

Project: Greenwell Preserve
APN: 005-080-004
Folio: 003412
Agent:

LEASE AGREEMENT

THIS LEASE AND AGREEMENT (hereafter “AGREEMENT”) is made by and between the

COUNTY OF SANTA BARBARA,
a political subdivision of the State of
California, hereinafter referred to as
“COUNTY,”

and

THE SUMMERLAND CITIZENS
ASSOCIATION, a California
Nonprofit organization, hereinafter
referred to as “LESSEE,”

with reference to the following:

WHEREAS, COUNTY is the owner of that certain real property in the Town of Summerland, California, County of Santa Barbara, previously used for a County road yard and now known as the “Summerland Greenwell Preserve,” hereinafter “Property,” and

WHEREAS, LESSEE desires to extend and offer to assist the COUNTY and is willing to operate and maintain the Property as provided herein; and

WHEREAS, the COUNTY has determined that it is in the best public interest to allow LESSEE use of the Property pursuant to California Government Code Section 26227 which allows a board of supervisors of a county to fund programs deemed necessary to meet the social needs of the population of the county and to make available any county owned property, which will not be needed for county purposes during the time of possession, to be used to carry out such programs; and

WHEREAS, under the terms of this Agreement, COUNTY is providing funding for the LESSEE through community service area funds, and has determined that the Property will not be needed for COUNTY purposes during the time of possession; and

WHEREAS, COUNTY desires to execute this Agreement with LESSEE for a period of twenty (20) years, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE: The provisions of this Agreement shall be administrated and enforced for the County through the Director of Community Services Department, or designee. The Director shall have authority to issue or deny any

approvals required of the Director by this Agreement. LESSEE understands and agrees that all approvals required by the Director shall be at his or her sole discretion.

2. 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: Santa Barbara County
Director, Community Services Department
105 E. Anapamu Street, 4th Floor
Santa Barbara, CA 93101
(805) 568-2461

To LESSEE: President, SCA
P.O. Box 508
Summerland, CA 93067
(805) 565-3573

With a copy to:
Chairman
Summerland\Greenwell Preserve Project Subcommittee
P.O. Box 1353
Summerland, CA 93067

or at such address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. LEASED PROPERTY: COUNTY hereby leases to LESSEE and LESSEE hereby leases from COUNTY that real property known as the Summerland Greenwell Preserve, A.P.N. 005-080-004, which consists of two building structures, an asphalt parking lot and miscellaneous landscaping, and shown as the diagonally slashed area on Exhibit "A" attached hereto and incorporated herein by reference.

4. TERM: The term of this Agreement shall be for a period of twenty (20) years commencing on the date of execution of this Agreement by COUNTY and ending twenty (20) years from such date, unless earlier terminated as provided herein. The Santa Barbara County Community Services Director may agree to an extension(s) of this agreement on behalf of COUNTY for three additional one-year terms by mutual agreement with LESSEE, provided there are no other amendments to its terms.

5. RENT: In accordance with California Government Code Section 26227 and the COUNTY Board of Supervisors' determination that the operations of the LESSEE are a benefit to the community, and in consideration of LESSEE operating and maintaining the Property, there will be no base rent during the term.

6. USE OF PROPERTY: LESSEE shall use the Property for the operation of a public park at no cost to users and in accordance with the provisions herein and of Exhibit "B" and Exhibit "D," attached hereto and incorporated herein by reference. LESSEE shall also have use of buildings on the Property as described on said exhibits.

LESSEE shall permit COUNTY and its agents, employees, and independent contractors to enter onto the Property at all times.

7. MAINTENANCE AND REPAIRS. LESSEE shall operate, maintain and repair at its own expense the Property as set forth in Exhibit "B" and Exhibit "D." The operations, maintenance, and repairs shall be performed as necessary to keep the Property in clean, neat, sanitary and safe conditions. LESSEE's maintenance and repair does not require prior written approval by COUNTY. It is mutually understood and agreed that operations, maintenance and repair work are the sole responsibility of the LESSEE and such operations, maintenance, and repair work shall be done in a competent manner. LESSEE shall be entitled to an annual reimbursement by COUNTY of an amount not to exceed \$3,120 each fiscal year to off-set costs associated with ongoing maintenance, nursery management and administration, including utilities and waste holding tank maintenance as identified in Exhibit "D."

