



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: March 12, 2013
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D., 568-2085
Director
Contact Info: Doug Anthony, Deputy Director, Energy & Minerals, 568-2046
SUBJECT: Amendment No. 1 to Coastal Resource Enhancement Fund Grant Contract No.
BC-13-091 with Trust for Public Lands for Acquisition of Ocean Meadows
Property, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A. Approve and authorize the Chair to execute Amendment No. 1 to Coastal Resource Enhancement Fund (CREF) contract BC-13-091 (included herein as Attachments 1 and 2, respectively) with the Trust for Public Lands (TPL) for a grant to acquire a 63-acre portion of the Ocean Meadows property, located north of Devereux Slough, for purposes of modifying the indemnification clause of the contract and clarifying the restricted uses of the property.
- B. Determine that the contract amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15313 of the State Guideline for the Implementation of the California Environmental Quality Act (Attachment 3)

Summary Text:

The attached amendment to the previously executed CREF grant contract revises the indemnification clause and clarifies allowable uses of the property. Regarding indemnification, the original contract used the County's standard language. However, TPL will transfer the property to the University of California at Santa Barbara (UCSB) for long-term stewardship immediately after escrow closes on the acquisition from the current owner. As an agency of the State of California, UCSB is obligated to use the State's standard indemnification language. At UCSB's request, this amendment substitutes the State's standard

indemnification clause for the County's, a practice that has been routine in the past and is agreeable to County Counsel and County Risk Management in this case.

Also at the request of UCSB, the recommended amendment clarifies the University's intended use of the property via a Covenant Restricting Use to ensure that such use does not conflict with the purpose of CREF, and that the uses are clearly defined for purposes of enforcement, should the need arise. The covenant's stated purposes for use of the property are as follows: 1) preserving the Property for public access for passive recreation, 2) open space preservation, 3) coastal wetland and wildlife habitat conservation and restoration, 4) habitat for endangered species, and 5) associated research and educational activities. The defined uses vary slightly from that represented by County staff in the original Board packet. Among other things, this amendment, if approved, would alter the use to include special events to be held only within the existing clubhouse area, and to be limited to educational and other University events (e.g., donor and community events) related to the purposes of the property's use, stated above. For example, the University may choose to conduct a fundraising event on the property to help fund its restoration of the property, or may conduct an event for volunteers that will assist with the property's restoration.

Background: On September 7, 2010, the Board of Supervisors allocated two CREF grants to the Trust for Public Lands: one in the amount of \$438,500 from the 2010 CREF cycle and one in the amount of \$311,500 from the 2011 CREF cycle, for a total of \$750,000. On December 11, 2012, the Board of Supervisors approved execution of Board Contract BC-13-091 to convey those grants to TPL with terms, including indemnification of the County and restrictions on use. The recommended action would amend the Board Contract approved on December 11, 2012. The recommended action today carries the same CEQA exemption as that used for execution of the original contract (see Attachment 3).

Fiscal and Facilities Impacts:

No fiscal and facilities impacts. There would be no ongoing County costs for maintenance of this property. The Coastal Resource Enhancement Fund is funded by annual mitigation fees paid by developers of offshore oil and gas reserves. CREF is included in the Energy Division Mitigation Program Cost Center in the County's approved FY 12/13 Budget on page D-138 (see "Source of Funds Summary – Energy Mitigation" for revenue, expenditures are included in "Use of Funds Summary – Energy"). Staff costs to prepare this contract have been offset by interest accrued to the Coastal Resource Enhancement Fund. The \$750,000 for purchasing the Ocean Meadows Property is expended from Fund #0063, Dept. #053, Program #5090, Account #7863, Project #1009 (\$438,500) and Project #1101 (\$311,500).

Special Instructions:

Clerk of the Board will forward a copy of the contract to Kathy McNeal Pfeifer of the Planning and Development Department, Energy & Minerals Division, who will mail a copy of the contract to the grantee.

Attachments:

1. Amendment No. 1 to BC-13-091
2. CREF Grant Agreement BC-13-091
3. Notice of Exemption

ATTACHMENT 1

AMENDMENT NO. 1 TO BC-13-091

CONTRACT NO. BC-13-091

**AMENDMENT NO. 1 OF
AGREEMENT BETWEEN THE COUNTY OF SANTA BARBARA
AND THE TRUST FOR PUBLIC LAND
AND ESCROW INSTRUCTIONS**

This Amended Agreement is made on this twelve day of March, 2013, by and between The Trust for Public Land, a California non-profit public benefit corporation registered under Section 501.c.3 of the U.S. Internal Revenue Code (hereinafter referred to as "GRANTEE"), and the County of Santa Barbara, a political subdivision of the State of California (hereinafter referred to as "COUNTY" and collectively referred to as "the parties").

