

Folio: 003585  
Project: Anderson CE  
APN: 099-060-021  
099-070-036  
Agent: rc

**AGREEMENT  
AND ESCROW INSTRUCTIONS  
(Purisima Hills Conservation Easement & Agreement)**

THIS AGREEMENT AND ESCROW INSTRUCTIONS (the "Agreement") is made by and between the COUNTY of SANTA BARBARA, a political subdivision of the State of California ("COUNTY"), SONIA CHANTAL ANDERSON, an individual with a residential address at 3200 Gypsy Canyon Road, Lompoc, California ("OWNER"), and THE LAND TRUST FOR SANTA BARBARA COUNTY, a California nonprofit public benefit corporation ("LAND TRUST"), with reference to the following:

WHEREAS, OWNER is the owner in fee simple of that certain real property commonly known as 3200 Gypsy Canyon Road, in the unincorporated area of Lompoc, County of Santa Barbara, State of California, and identified as County Assessor Parcel Nos. 099-060-021 and 099-070-036, consisting of approximately 160 acres (the "Property"); and

WHEREAS, COUNTY supports the environmental value of wildlife habitat, open space, and productive farmland and agricultural activities that are consistent with the preservation and protection of the migratory activities of the federally protected California Tiger Salamander ("CTS"); and

WHEREAS, OWNER's Property has certain environmental attributes of great importance to the people of Santa Barbara County and the people of the State of California, including a potential breeding pond for the CTS in an area of the Property known as Pond 49 which pond lies in a canyon to the northern property line; and

WHEREAS, pursuant to a Conditional Settlement Agreement between the United States Fish and Wildlife Service (the "Service") and COUNTY dated June 29, 2010 (the "Settlement Agreement"), COUNTY has agreed to cause the acquisition, grant and recording of a Conservation Easement to provide for protection in perpetuity of CTS habitat and certain conservation values on the Property; and

WHEREAS, on September 8, 2010, the County Planning Commission determined that the grant of a Conservation Easement on the Property for the purpose of protecting in perpetuity the environmental value of wildlife habitat, open space and productive farmland and agricultural activities, and particularly to support the breeding and migratory activities of the CTS, would be consistent with the County's Comprehensive Plan; and

WHEREAS, COUNTY and LAND TRUST have defined a "Conservation Easement Area" on the Property to be protected by a Conservation Easement to include both upland and breeding (wetland) habitat for the CTS, consisting of three sub-areas to be preserved for agricultural activities that are consistent with the preservation and protection of the migratory activities of the CTS in the Conservation Easement Area, and a fourth sub-area to be preserved for the enhancement and preservation of Pond 49 as a potential breeding pond for the CTS; and

WHEREAS, COUNTY has developed a Restoration/Management/Monitoring Plan to be implemented by COUNTY on a portion of the Conservation Easement Area, which describes the earthwork and planting necessary to rehabilitate Pond 49 along with additional detail concerning the land-operation requirements and adaptive programs required for the Conservation Easement Area; and

WHEREAS, LAND TRUST is willing to accept the grant of a Conservation Easement from OWNER to preserve and protect in perpetuity the identified conservation values within the Conservation Easement Area, recognizing that LAND TRUST's acceptance of the Conservation Easement will allow COUNTY to meet certain obligations pursuant to the Settlement Agreement with the Service; and

WHEREAS, in order to facilitate the contemplated transaction, COUNTY is willing to provide certain funds and agree to other terms for the purposes and on the conditions specified herein; and

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. PURPOSE.

The purpose of this Agreement is to establish a Conservation Easement Area for the protection of the CTS and to provide for a Restoration/Management/Monitoring Plan to be implemented for the Conservation Easement Area, consistent with the requirements of the Settlement Agreement.

A. Conservation Easement Area.

The Conservation Easement Area includes both upland and breeding (wetland) habitat for the California Tiger Salamander (CTS). The easement boundary is legally described in Attachment "B" and shown on a map depiction in Attachment "C," both of which are attached and incorporated in the Conservation Easement in Exhibit "A."

The easement area consist of four areas A, B, C, and D, where areas A, B, C shall be preserved for agricultural activities that are consistent with the preservation and protection of the



migratory activities of the CTS in the Easement Area, and where area D shall be preserved for the enhancement and preservation of a potential breeding Pond 49 for the CTS.

The easement areas consist of the following acreage:

Area A:	8.45 acres
Area B:	0.32 acres
Area C:	0.43 acres
Area D:	6.48 acres
Total:	15.68 acres

The land use restrictions and management measures applied to the Conservation Easement Area will be recorded through the Conservation Easement. The land restrictions and management practices will apply to the Conservation Easement Area, and not to the remaining area of the OWNER'S Property.