8. ALTERATIONS AND CONSTRUCTION. During the term of this Agreement, LESSEE shall not commence with any new construction, alterations, or capital improvements to, in, on, or about the Property without the prior written approval of the Director of Community Services, who may from time to time request additional information in writing.

Any construction, alteration, or capital improvement project to, in, on or about the Property shall be presented to the Director of Community Services in written form with proposed plans and specifications prior to any construction, alterations, or capital improvements. Prior to approving any preliminary construction, alteration, or capital improvement relative to the Property, the Director shall obtain the approval of a licensed COUNTY employee certifying that LESSEE plans and specifications are approved. No construction, alteration, or capital improvement which has been disapproved by the Director and/or the licensed employee shall be performed, except where the Director and licensed employee issue a subsequent written approval of such work.

The Director's approval shall be conditioned upon LESSEE acquiring appropriate permits, clearances and approvals to proceed from governmental and regulatory agencies, the furnishing of a copy thereof to the Director, or designee, prior to the commencement of work and the compliance by LESSEE with all conditions of all permits, clearances, and approvals in a prompt and expeditious manner. Any and all permits, clearances, and approvals required shall be made only on the merits of the application thereof, and nothing in this Agreement shall be construed to require that COUNTY, or any other government agency, is required to approve or conditionally approve such permits, clearances, and approvals. LESSEE shall give the Director, or designee, not less than ten (10) days written notice prior to the commencement of any work in, on or about the Property, and COUNTY shall have the right to post Notices of non-responsibility in or on the Property as provided by law.

LESSEE shall keep the Property free and clear of liens for labor and materials expended by or for LESSEE or on its behalf. LESSEE shall indemnify, hold COUNTY harmless and defend COUNTY with respect to any construction, alterations, or capital improvements.

LESSEE shall be entitled to reimbursement by COUNTY of an amount not to exceed \$36,320 to off-set one-time deferred maintenance, which includes non-native plant removal, pruning and trimming native plants, overseeing maintenance crews and the completion of an existing wall associated with the Property, as further identified in Exhibit "D."

9. UTILITIES AND SERVICES. LESSEE shall pay for utilities and services furnished to or used by it on the Property, including but not limited to water, electrical, sewer, trash collection and natural gas. LESSEE shall pay for all services provided for or on the Property by the Santa Barbara Coastal Vector Control District (District) as stipulated in the contract agreement between COUNTY and District. LESSEE shall pay invoices submitted to LESSEE by District for services provided. LESSEE shall be provided an annual reimbursement of up to \$3,120 towards utility and service costs as identified in Exhibit B and D.

LESSEE agrees that any utilities constructed or placed on the Property, either permanent or temporary in nature, after the effective date of this Agreement shall be subject to prior written consent by the Director of Community Services.

If LESSEE's utility or service requirements increase over the existing level of utility or service use as of the date the term of this Agreement commences, upon written approval by the Director, LESSEE, at its sole cost and expense, may install new or additional utilities or services on the Property. Installation costs shall include not only the costs of installing utilities or services on the Property, but also the cost of bringing such utilities or services to the Property. If LESSEE is constructing or remodeling improvement(s) and additional utilities or services are required (e.g., wiring, plumbing, conduits, and mains) as a result of LESSEE's changes or increased utility or service requirements, LESSEE shall pay on demand the utility or service company(ies) the total costs of said utility and/or service.

10. INDEPENDENT CONTRACTOR. LESSEE shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. LESSEE understands and acknowledges that it and persons performing services for or on behalf of LESSEE shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation, and protection of tenure.

11. STANDARD OF PERFORMANCE. LESSEE represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, LESSEE shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same services that are provided by LESSEE. LESSEE shall correct any errors or omissions at COUNTY's

request without additional compensation. Permits or licenses shall be obtained and maintained by LESSEE without additional compensation.

12. ANNUAL REPORT. LESSEE shall provide COUNTY with an annual report on August 1st of each year during the term of this Agreement, which shall consist of LESSEE's current Board of Directors with names, addresses, and telephone numbers; information regarding general operation and management of the Property during the preceding fiscal year, improvements completed or planned and an accounting of all income and expenses.

13. TAXES. COUNTY shall not be responsible for paying any taxes on LESSEE's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, LESSEE agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

LESSEE acknowledges that this Agreement may constitute a taxable possessory interest in the Property and agrees to pay all possessory interest taxes, if any.