RECITALS

WHEREAS, on December 11, 2012, the parties entered into a grant agreement (the "Agreement") wherein County granted to GRANTEE funds from the Coastal Resource Enhancement Fund ("CREF"), to fund the purchase of a 63-acre portion of the Ocean Meadows property, located north of Devereux Slough and Coal Oil Point, adjacent to the City of Goleta, currently shown as APN No. 073-090-62 in the official records of Santa Barbara County;

WHEREAS, the Agreement authorized GRANTEE to assign the Agreement and its obligations therein to the State of California and,

WHEREAS, to facilitate that assignment, the state has requested County's approval of the attached Covenant Restricting Use and,

WHEREAS, to facilitate that assignment, the State has requested its standard indemnification language be used in the Agreement;

WHEREAS, the parties, after conferring with the State, have agreed on the attached Covenant Restricting Use and the indemnity language that should be included in the Agreement.

AMENDED GRANT TERMS AND CONDITIONS

Now, therefore, it is agreed that the Paragraphs 4 and 12 of the Agreement shall be modified to read as follows:

4. RESTRICTIONS ON USE: The PROPERTY shall be dedicated exclusively and in perpetuity for the purposes of public access for passive recreational uses, open space preservation, coastal wetland habitat conservation and restoration, habitat for endangered species, associated research and educational activities, and supportive events to affect these purposes, and no use of the PROPERTY inconsistent with those purposes is permitted. Passive recreational uses shall be limited to those uses that do not impact the wetland and upland transitional habitat. These restrictions are stated in the Covenant Restricting Use included in this Agreement as Attachment B, applicable to the legal description of the PROPERTY provided in Attachment C and map of the property provided in Attachment D. Any changes to the recorded restrictions on use must receive COUNTY's approval.

12. 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; but only in proportion to and to the extent arising from the negligent or intentional acts or omissions of GRANTEE or its employees or agents. GRANTEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with the Agreement.

Except as specifically modified herein, the Agreement shall remain in full force and effect. This Amended Agreement between the COUNTY and GRANTEE is executed at Santa Barbara, California, on the date first indicated above.

COUNTY
County of Santa Barbara

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

Date: _____

By: _____
Deputy

CREF GRANTEE
THE TRUST FOR PUBLIC LAND

By: _____
Tily Shue, Senior Counsel

APPROVED AS TO FORM

DENNIS MARSHALL
COUNTY COUNSEL

ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: _____
William M. Dillon
Deputy County Counsel