**B. Restoration/Management/Monitoring Plan.**

COUNTY has developed a Restoration/Management/Monitoring Plan (Exhibit B hereto) that will be implemented by the COUNTY on a portion of the Conservation Easement area. The Restoration describes the earthwork and planting necessary to rehabilitate Pond 49. The Management describes land-operation requirements with more detail and adaptive programs than described in the Conservation Easement document. The Monitoring is addressed in three subsections: monitoring of the pond-restoration site, aquatic sampling, and monitoring of the overall Conservation Easement conditions.

**2. OWNER'S RESPONSIBILITY.**

OWNER hereby agrees to grant to LAND TRUST a perpetual Conservation Easement over a portion of the Property measuring approximately 15.40 acres and identified as the Conservation Easement Area herein. The Conservation Easement shall be substantially in the form attached hereto as Exhibit A, which incorporates by reference the legal description and surveyed map of the Conservation Easement Area as Attachments "B" and "C," thereto. Concurrently with execution of this Agreement, OWNER shall execute the Conservation Easement as well as the Restoration/Management/Monitoring Plan, which shall be substantially in the form attached hereto as Exhibit B.

**3. LAND TRUST'S RESPONSIBILITY.**

LAND TRUST hereby agrees to accept OWNER's grant of a perpetual Conservation Easement over the Conservation Easement Area substantially in the form attached hereto as Exhibit A. LAND TRUST's acceptance of the Conservation Easement shall be confirmed by resolution of its Board of Trustees.

Provided that COUNTY meets its funding, indemnity and escrow obligations described in Paragraphs 4 and 5 of this Agreement, LAND TRUST shall pay to OWNER the total sum of TWO HUNDRED THIRTY THOUSAND AND 00/100 DOLLARS (\$230,000.00) as consideration for the granting of the Conservation Easement and the authorization of other rights and activities enumerated herein (the "Purchase Price"). The Purchase Price shall be OWNER'S sole remedy hereunder.

#### 4. COUNTY'S RESPONSIBILITY.

Upon execution of this Agreement by all parties, COUNTY agrees to deposit in escrow an amount sufficient to fund the Purchase Price, LAND TRUST'S escrow fees, costs, and expenses associated with the transaction, and an endowment for LAND TRUST's monitoring of the Conservation Easement Area and its enforcement of the Conservation Easement in perpetuity (the "Endowment Contribution"). The amount of the Endowment Contribution shall be \$49,800.

COUNTY also shall deposit in escrow an amount sufficient to fund COUNTY's temporary water usage on the Property, which is expected to occur during the initial two years under the Conservation Easement (the "Water Service Payment"). The Water Service Payment shall be calculated as approximately 100,000 gallons of water for a two year period for a total cost of \$10,000. The water rate is based on the current comparable rates per cubic foot set by various local water companies, annual well maintenance, maintenance and repair of well, pipes, and pumps, and initial start-up cost. If the COUNTY water usage continues beyond the initial two year period or exceeds more than 100,000 gallons in total, then the COUNTY shall continue to pay OWNER from month to month for its additional water usage based upon the rate set forth herein.

Recognizing that LAND TRUST is accepting the Conservation Easement, in part, to assist COUNTY in meeting its obligations under the Settlement Agreement and that, pursuant to the Settlement Agreement, the Service requires that it have a continuing right of enforcement against the holder of the Conservation Easement, COUNTY agrees to indemnify LAND TRUST against any and all costs of defense, including but not limited to attorneys' fees and costs, expert fees, and court costs, in the event that Service initiates legal action against LAND TRUST pursuant to its enforcement rights under the Conservation Agreement, which are expressed in paragraph 26 of Exhibit A hereto.

COUNTY agrees to indemnify and defend OWNER against any and all costs of defense, including but not limited to attorneys' fees and costs, expert fees, and court costs for any damage arising and proximately caused by any activities of the COUNTY or its officers, employees or agents in the furtherance of this Agreement, the Conservation Easement, or the Restoration/Management/Monitoring Plan.

Action by the County Board of Supervisors to approve the appropriation and use of funds and to accept all obligations hereunder is an express condition precedent to COUNTY's



performance. Notwithstanding any other provision in this Agreement, COUNTY at COUNTY's option may extend escrow up to sixty (60) days to permit the funding approval and appropriation by COUNTY. In the event COUNTY should decide to exercise this option, COUNTY shall do so in writing with copies to the escrow officer and to the OWNER.

At least one (1) day prior to the close of escrow, COUNTY shall deposit in escrow the Purchase Price, the Water Service Payment, and the Endowment Contribution, together with an amount sufficient to pay for both COUNTY's and LAND TRUST's fees, costs, and expenses associated with the transaction.

## 5. ESCROW INSTRUCTIONS AND FEES.

### A. Opening of Escrow.

Upon execution of this Agreement by all parties, COUNTY shall open an escrow at Chicago Title Company, 1019 Chapala Street, Santa Barbara, CA 93101 and shall deliver to the Escrow Officer a copy of this fully-executed Agreement along with the fully-executed Conservation Easement. This Agreement shall become a part of the Escrow and shall constitute the basic instructions of COUNTY, OWNER, and LAND TRUST 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 the 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 LAND TRUST, the Executive Director, or designee, shall execute the necessary escrow instructions and/or additional instructions, which may be required to complete the closing of this real property transaction. In case of conflict between this Agreement and any such escrow documents, the terms of this Agreement shall govern.