14. CONFLICT OF INTEREST. LESSEE covenants that LESSEE presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or with LESSEE's leasehold interest in the Property. LESSEE further covenants that in the performance of this Agreement, no person having any such interest shall be employed by LESSEE.

15. RECORDS, AUDIT, AND REVIEW: LESSEE shall keep and maintain good and sufficient books and records which shall include: receipts, charges, credits, disbursements and any and all other transactions in connection therewith including Federal, State and local tax returns; records of daily bank deposits of the entire receipts from transactions at or from the operation of the LESSEE; sales slips; daily dated cash register tapes; sales books; duplicated bank deposit slips; bank statements. All accounting records shall be kept in accordance with generally accepted accounting practices. Such books and records shall be separate from other business interests not a part of this Agreement. Such books and records shall be kept on or within 50 miles of the Property and be available for the inspection of officers, employees and agents of the COUNTY at all reasonable times. Such records shall be maintained by LESSEE for a period of four (4) years from date the record was created. Audits to verify LESSEE'S financial results may be conducted by the COUNTY. The COUNTY may collect from the LESSEE, for repeated, willful, or continuing failure to submit reports, maintain records, make required payments, fulfill other material requirements or provide documents or information required pursuant to the Agreement, a penalty of \$100/day for each day the violation continues.

The COUNTY may require the LESSEE to make and complete an annual audit of receipts of LESSEE'S entire business affairs and records relating to the LESSEE'S operation under this Agreement, prepared and signed by a certified public

accountant, or licensed public accountant who has prepared such audit in accordance with standards established and published by the American Institute of Certified Public Accountants and any amendments or additions thereto or successors thereof. If annual audited financial statements are not required, the LESSEE shall provide and deliver to the COUNTY'S Auditor-Controller and Community Services Department, a copy of an unaudited annual financial statement prepared in accordance with Generally Accepted Accounting Principles and delivered within 90 days of the LESSEE'S fiscal year end. The LESSEE will also provide its completed IRS Form 990 on an annual basis and evidence that the charity is currently registered with the California Secretary of State and also the California Attorney General's Registry of Charitable Trusts.

16. TITLE AND WARRANTIES. Title to the Property and all improvements now located or hereafter constructed thereon is and shall be vested in the COUNTY at all times. The title to all items of personal property now located in, upon, or around the Property shall be vested in COUNTY unless otherwise expressly agreed between the parties. The title to all items of personal property hereafter brought in, upon, or around the Property by LESSEE shall be vested in LESSEE unless otherwise expressly agreed between the parties. The LESSEE agrees to lease and accept the Property in its present condition and the COUNTY shall have no responsibility to remove or replace any existing structures, installation, utility or pipelines except as stipulated herein and on Exhibits "B" and "D."

17. INDEMNIFICATION AND INSURANCE. LESSEE shall be required to indemnify and carry and maintain insurance in accordance with the provisions of Exhibit "C" attached hereto and incorporated by reference.

18. NONDISCRIMINATION. COUNTY hereby notifies LESSEE that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and LESSEE agrees to comply with said provisions, and as they may be amended from time to time.

19. ASSIGNMENT. LESSEE shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to assign or so transfer without such consent shall constitute grounds for termination.

20. AGENTS' INSURANCE. LESSEE shall require all agents, contractors, permittees, and licensees performing any activities or duties on the Property, to carry and maintain insurance in accordance with the provisions of Exhibit "C" attached hereto and incorporated by reference.

21. ENVIRONMENTAL IMPAIRMENT. LESSEE at LESSEE's expense, shall comply with all applicable laws, regulations, rules, and orders, regardless of when they become or became effective, including without limitation those relating to

construction, grading, signage, health, safety, noise, environmental protection, waste disposal, clean-up and water and air quality, and shall furnish the COUNTY satisfactory evidence of such compliance upon the request of COUNTY.

22. TOXICS. LESSEE shall not manufacture or generate hazardous waste on the Property unless specifically authorized under other terms of this Agreement. LESSEE shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored or transported on the Property during the term of this Agreement and shall comply with and be bound by all applicable provisions of such federal, state or local law, regulation or ordinance dealing with such wastes, substances or materials. LESSEE shall notify COUNTY and all appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances, or materials.

