

## Attachment 9: Creek Restoration Implementation Funding Agreement

## CREEK RESTORATION IMPLEMENTATION FUNDING AGREEMENT

THIS CREEK RESTORATION IMPLEMENTATION FUNDING AGREEMENT ("Agreement") is made by and between SBRHC, Inc by and through its agent, Standard Portfolios Asset Management Company, LLC, ("SBRHC") and California Association of Resource Conservation Districts ("CARCD"), a California nonprofit conservation organization. SBRHC and CARCD may be referred to herein individually as a "Party" or collectively as the "Parties."

### RECITALS

This Agreement is made and entered into on the basis of the following facts and understandings of the Parties:

A. Vintage Communities, Inc.; Santa Barbara Ranch, LLC; Vintage Vineyards, LLC; Osgood Farms, LLC; Matthew K. Osgood; DLC Ranch, LLC; and TW Family Farms, LLC (collectively, "Original Developer") entered into the Santa Barbara Ranch Inland Development Agreement with Santa Barbara County ("County") dated as of October 21, 2008 regarding a portion of the property commonly known as Santa Barbara Ranch located outside of the California coastal zone that is referred to as the Inland Project (the "Development Agreement"). Capitalized terms not otherwise defined in this Agreement shall have the meaning defined in the Development Agreement. The Development Agreement's Effective Date is April 8, 2014.

B. In 2010, SBRHC, Inc., a Missouri corporation assumed ownership of the property subject to the Development Agreement and SBRHC, Inc became the Developer under the terms of the Development Agreement in place of the Original Developer.

C. Dos Pueblos Creek is a natural creek and drainage located on the Gaviota Coast in Santa Barbara County. Most of Dos Pueblos Creek on located on land commonly known as Dos Pueblos Ranch, which is adjacent to the Inland Project land.

D. Section 2.02(a) of the Development Agreement, a copy of which is attached as Exhibit "A," sets forth terms concerning the preparation and implementation of a plan to enhance areas of natural, scenic, wildlife, biological, open space, and drainage corridors within Dos Pueblos Creek, consistent with ongoing agricultural use on lands within the Dos Pueblos Creek drainage.

E. In April 2015, a Creek Restoration Plan was prepared pursuant to the requirements of the Development Agreement. The Development Agreement requires the Developer (i) to make a three hundred thousand dollar (\$300,000) payment to a non-profit conservation organization of Developer's choosing to be used to implement the Creek Restoration Plan ("Implementation Funds").and (ii) to offer all reasonable assistance to implement the Creek Restoration Plan.

F. CARCD is a non-profit conservation organization that has substantial qualifications and experience in conserving open space and/or natural resources and has the

requisite expertise to oversee the implementation of the Creek Restoration Plan. CARCD is fully independent of SBRHC and the Original Developer.

G. The Parties now desire to enter into this Agreement in order to implement the Creek Restoration Plan in accordance with the terms set forth in Exhibit "A."

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are specifically incorporated into the body of this Agreement, the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Payment of Implementation Funds.** Upon the execution of this Agreement by all Parties, SBRHC shall deliver to CARCD the Implementation Funds to CARCD, which CARCD shall hold and use to implement the Creek Restoration Plan on the terms set forth in this Agreement and consistent with the terms set forth in the Development Agreement.

2. **Use of Implementation Funds.** CARCD shall expend the Implementation Funds for the sole purpose of implementing the Creek Restoration Plan on or before April 8, 2019, which is the fifth anniversary of the Effective Date of the Development Agreement. CARCD shall use the Implementation Funds to initiate planning and restoration efforts with the expectation that the Implementation Funds will be used to attract other resources to complete the Creek Restoration Plan. In the event that the funds are not expended to implement the Creek Restoration Plan by April 8, 2019 for any reason, including, without limitation, that the conditions in Section 4 have not occurred, CARCD shall expend the funds for creek restoration elsewhere on the Gaviota Coast. CARCD shall (i) obtain the County's written consent as to the alternative creek restoration project prior to expending said funds, and (ii) complete the alternative creek restoration project on or before April 8, 2021, which is the seventh anniversary of the Effective Date of the Development Agreement.

3. **Implementation of Creek Restoration Plan.** CARCD shall use its best faith efforts to fully implement the Creek Restoration Plan. SBRHC shall offer all reasonable assistance to accomplish this outcome, provided that such assistance shall not include further monetary contributions to CARCD or any third-parties unless agreed to in writing by SBRHC.

4. **Conditions Precedent to Restoration Plan Implementation.** Implementation of the Creek Restoration Plan shall be subject to and shall not occur until all of the following acts of third parties have occurred:

(i) the approval and permitting of the Creek Restoration Plan by governmental agencies as required by law,

(ii) final approval and recordation of an Agricultural Conservation Easement from the California Department of Conservation on the Dos Pueblos Ranch property in accordance with the terms of the termination of the Williamson Act contract on Dos Pueblos Ranch approved by the County of Santa Barbara in 2008,

(iii) withdrawal of the Notice of Violation issued by the California Department of Fish & Game on July 14, 2008 and the claims asserted in that notice, and

(iv) consent of owners of Dos Pueblos Ranch with respect to the activities that occur on such owner's property.