By: _____

REAL PROPERTY

RISK MANAGEMENT

By: _____
Ronn Carlentine,
Real Property Manager

By: _____
Ray Aromatorio, ARM, AIC
Risk Manager

ATTACHMENT B TO BC-13-091
DRAFT COVENANT RESTRICTING USE

COVENANT RESTRICTING USE

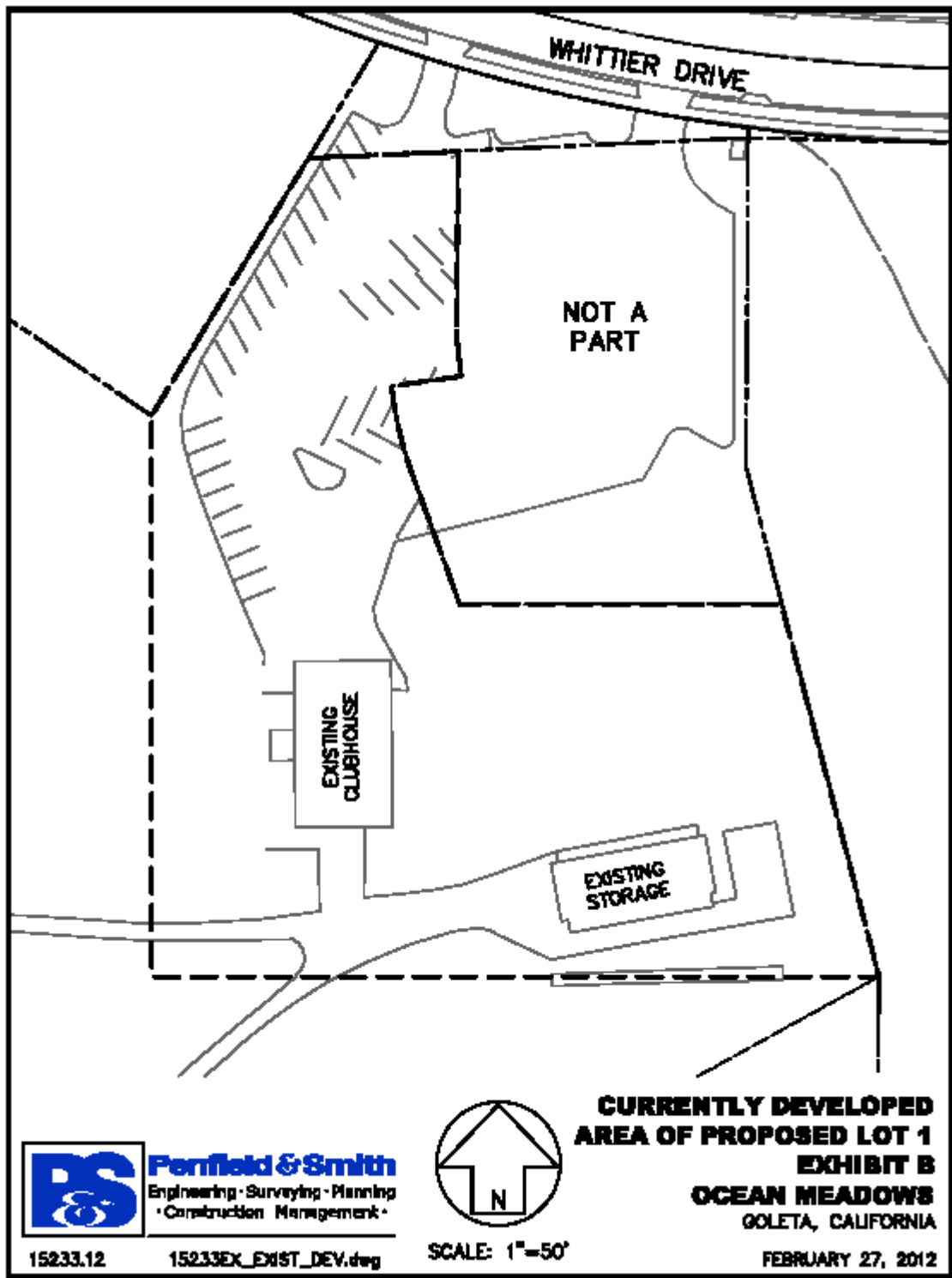
[Insert after the Habendum Clause of the deed]

SUBJECT to covenants and restriction, as follows:

1. A Covenant Restricting Use (“Covenant”) made by Grantor as an expressed condition in fulfillment of a grant agreement between Grantor and the County of Santa Barbara in connection with the receipt of that certain Coastal Resource Enhancement Fund Grant of \$750,000.00 provided by County, which Covenant is set forth below. Grantor, on behalf or itself and all its successors and assigns, hereby covenants and agrees that use of the Property shall be confined and restricted to purposes of public access for passive recreation, open space preservation, coastal wetland and wildlife habitat conservation and restoration, habitat for endangered species, and associated research and educational activities, and no use of the Property inconsistent with these purposes shall be permitted. Passive recreational uses, such as walking, jogging, noncompetitive bicycling, painting and wildlife viewing, shall be limited to designated areas such as trails, boardwalks and parking and interpretive areas. No use shall be allowed that adversely impacts the wetland and upland transitional habitat. Special events are allowed, but shall only be held at the existing clubhouse area, including patio areas, and parking lot and shall be limited to educational and other University events, including donor and community events related to the permitted purposes described above. Except for the area currently developed with a clubhouse, storage structure and parking lot, as shown on Exhibit B attached hereto, no buildings or parking areas shall be developed on the remaining property; however, temporary staging areas as part of restoration activities consistent with the purposes of this Covenant are allowed. Any renovation or replacement of the existing clubhouse or storage structure shall be limited to the same development area. Onsite public access parking shall be limited to the area of the existing parking lot, unless additional parking spaces are required as a public access condition imposed by the California Coastal Commission. Active recreational uses are

prohibited. All activities that are inconsistent with the protection of habitat and wildlife are prohibited. Any management plan prepared shall reflect all restrictions that are described above.

2. The Property may not be transferred without the approval of the California State Coastal Conservancy, the Wildlife Conservation Board and the County of Santa Barbara.