23. COMPLIANCE WITH THE LAW. LESSEE shall, at its sole cost and expense, comply with all applicable federal, state, county, and municipal laws, statutes, rules, ordinances, and regulations in effect during the term or any part of the term of the Agreement applying to or regulating the use and occupation of the Property or otherwise with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of LESSEE in any action or proceeding against LESSEE, whether COUNTY is a party thereto or not, that LESSEE has violated any such ordinance or statute, shall be conclusive of that fact as between LESSEE and COUNTY.

24. DEFAULT: Except as otherwise specified herein, should either party at any time be in default hereunder with respect to any material covenant contained herein, the non-defaulting party shall give notice to the defaulting party specifying the particulars of the default and the defaulting party shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of twenty one (21) calendar days from such notice, then this Agreement shall terminate at the option of the non-defaulting party unless the cure of such default shall reasonably take more than twenty-one (21) calendar days in which case the defaulting party shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

25. REMEDIES: In the event of a default or breach, either party may exercise any right or remedy at law or in equity which such party may have by reason of such default or breach.

26. WAIVER: In no case is a waiver by County of any term or provision of this Agreement effective unless such waiver is expressly stated in writing and approved by County in accord with the provisions of this Agreement. It is understood and agreed that any waiver of any kind during the term of this Agreement, shall not be, nor construed to be, a waiver of any subsequent breach of a like kind or of any other provision of this Agreement.

27. TERMINATION: This Agreement shall terminate and all rights of LESSEE hereunder shall cease and LESSEE shall quietly and peacefully vacate the

Property upon LESSEE's failure to cure a default as specified above, upon expiration of the term of this Agreement or any extension thereof, upon LESSEE losing appropriate non-profit status, and/or upon either party giving no less than ninety (90) days written notice of termination given at any time during the term, with or without cause.

28. SURRENDER OF PREMISES. Upon expiration of the term or other termination of this Agreement, LESSEE shall vacate and surrender possession of the Property to COUNTY in good condition, except for ordinary wear and tear.

LESSEE shall remove all its personal property within the above stated time. In addition, LESSEE shall repair any damage such removal may cause to the Property, and ensure that any potential safety hazards are remedied before returning the Property to COUNTY, including but not limited to capping and properly deactivating all affected electrical connections, panels, etc. At the sole option of COUNTY, LESSEE shall remove all improvements placed by LESSEE on the Property and perform restoration of the Property within the above stated time. COUNTY may elect to retain or dispose of in any manner any alterations or LESSEE's personal property that LESSEE does not remove from the Property on expiration or termination of this Agreement by giving at least thirty (30) days' notice to LESSEE. Title to any of LESSEE's personal property that COUNTY elects to retain or dispose of on expiration of the thirty (30) day period shall vest in COUNTY. LESSEE waives all claims against COUNTY for any damage to LESSEE resulting from COUNTY's retention or disposition of any such alterations or LESSEE's personal property. LESSEE shall be liable to COUNTY for COUNTY's costs for storing, removing, and disposing of any alterations or LESSEE's personal property.

If LESSEE fails to surrender the Property to COUNTY on expiration or termination of the Agreement, LESSEE shall hold COUNTY harmless from all damages resulting from LESSEE's failure to surrender the Property, including, without limitation, claims made by a succeeding lessee resulting from LESSEE's failure to surrender the Property.

29. SECTION HEADINGS. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

30. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision as if the unenforceable provision is not contained herein.

31. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each other 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.

32. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

33. NO WAIVER OF DEFAULT. No delay or omission of COUNTY 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 COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

34. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with 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 estoppels.

35. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in this Agreement, by or on behalf of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

36. 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 the federal district court nearest to Santa Barbara County, if in federal court.

37. EXECUTION OF 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 parties shall preserve undestroyed, shall together constitute one and the same instrument.

38. AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity (ies), person(s), or firm(s) and that all formal requirements necessary or required by any county, state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, LESSEE hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which LESSEE is obligated, which breach would have a material effect hereon.

39. PRECEDENCE. In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

40. FACSIMILE SIGNATURES. In the event that the parties hereto utilize facsimile 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 transmission of the facsimile, except that funds shall not be released upon a facsimile signature nor shall facsimile signed documents be accepted for recordation by the Clerk-Recorder of the COUNTY.

