
Paula Perotte, Mayor

ATTEST:
DEBORAH LOPEZ
CITY CLERK

By _____
Deputy

APPROVED AS TO FORM:
City Attorney

By _____ for
MIKE JENKINS

[Page Intentionally Left Blank; Insert Notary for City Signature here.]

Attachment A

Legal Description

That certain real property in the City of Goleta, County of Santa Barbara, State of California described as follows:

The subject conservation easement is defined as Lot 27 in Block 4 of Ellwood Acres No. 2, in the County of Santa Barbara, State of California, according to the map thereof recorded in Book 15, at Pages 155 and 156, records of Santa Barbara, County.

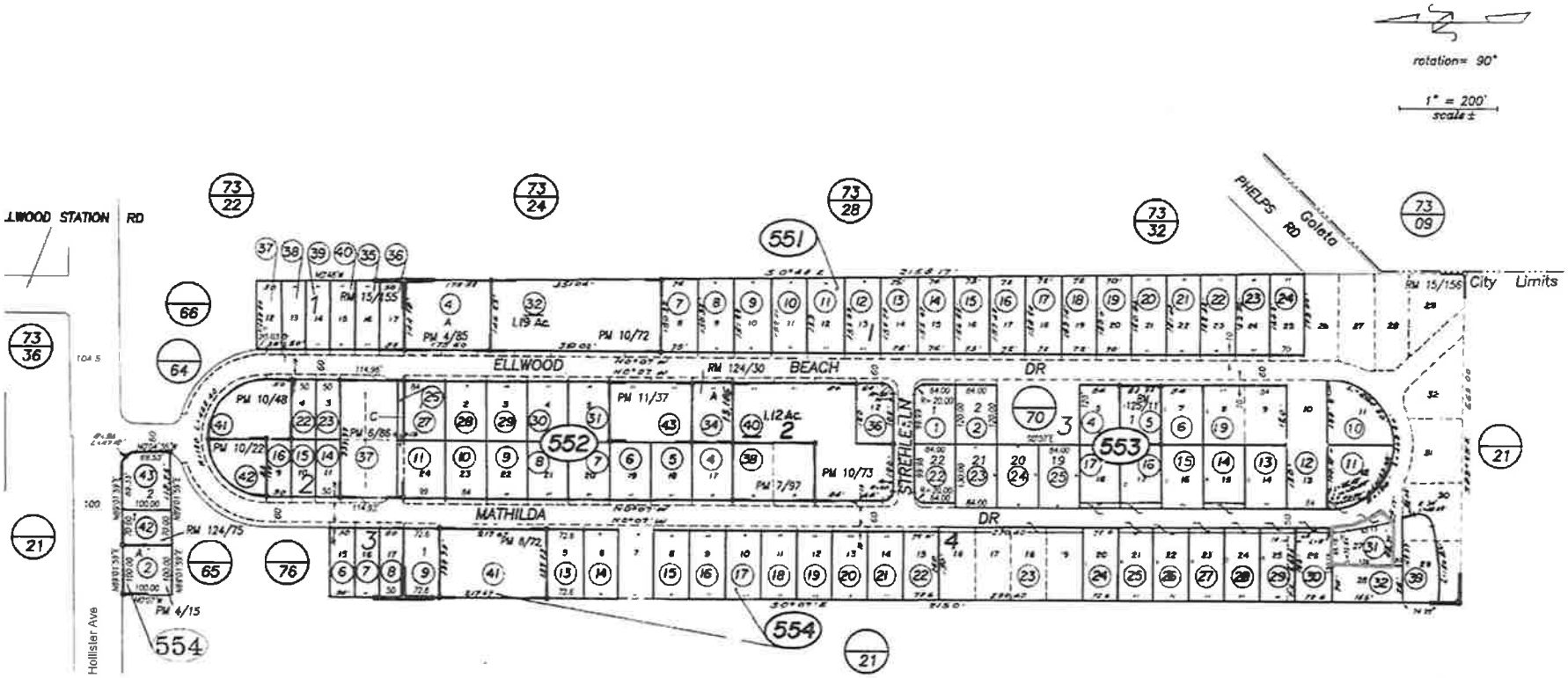
APN: 079-554-031

Attachment B

Map Depiction of Property

POR. RANCHO LOS DOS PUEBLOS

079–55



6/16/1927 R.M. Bk. 15 , Pg. 155 , Tract "Elwood Acres No. 1"
6/16/1927 R.M. Bk. 15 , Pg. 156 , Tract "Elwood Acres No. 2"
7/ 7/1983 R.M. Bk. 124, Pg. 30–31 , Tract 13186
10/ 5/1983 R.M. Bk. 124, Pg. 75–76 , Tract 13409
11/18/1983 R.M. Bk. 125, Pg. 11–12 , Tract 13091

NOTICE
Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

City of Goleta
Assessor's Map Bk, 079 –Pg, 55
County of Santa Barbara, Calif.

(LD/06) 553–20 into 553–22 & 23
553–21 into 553–24 & 25

ATTACHMENT C
CERTIFICATE OF ACCEPTANCE

CERTIFICATE OF ACCEPTANCE

STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA: ss.

THIS IS TO CERTIFY that the interest in real property conveyed by the Conservation Easement Deed and Agreement dated _____, 2019, from the CITY OF GOLETA, a municipal corporation, as GRANTOR, to the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, as COUNTY, is hereby accepted by Order of the Board of Supervisors of the County of Santa Barbara on _____, 2019, and the grantee consents to recordation thereof by its duly authorized officer.

WITNESS my hand and official seal

this ___ day of _____, 2019

MONA MIYASOTO
CLERK OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

By: _____
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel

ATTACHMENT D
CERTIFICATE OF ACCEPTANCE

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Santa Barbara

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(Seal)