Penfield & Smith
Engineering • Surveying • Planning
• Construction Management •

15233.12

15233EX_EXIST_DEV.dwg



SCALE: 1"=50'

**CURRENTLY DEVELOPED
AREA OF PROPOSED LOT 1
EXHIBIT B
OCEAN MEADOWS
GOLETA, CALIFORNIA**

FEBRUARY 27, 2012

ATTACHMENT C TO BC-13-091
LEGAL DESCRIPTION OF PROPERTY

19th, North 46°46'48" East, 436.97 feet;

20th, North 58°51'48" East, 117.99 feet;

21st, North 81°01'48" East, 936.93 feet;

22nd, South 55°59'18" East, 89.01 feet;

23rd, North 31°23'18" East, 121.91 feet;

and 24th, North 87°22'56" East, 60.60 feet;

Thence, 25th, leaving said boundary of said Lot 1 hereinabove-referenced, South 00°22'12" West, 75.53 feet;

Thence, 26th, South 06°22'09" East, 15.52 feet;

Thence, 27th, South 81°50'56" West, 28.43 feet to the beginning of a non-tangent curve concave easterly having a radius of 157.08 feet and a radial center which bears North 83°22'24" East;

Thence, 28th, southerly along said curve, through a central angle of 13°27'16", an arc distance of 36.89 feet;

Thence, 29th, South 20°04'52" East, 55.63 feet;

Thence, 30th, North 89°59'59" East, 130.15 feet to a point in the easterly line of said Lot 1;

Thence, 31st, along said easterly line, South 14°37'04" East, 155.70 feet to an angle point therein;

Thence, 32nd, continuing along said line, South 00°43'39" West, 198.74 feet;

Thence, 33rd, leaving said line, South 57°08'31" West, 61.23 feet;

Thence, 34th, North 82°46'26" West, 28.40 feet;

Thence, 35th, South 69°41'07" West, 45.28 feet;

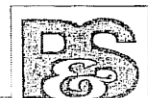
Thence, 36th, South 79°32'59" West, 57.35 feet;

Thence, 37th, South 83°24'09" West, 51.16 feet;

Thence, 38th, North 71°49'28" West, 42.27 feet;

Thence, 39th, South 79°15'05" West, 43.06 feet to the beginning of a curve concave northerly having a radius of 100.00 feet;

WITNESSED AND CORRECTED AND SUBSCRIBED TO BY US IN THE PRESENCE OF TWO



Benfield & Smith

Thence, 40th, westerly, along said curve, through a central angle of 57°36'51", an arc distance of 100.56 feet;

Thence, 41st, North 43°08'05" West, 10.64 feet;

Thence, 42nd, South 56°01'42" West, 174.50 feet;

Thence, 43rd, South 60°32'05" West, 103.87 feet;

Thence, 44th, South 67°42'45" West, 325.52 feet to the beginning of a curve concave easterly having a radius of 160.00 feet;

Thence, 45th, southwesterly and southerly, along said curve, through a central angle of 92°24'00", an arc distance of 258.03 feet;

Thence, 46th, South 24°41'14" East, 282.06 feet;

Thence, 47th, North 69°07'17" East, 81.54 feet;

Thence, 48th, South 01°13'41" West, 31.30 feet;

Thence, 49th, South 88°40'56" East, 49.51 feet to a point in said easterly line of said Lot 1 hereinabove-referenced;

Thence, 50th, along said line, South 01°19'04" West, 417.24 feet to said southeast corner of said Lot 1 and the point of beginning.

Containing 63.91 acres, more or less.

The bearings and distances recited herein are based upon the California Coordinate System, NAD 83, Zone 5 grid, Epoch 2004.0. To obtain ground level distances multiply by the project scale factor of 1.00005664.

The hereinabove legal description is provided as a courtesy as requested and is not a legal parcel for sale, lease, or finance pursuant to State of California Government Code Section 66424 (Subdivision Map Act).