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IN WITNESS WHEREOF, the parties have executed this AGREEMENT to be effective on the date executed by COUNTY.

“COUNTY”
COUNTY OF SANTA BARBARA

ATTEST:
CHANDRAL L. WALLAR
CLERK OF THE BOARD

By: _____
Doreen Farr, Chair
Board of Supervisors

Date: _____

By: _____
Deputy

APPROVED:

“LESSEE”
SUMMERLAND CITIZEN ASSOCIATION

By: Mary Jo Zager
President

By: Herman Parker
Herman Parker, Director
Community Services Dept.

By: _____
TITLE
Tax ID Number 77-0321266

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: Dennis A. Marshall
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: Robert W. Geis
Deputy Auditor-Controller
Gregory Eric Levin
Advanced & Specialty Accounting

APPROVED:

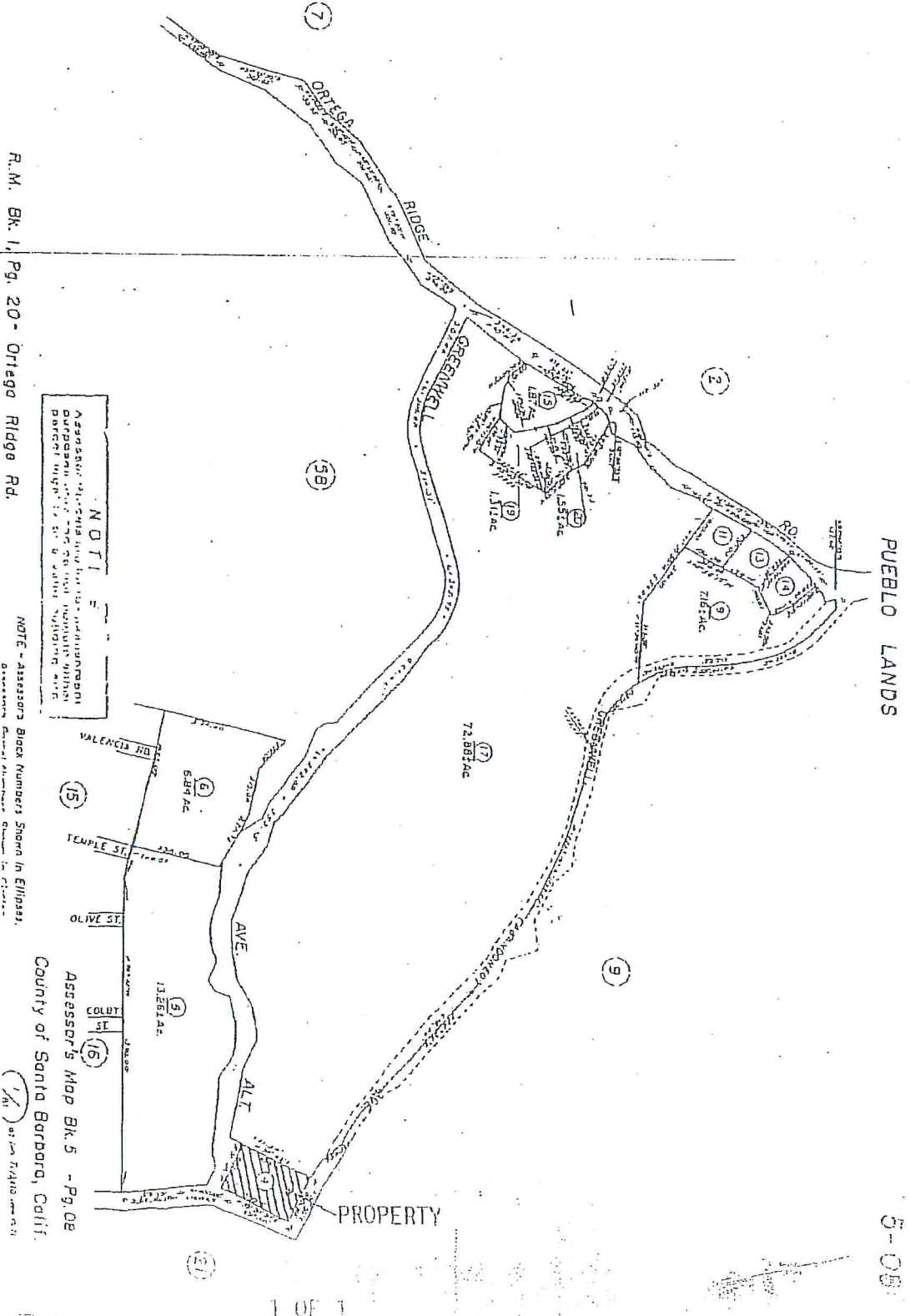
By: Ronn Carlentine
Ronn Carlentine
Real Property Manager