5. **Consistency With Development Agreement.** The purpose of this Agreement is to carry out the implementation of the Creek Restoration Plan in a manner that is consistent with and complies with the Developer's obligations under the Development Agreement set forth in Exhibit "A." This Agreement shall be construed and performed in a manner that complies with the Developer's obligations set forth in Exhibit "A."

6. **Attorney Fees.** In the event of any legal or equitable proceeding in connection with this Agreement, the prevailing Party in such proceeding shall be entitled to recover its reasonable costs and expenses, including without limitation reasonable attorneys' and experts' fees, costs and disbursements paid or incurred in good faith at the arbitration, pre-trial, trial and appellate levels, and in enforcing any award or judgment granted pursuant thereto.

7. **No Waiver.** No delay or omission by either Party in exercising any right, remedy, election or option accruing upon the noncompliance or failure of performance by the other Party under the provisions of this Agreement shall constitute an impairment or waiver of any such right, remedy, election or option. No alleged waiver shall be valid or effective unless it is set forth in a writing executed by the Party against whom the waiver is claimed. A waiver by either Party of any of the covenants, conditions or obligations to be performed by the other Party shall not be construed as a waiver of any subsequent breach of the same or any other covenants, conditions or obligations.

8. **Amendment.** This Agreement may be amended only by a written agreement signed by both Standard Portfolios and CARCD.

8. **No Joint Venture.** Nothing contained herein shall be construed as creating a joint venture, agency, or any other relationship between the Parties and no such relationship exists between the Parties.

10. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance is found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the full extent permitted by law; provided that, if the invalidation or unenforceability would deprive either Standard Portfolios or CARCD of material benefits derived from this Agreement or make performance under this Agreement unreasonably difficult, then Standard Portfolios and CARCD shall meet and confer and shall make good faith efforts to modify this Agreement.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

12. **Third Party Beneficiaries.** This Agreement shall not be deemed or construed to confer any rights, title or interest, or obligations on any person entity who is not a Party, including without limitation any third party beneficiary status or right to enforce any provision of this Agreement, upon any person or entity other than Standard Portfolios and CARCD.

13. **Time of the Essence.** Time is of the essence in the performance by each Party of its obligations under this Agreement.

14. **Authority.** Each person executing this Agreement represents and warrants that he or she has the authority to bind his or her respective Party to the performance of its obligations hereunder and that all necessary board of directors', shareholders', partners' and other approvals have been obtained.

15. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original (including copies sent to a Party by facsimile transmission or electronic mail transmission) as against the party signing such counterpart, but all of which together shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

16. **Notices.** All notices other communications required or permitted under this Agreement shall be made in writing, and shall be delivered either personally (including by private courier), by certified mail, postage prepaid and return receipt requested, or by nationally recognized overnight courier service to the following addresses, or to such other addresses as the parties may designate in writing from time to time:

If to Standard Portfolios:

Greg Garmon  
Standard Portfolios Asset Management Company, LLC  
488 E. Santa Clara Street, Suite 304  
Arcadia, CA 91006

with copies to:

Stanley W. Lamport, Esq.  
Cox, Castle & Nicholson LLP  
2029 Century Park East, Suite 2100  
Los Angeles, CA 90067

If to CARCD:

Karen Buhr, Executive Director  
California Association of Resource Conservation Districts  
801 K Street, MS 14-15  
Sacramento, CA 95814

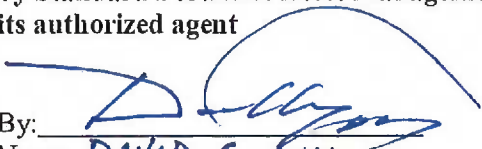
Notices personally delivered shall be deemed received upon delivery. Notices delivered by certified mail as provided above shall be deemed received on actual delivery. Notices delivered

by courier service as provided above shall be deemed received twenty-four (24) hours after the date of deposit.

IN WITNESS WHEREOF, SBRHC and CARCD have executed this Agreement by proper persons thereunto duly authorized, to be effective as of the Effective Date.

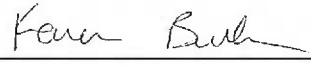
**“SBRHC”**

**SBHC, Inc.**  
**by Standard Portfolios Asset Management Company, LLC,**  
**its authorized agent**

By:   
Name: DAVID G. LIU  
Title: PRINCIPAL

**“CARCD”**

**California Association of Resource Conservation Districts,**  
**a California nonprofit public benefit corporation**

By:   
Name: Karen Buhr  
Title: Executive Director