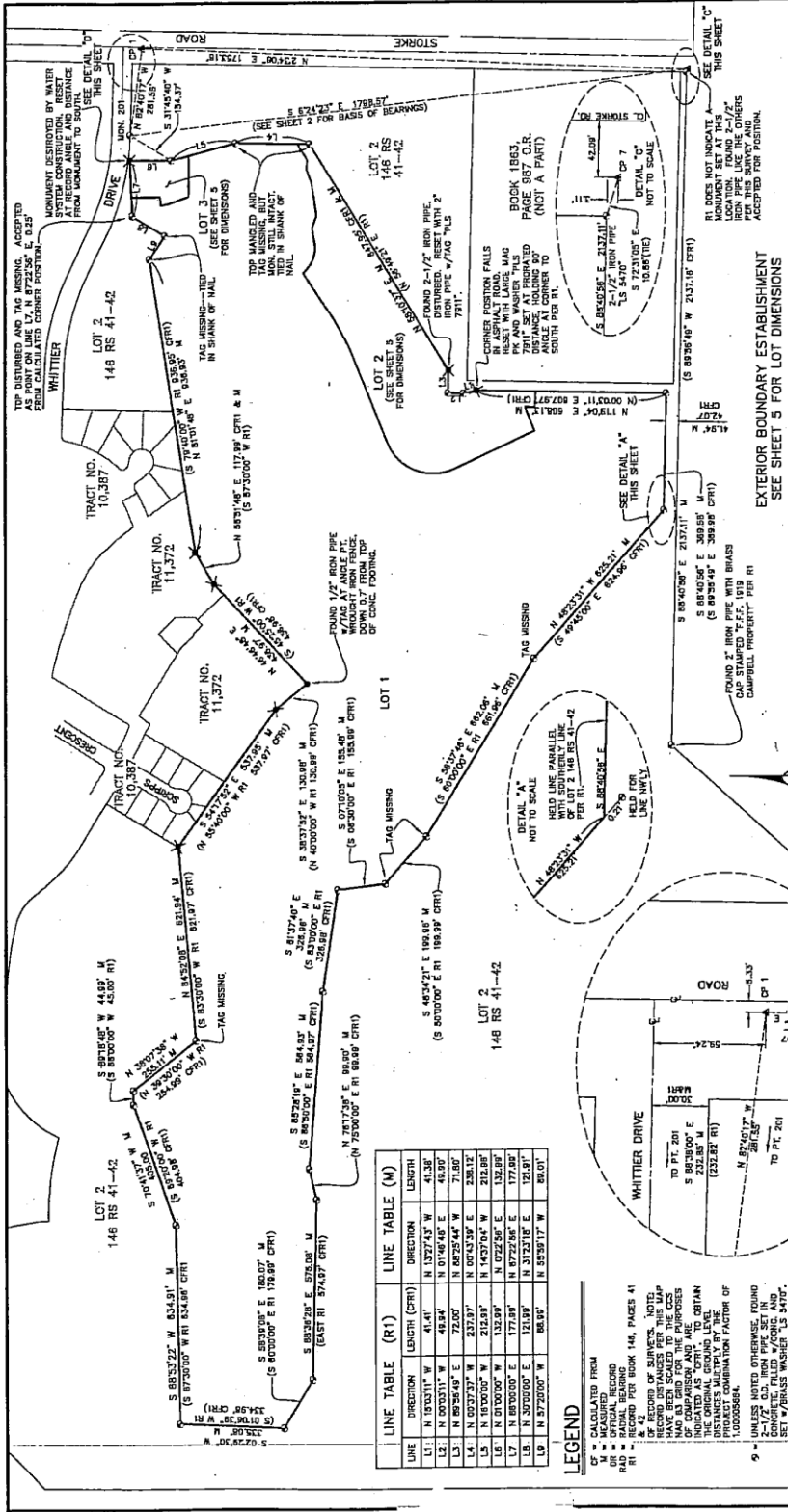
Prepared by:

Kenneth J. Wilson
PLS 7911
License expiration
Date: 12/31/13



Kenneth J. Wilson
7-19-12

ATTACHMENT D TO BC-13-091



PARCEL MAP NO. 14,784

BEING A SUBDIVISION OF LOT 1
 AND LOT 2 OF TRACT NO. 41 AND 42
 FILED IN THE OFFICE OF THE SANTA BARBARA COUNTY RECORDER,
 COUNTY OF SANTA BARBARA
 STATE OF CALIFORNIA

MAY 2012

SHEET 5 OF 6

EXTERIOR BOUNDARY ESTABLISHMENT
 SEE SHEET 5 FOR LOT DIMENSIONS

LINE	DIRECTION	LENGTH (FT)	DIRECTION	LENGTH (M)
L1	N 132°17' W	41.81	N 132°17' W	41.81
L2	N 00°31' W	48.84	N 01°46'45" W	48.80
L3	N 89°24'49" E	72.00	N 88°25'44" E	71.80
L4	N 00°37'37" E	237.97	N 00°43'39" E	238.12
L5	N 93°00'00" W	212.89	N 143°10'4" E	212.89
L6	N 01°00'00" W	132.89	N 02°28'58" E	132.89
L7	N 89°30'00" E	171.89	N 87°25'58" E	171.89
L8	N 30°00'00" E	121.89	N 31°23'18" E	121.89
L9	N 37°20'00" W	86.89	N 35°39'17" W	86.01