APPROVED:

By: Ray Aromatorio
Ray Aromatorio, ARM, AIC
Risk Manager

EXHIBIT "A"
(Property Map)

EXHIBIT A



R.M. Bk. 1, Pg. 20 - Oriega Ridge Rd.

NOTE - Assessor's Block Numbers Shown in Ellipses, Designate Actual Block Number Shown in Figure.

Assessor's Map Bk. 5 - Pg. 08
 County of Santa Barbara, Calif.

PUEBLO LANDS

PROPERTY

EXHIBIT "B"

STATEMENT OF WORK FOR LEASE AND AGREEMENT WITH SUMMERLAND CITIZENS ASSOCIATION

1. LESSEE shall provide equipment, services, administration, communication network and incidentals to provide for the operation, maintenance, and repair of the County owned property and buildings located in Summerland, California known as the Summerland Greenwell Preserve (APN 005-080-004) hereinafter "Property," and agrees to provide incidental and necessary services in connection therewith. LESSEE's use of the buildings on the Property shall be restricted to public meetings and gatherings, the storage of files and records, plant propagation and in the case of a County emergency an area of community support efforts. No other uses shall be permitted without written approval by the Director of Community Services Department.
2. LESSEE shall construct capital park improvements as shown on submitted project plans and specifications and each project shall be permitted under all applicable governmental and regulatory agency requirements.
3. Prior to commencing any work at the property that requires a permit or other approvals, LESSEE shall provide to the Director of Community Services all construction plans and specifications for all such work. Within thirty (30) days of receipt of the plans and specifications, the Director of Community Services shall issue or deny an approval for LESSEE to seek permits and other approvals required for such work. Once approved, within thirty (30) days LESSEE shall complete final construction plans and specifications with application submittals for all permits and approvals required for the work. LESSEE shall commence such work within thirty (30) days after receipt of all required permits and approvals. All such work shall be completed and the Property shall be open to the public four (4) months after work begins. COUNTY shall have the right to remove certain improvements from the Property prior to LESSEE's work on the Property.
4. LESSEE shall cooperate with COUNTY and law enforcement agencies in the enforcement of all applicable laws, rules, and regulations relating to the use of this Property, including, but not limited to the provisions of the Chapter 26 of the Santa Barbara County Code.
5. LESSEE agrees to employ only personnel and contractors that are adequately trained and qualified and who possess current licenses and/or certifications necessary to carry out the requirements of this Agreement.

Any volunteer assistance hired to carry out the requirements to this Agreement shall require the completion of a liability waiver indemnifying both LESSEE and COUNTY. COUNTY shall provide LESSEE a copy of an acceptable waiver form upon LESSEE request.
6. In carrying out its obligations to provide services under this Agreement, LESSEE shall at all times have sole and exclusive supervision and control over employment, geographical distribution of manpower, and all other affairs incident to fulfilling the obligations under this Agreement. LESSEE shall comply with reasonable requests of the Director of Community Services Department in regard to park operations, maintenance, improvements, and related services.
7. LESSEE shall provide all labor, material, supplies, and equipment necessary to fully perform all operations, maintenance, and improvements on the Property.

8. COUNTY and LESSEE acknowledge that funding is available through County Service Area 11 for site capital improvements to the Property in an amount of THIRTY SIX THOUSAND THREE HUNDRED DOLLARS \$36,320. These funds will be paid for site capital improvements to the Property in three (3) increments of \$12,107, \$12,107 and \$12,106 over a three (3) year period. The first payment is on November 1, 2012, the second payment is on November 1, 2013, and the final payment is on November 1, 2014. LESSEE shall provide a total accounting of all capital improvements associated with the expenditure of these funds.
9. COUNTY and LESSEE acknowledge that the funding is available through County Service Area 11 for maintenance and utilities for the Property in the maximum amount of THREE THOUSAND ONE HUNDRED AND TWENTY DOLLARS \$3, 120 to be payable each fiscal year. LESSEE shall request this reimbursement in writing accompanied by a complete and total accounting of the expenditures during that fiscal year and submitted no later than August 1 of each year.
10. LESSEE shall make every effort to promote the availability of the Property as a public meeting space to the members of the public and community non-profit organizations. LESSEE is required to provide quarterly progress reports to the Director of Community Services of those non-profit organizations utilizing the Property.

EXHIBIT "C"
INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Indemnification: LESSEE agrees to indemnify, defend and hold harmless COUNTY and its authorized officers, employees, agents and volunteers from and against any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. LESSEE's indemnification obligation applies to COUNTY's "active" as well as "passive" negligence but does not apply to COUNTY's "sole negligence" or "willful misconduct" within the meaning of California Civil Code Section 2782. LESSEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. This Indemnification provision shall survive any expiration or termination of this Agreement.

2. Additional Insured: All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability and Automobile Liability policies, shall contain endorsements naming COUNTY and its officers, employees, agents and volunteers as additional insured's with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for COUNTY to vicarious liability but shall allow coverage for COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

3. Waiver of Subrogation Rights: LESSEE shall require the carriers of required coverage's to waive all rights of subrogation against COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit LESSEE and LESSEE's employees or agents from waiving the right of subrogation prior to a loss or claim. LESSEE hereby waives all rights of subrogation against COUNTY.

4. Policies Primary and Non-Contributory: All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by COUNTY.

5. Severability of Interests: LESSEE agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between LESSEE and COUNTY or between COUNTY and any other insured or additional insured under the policy.

6. Proof of Coverage: LESSEE shall furnish Certificates of Insurance to the COUNTY Department administering the Agreement evidencing the insurance coverage, including Additional Insured Endorsements and Waiver of Subrogation Endorsements (a.k.a.: Waiver of Transfer Rights of Recovery Against Other, Waiver of Our Right to Recover from Others), as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and LESSEE shall maintain such insurance from the time LESSEE

commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, LESSEE shall furnish a copy of the Declaration page for all applicable policies and will provide complete copies of the policies and endorsements immediately upon request.

7. Acceptability of Insurance Carrier: Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".

8. Deductibles and Self-Insured Retention: Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

9. Failure to Procure Coverage: In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to cancel the Agreement or obtain insurance if it deems necessary and any premiums paid by COUNTY will be promptly reimbursed by LESSEE or COUNTY payments to LESSEE will be reduced to pay for COUNTY purchased insurance.

10. Insurance Review: Insurance requirements are subject to periodic review by COUNTY. The Risk Manager or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of COUNTY. In addition, if the Division of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against COUNTY, inflation, or any other item reasonably related to COUNTY's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. LESSEE agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

11. Insurance Specifications: LESSEE agrees to provide insurance set forth in accordance with the requirements herein. If LESSEE uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, LESSEE agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in any way affecting the indemnity herein provided and in addition thereto, LESSEE shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

A Workers' Compensation/Employers Liability: A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's

Liability with one million dollar (\$1,000,000) limits covering all persons including volunteers providing services on behalf of LESSEE and all risks to such persons under this Agreement.

If LESSEE has no employees, it may certify or warrant to COUNTY that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the County’s Risk Manager.

With respect to LESSEEs that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers’ Compensation insurance.

B. Commercial/General Liability Insurance: LESSEE shall carry General Liability Insurance covering all operations performed by or on behalf of LESSEE providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence and two million dollars \$2,000,000 in the aggregate.

C. Automobile Liability Insurance: Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the LESSEE is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If LESSEE owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

D. Umbrella Liability Insurance: An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability. An Additional Insured Endorsement shall be provided on the Umbrella policy as it relates to the primary policies requiring an Additional Insured Endorsement.

EXHIBIT "D"
LESSEE'S BUSINESS PLAN

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Greenwell Preserve Collaboration

BUSINESS CASE

Presented to

Salud Carbajal, First District Representative on the Board of Supervisors

September 2, 2010

Prepared By: David Hill – Chair Greenwell Preserve

Greenwell Preserve Collaboration

Statement of Purpose

The Greenwell Preserve Collaboration Project will address deferred maintenance at the Preserve. In addition, it will establish an ongoing process to assure that maintenance at the Preserve is addressed.