LEGEND

OF CALCULATED FROM
 OF RECORD OF SURVEY NOTED
 HAD SPECIAL BEARING
 BEARING PER BOOK 148, PAGES 41
 & 42
 OF RECORD OF SURVEY NOTED
 HAVE BEEN SCALED TO THE CDS
 OF COMPASSION AND ARE
 INDICATED AS CDS TO OBTAIN
 DISTANCES MULTIPLY BY THE
 1.00058644.

9 - UNLESS NOTED OTHERWISE, FOUND
 2-1/2" OD. IRON PIPE SET IN
 CONCRETE FOUND AT CORNER AND
 ACCEPTED AS ORIGINAL MONUMENT.
 INDICATES 1/2" IRON PIPES BEING
 SET.

X - UNLESS NOTED OTHERWISE, FOUND
 REPAIRED WITH 2" IRON PIPE WITH
 BRASS WASHER, PLS 7811.

Perfield & Smith
 Engineers & Surveyors
 Construction Management

111 Oak Woods Blvd., Santa Barbara, CA 93101
 Phone: (805) 843-5332 Fax: (805) 846-8801
 www.perfieldandsmith.com

ATTACHMENT 2

CREF GRANT AGREEMENT BC-13-091

CONTRACT NO. BC-13-091

**AGREEMENT BETWEEN THE COUNTY OF SANTA BARBARA
AND THE TRUST FOR PUBLIC LAND
AND ESCROW INSTRUCTIONS**

This Agreement is made on this 11th day of December, 2012, by and between The Trust for Public Land, a California non-profit public benefit corporation registered under Section 501.c.3 of the U.S. Internal Revenue Code (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 63-acre portion of the Ocean Meadows property, located north of Devereux Slough and Coal Oil Point, adjacent to the City of Goleta, currently shown as APN No. 073-090-62 in the official records of Santa Barbara County (the "Property" as defined herein below);

WHEREAS, COUNTY has chosen to award GRANTEE a \$750,000.00 CREF grant to be paid towards acquisition of the Property once GRANTEE has secured all funds necessary to purchase and hold sole interest in the Property;

WHEREAS, GRANTEE has submitted a certified appraisal dated June 5, 2012 for the Property.

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 towards purchase of the fee interest in the Property and subsequently upon close of escrow, land use restrictions will be recorded on the Property to provide for and assure, in perpetuity, the protection of plants, animals, and other natural resources and habitat on the Property, and to provide public access.

(a) CREF GRANT FOR ACQUISITION: COUNTY shall pay a total of seven hundred and fifty thousand dollars (\$750,000.00) from the Coastal Resource Enhancement Fund, Fund #0063, Dept. #053, Program #5090, Account #7863, Project #1009 (\$438,500.00) and Project #1101 (\$311,500.00) (hereinafter referred to as "Grant Funds") towards the purchase of fee interest of the Property as stipulated herein.

(b) **DEFINITION OF PROPERTY:** The subject property to be purchased with this grant is defined as a 63-acre portion of the current Assessor Parcel Number Book 73, Page 90, Parcel 62, in the County of Santa Barbara, State of California, inclusive of maps in the office of the County Recorder of said County, hereinafter referred to as "PROPERTY", as shown in Attachment A to this Agreement.

(c) **LAND USE RESTRICTIONS:** Upon GRANTEE'S acquisition of the PROPERTY, GRANTEE shall convey the PROPERTY pursuant to a donation agreement to the intended long-term steward, the Regents of the University of California, Santa Barbara ("UCSB"), which shall own the PROPERTY and manage the restoration of the PROPERTY to its historic wetland condition. Concurrent with the transfer of fee title to UCSB, GRANTEE will record the land use restrictions stipulated in Article 4 below.

2. **GRANTEE'S RESPONSIBILITY:** The GRANTEE hereby agrees to acquire the fee interest in said PROPERTY and further agrees to convey the PROPERTY to UCSB as the long-term steward. Provided the COUNTY meets its funding and escrow obligations described herein, GRANTEE shall pay to the PROPERTY owner the necessary consideration for the purchase of the PROPERTY.

(a) GRANTEE is purchasing the PROPERTY from a private party for seven million dollars (\$7,000,000.00) Along with Grant Funds (\$750,000.00), GRANTEE shall have secured an additional amount of funds not less than six million two hundred fifty thousand dollars (\$6,250,000.00) plus escrow and title fees to obtain fee interest in the PROPERTY.

(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) GRANTEE shall enter into a donation agreement with UCSB to convey the PROPERTY to USC. The donation agreement shall include the following provisions:

(1) Restrictions on use of the PROPERTY as specified herein, that shall be recorded as enforceable covenants restricting use of the PROPERTY in perpetuity.

(2) For purposes of enforcement of the restrictions on use of the PROPERTY, including any recorded covenant, County shall be named as a third party beneficiary and shall have full right to enforce such restrictions.

(3) A provision stating it is the specific intent of the parties and a material provision of that agreement that the term of the agreement regarding restrictions on use of the PROPERTY shall be in perpetuity.

3. **COUNTY'S RESPONSIBILITY:** COUNTY agrees to deposit into escrow the Grant Funds (\$750,000.00) to fund the purchase of the PROPERTY. At least one (1) day prior to the close of escrow, COUNTY shall deposit in escrow the Grant Funds (\$750,000.00). If for any reason COUNTY shall have deposited the Grant Funds (\$750,000.00) into escrow, and escrow shall have failed to close, the Grant Funds (\$750,000.00) 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 \$750,000.00 toward the purchase price of the PROPERTY. GRANTEE shall be responsible for all costs of acquisition and any portion of the purchase price in excess of the CREF Grant Funds.

4. **RESTRICTIONS ON USE:** The PROPERTY shall be dedicated exclusively and in perpetuity for the purpose of public access, open space preservation, coastal wetland habitat conservation and restoration, habitat for endangered species, and associated research and educational activities, and no use of the PROPERTY inconsistent with that purpose is permitted. Passive recreational uses shall be limited to those uses that do not impact the wetland and upland transitional habitat. These restrictions, or similar language having the same effect, shall be included in the deed of conveyance to UCSB in language approved by COUNTY, which approval shall not be unreasonably withheld. Any changes to the recorded restrictions on use must receive COUNTY's approval.

5. **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. 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, a Senior Counsel or other duly authorized staff member, 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 escrow fees shall be paid as follows:

1. GRANTEE shall pay all escrow and recording fees as well as the documentary stamp tax, if any, incurred in the conveyance of the PROPERTY to GRANTEE.
2. GRANTEE shall pay all escrow fees in the event that this escrow is canceled by GRANTEE prior to the conveyance of the PROPERTY to UCSB.

(c) **Escrow Officer's Obligations:**

The escrow officer shall be responsible for the following:

1. 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

2.. To record the executed Grant Deed with the Santa Barbara County Recorder's Office and deliver a conformed copy of the recorded deed to COUNTY upon close of escrow; and

3. To deliver the Grant Funds to GRANTEE concurrently with the close of escrow of the PROPERTY.

6.. **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, 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 to 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, 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.

7. **TERMINATION & TERM OF CONTRACT:**

(a) GRANTEE shall have the right to terminate this Agreement at any time prior to the close of escrow upon the terms herein. 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. 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.

(b) If GRANTEE completes escrow for the PROPERTY, it is the specific intent of the parties and a material provision herein that the term of this Agreement shall and is to run in perpetuity in respect of the COUNTY's right as a third-party beneficiary to enforce, against any and all successors- in-title to GRANTEE'S interest in the PROPERTY, the provisions of the restrictive covenants contemplated by Section 4 of this Agreement.

8. **TIME OF PERFORMANCE**: This Agreement shall expire March 31, 2013 unless GRANTEE enters into a binding escrow agreement as discussed in Article 5 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.

9. **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.

10. **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.

11. **PERIOD FOR WHICH RECORDS ARE AVAILABLE**: GRANTEE shall maintain all records regarding performance of this contract for a minimum of four (4) years after the close of escrow on Grantee's purchase of the 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.

12. **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.

13. **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. Notwithstanding anything to the contrary contained in this Agreement, COUNTY consents and approves of GRANTEE'S intended transfer of GRANTEE's rights and obligations under this Agreement to UCSB.