Deliverable	Approach
One-time Deferred Maintenance	Remove non-native plants and maintenance native plants
Ongoing Maintenance	Establish maintenance routine and schedule

Project Related Assumptions

This project will be completed in a collaborative manner. The main participants in the project efforts include: the Greenwell Preserve Committee, the California Conservation Corps and Growing Solutions.

Montecito Trails, Summerland Beautiful and other community volunteers will input to and support these efforts based on their specific areas of expertise.

Project funding sources have been analyzed and it is believed that these project efforts fall within the frame work and limitations for funding approvals.

The financial calculations used to produce this business case are detailed within each deliverable and have been jointly produced by the project participants.

The use of California Conservation Corps crews and the native plants expertise provided by Growing Solutions are both necessary components to the success of this project effort.

Greenwell Preserve Collaboration

Deferred Maintenance and Other Planned Improvements

A California Conservation Corps (CCC) full crew will perform deferred maintenance at the Summerland Greenwell Preserve by removing non-native plants and by pruning and thinning native plants throughout the site. Growing Solutions (GS) will be onsite to provide an "educational overview" on native/non-native plant identification to the crew and be available to answer specific inquires as work begins. A member of the Greenwell Preserve Committee (GPC) will be available to provide site related administrative support throughout the work effort. It is estimated that completion of this "Deferred Maintenance" will take place over the next three years or three years from funding becoming available.

Also, the existing wall, separating the parking area from the native habitat, needs to be completed to conform to the original plan for it to appear as a remnant of an old adobe structure. This work will be done by a private contractor.

Work Effort	Participants
Deferred Maintenance	Greenwell Preserve Committee California Conservation Corps Growing Solutions
Complete Wall	Private Contractor

Project Costs

Participant	Responsibility	Cost
CCC	Non-native plant removal Pruning and thinning native plants	\$25,920 (1)
GS	Oversight to CCC crews	\$2,400 (2)
GPC	Site administration.	N/C
Modify Wall	Contractor (estimate)	\$8,000
Total Differed Maintenance		\$36,320

Cost Calculation Detail

- (1) 12 Crew Members @ \$18.00 per hour X 8 hours X 15 days
- (2) 1 Person @ \$40.00 per hour X 4 hours X 15 days

Funding Sources

Nesbit Mitigation Funds
Lighting District Funds

Ongoing Maintenance and Administration

As part of the annual maintenance budget Growing Solutions will be asked to provide staffing of one person for one-half a day each month. The duties will include general maintenance of the Preserve and nursery. A maintenance schedule will be developed by the Summerland Greenwell Preserve Committee to be used Growing Solutions staff and a member of Summerland Greenwell Preserve Committee will be available to provide site related administrative support throughout the work day. This ongoing maintenance along with Summerland Greenwell Preserve administration cost which include utilities and waste holding tank maintenance will be funded using Lighting District funds.

Work Effort	Participants
Ongoing Maintenance	Greenwell Preserve Committee Growing Solutions

Project Costs

Participant	Responsibility	Cost
GPC	Develop Maintenance Schedule Site administration	N/C
Growing Solutions	Monthly maintenance and nursery management.	1,920 (1)
GPC	Utilities	\$1,200 (2)
Total Ongoing Maintenance and Administration		\$3,120

Cost Calculation Detail

(1) 1 Person @ \$40.00 per hour X 4 hours X 12 days

(2) Annual electrical & water @ \$900, and annual waste management @ \$300.

Funding Sources

Lighting District Funds

Greenwell Preserve Collaboration

Project Summary

Components	Projected Timeframe	Projected Cost
Deferred Maintenance	Three Years from Funding	36,320
Ongoing Maintenance	Annually	\$ 3,120

Recommendations for Approval:

At the May 12, 2010, meeting of the Summerland Citizens Association Board, a motion was made by B. McClain and seconded by R. Deneault to approve the ongoing maintenance and administration (electric, water and holding tank clean out) approach at a projected annual cost of \$3,120 and to ask for CSA-11 funds to pay these expenses.
Vote: Yes – 5 No – 0

An additional motion was made by B. McClain and seconded by D. Hill to approve the deferred maintenance and other planned improvements at a projected cost of \$36,320 over a three year period using CSA-11 funds.
Vote: Yes – 5 No – 0

Summerland Citizens Association

By Cindy Sapienza _____