14. **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 Department, Energy Division
123 E. Anapamu Street
Santa Barbara, CA 93101
Attn: Doug Anthony, 568-2046 or
Kathy McNeal Pfeifer, 568-2507
kathypm@co.santa-barbara.ca.us

AND

For all escrow related matters:

General Services Department
Office of Real Estate Services
1105 Santa Barbara Street, East Courthouse Wing
Santa Barbara, CA. 93101
Attn: Ronn Carlentine []
rcarlen@co.santa-barbara.ca.us
(805) 568-3078

To GRANTEE: The Trust for Public land
101 Montgomery St., Suite 900
San Francisco, CA 94104
Attn: Tily Shue, Senior Counsel
(415) 800-5308

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.

15. **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.

16. **ACKNOWLEDGMENT**: GRANTEE shall publicly identify in GRANTEE's newsletter and 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."

17. **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.

18. **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.

19. **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.

20. **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.

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

22. **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.

23. **NONDISCRIMINATION CLAUSE**: GRANTEE shall abide by the Unlawful Discrimination Ordinance, Article XIII of Chapter 2 of the Santa Barbara County Code.

24. **TAXES**: GRANTEE shall be responsible for payment of all taxes due as a result of the Agreement. GRANTEE's Federal Tax Identification Number is 23-7222333.

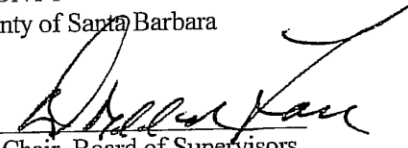
25. **EXECUTION IN COUNTERPARTS**: This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and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

26. **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.

27. **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.

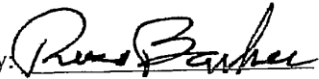
This Agreement between the COUNTY and GRANTEE is executed at Santa Barbara, California, on the date first indicated above.

COUNTY
County of Santa Barbara

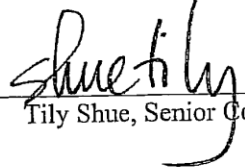
By: 
Chair, Board of Supervisors

Date: 12-11-12

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

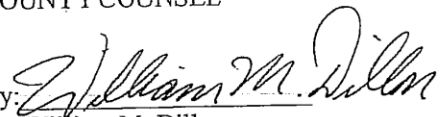
By: 
Deputy

CREF GRANTEE
THE TRUST FOR PUBLIC LAND

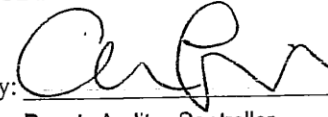
By: 
Tily Shue, Senior Counsel

APPROVED AS TO FORM

DENNIS MARSHALL
COUNTY COUNSEL

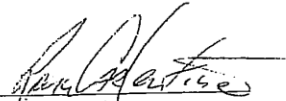
By: 
William M. Dillon
Deputy County Counsel

ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

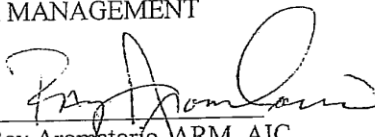
By: 
Deputy Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting

APPROVED AS TO FORM

REAL PROPERTY

By: 
Roni Carlentine,
Real Property Manager

RISK MANAGEMENT

By: 
Ray Aromatorio, ARM, AIC
Risk Manager

ATTACHMENT A

ATTACHMENT 3
NOTICE OF EXEMPTION

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Planning & Development, Energy Division

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: 079-554-028

Case No.: Amendment No. 1 to BC-13-091, Coastal Resource Enhancement Fund Grant Agreement between the County of Santa Barbara and the Trust for Public Lands

Location: North of Devereux Slough and Coal Oil Point, near the City of Goleta, in the Third Supervisorial District

Projects Title: Ocean Meadows Acquisition

Projects Description: The Trust for Public Land is purchasing a 63-acre portion of the Ocean Meadows property.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Trust for Public Land

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15313

Reasons to support exemption findings:

CEQA Section 15313 exempts acquisition of lands when *"the acquisition of lands for fish and wildlife conservation purposes including (a) preservation of fish and wildlife habitat, (b) establishing ecological reserves under Fish and Game Code Section 1580, and (c) preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.* Funding the acquisition of the Ocean Meadows property involves a project that is exempt pursuant to CEQA Section 15313 because the project involves acquisition of land to re-establish ecological reserves, preserve fish and wildlife habitat, and preserve appropriate public access to these natural lands.

Lead Agency Contact Person: Kathy Pfeifer

Phone #: (805) 568-2507

Department/Division Representative: 

Date: February 28, 2013

Acceptance Date: March 12, 2013

distribution: Hearing Support Staff

Project file (when P&D permit is required)
Date Filed by County Clerk: _____.