### B. Close of Escrow and Payment Obligations.

Escrow shall close on or before ninety (90) days from the date when escrow is opened, or on such other date as the parties may mutually agree in writing. The close of escrow shall occur upon the recordation of the Conservation Easement, which shall vest title to the easement in LAND TRUST; the transfer of the Purchase Price and the Water Service payment to OWNER, the transfer of the Endowment Contribution to LAND TRUST, and the payment of all escrow-related fees and costs. The escrow fees shall be paid as follows:

1. COUNTY shall pay all escrow and recording fees as well as the documentary stamp tax, if any, incurred in the conveyance of the Conservation Easement to the LAND TRUST. If a policy of title insurance is desired by LAND TRUST, the premium charged therefor shall be paid by COUNTY. Said escrow and recording charges shall include any partial reconveyance and subordination fees as may be required.

2. OWNER shall pay all escrow fees in the event that this escrow is canceled by OWNER prior to the conveyance of the Conservation Easement to LAND TRUST.

3. COUNTY shall pay all escrow fees in the event that this escrow is canceled by COUNTY prior to the conveyance of the Conservation Easement to LAND TRUST.

C. Escrow Officer's Obligations.

The escrow officer shall be responsible for the following:

1. To obtain subordination agreements from any holders of liens against the Property, provided that OWNER shall cooperate with the Escrow Officer in obtaining subordination agreements from any and all such creditors;

2. To record the executed Conservation Easement with the Santa Barbara County Recorder's Office and deliver the recorded deed to LAND TRUST upon close of escrow; and

3. To deliver the Purchase Price to OWNER at the close of escrow; and

4. To pay OWNER the COUNTY's Water Service Payment; and

5. To pay LAND TRUST the COUNTY's Endowment Contribution.

6. RESTORATION PROJECT.

A. Owner's Authorization of Project and Related Access. OWNER hereby authorizes COUNTY to undertake the repair and rehabilitation of Pond 49 by re-grading and stabilizing the pond, re-vegetating the area as necessary, and excavating and re-grading the pond (within a three hundred foot buffer area surrounding the pond) (the "Project"). COUNTY and LAND TRUST, and their authorized agents, contractors, and employees, shall have a temporary right of entry to the Property and immediate access to the Conservation Easement Area for purposes of implementing the Project. This right of entry includes the right to enter upon the Property to access Pond 49; to move workers, equipment, and materials in, on, over, under, along, and across the Conservation Easement Area, and to reconnect, remove or relocate OWNER'S improvements in the Conservation Easement Area as may be necessary. COUNTY shall notify OWNER on the date when the Project is completed.

B. COUNTY Rights and Obligations Associated with the Project.

In undertaking the Project, COUNTY shall have the right to do the following:

1. To remove any improvements and/or plants within the Conservation Easement Area if removal becomes necessary to complete the Project; and



2. To trim and cut roots of trees, shrubs, and vegetation within the Conservation Easement Area that may compromise or interfere with the Project.

3. To temporarily install and maintain an above-ground water supply pipeline system and water meter originating from OWNER's existing horse barn to the Conservation Easement Area, and to place a temporary water tank within the Conservation Easement Area to be used for the Project.

4. To implement the Restoration/Management/Monitoring Plan within the Easement Area.

C. OWNER'S Obligations Associated with the Project.

1. Within thirty (30) days of execution of this Agreement of all parties, and prior to the start of construction on the Project, OWNER shall remove all personal property from the Conservation Easement Area except existing bare wire post fencing.

2. OWNER shall terminate any and all tenant or lessee interests in the Easement Area, whether the interest is recorded or unrecorded.

3. OWNER shall provide COUNTY a temporary two year water supply for the Project, for which COUNTY will pay in accordance with this Agreement.

7. GOOD FAITH DISCLOSURES BY OWNER.

OWNER shall make a good faith disclosure to COUNTY of any and all facts, findings, and information concerning the Conservation Easement Area, including without limitation historical uses; prior permitted uses; current uses including, but not limited to, express or implied contracts, leases and/or permits; geological conditions; biological conditions; archaeological sites; flood hazard area(s); special studies zones; zoning report; environmentally hazardous material such as asbestos, dioxins, oils, PCB's, solvents, waste disposal, gasoline tank leakage, pesticide use and spills, herbicide use or spills or any other substances and/or products of environmental contamination. Any and all facts or information known by OWNER concerning the condition of the Conservation Easement Area 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 OWNER disclose conditions that adversely affect the continued or contemplated use of the Conservation Easement Area 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 OWNER 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 OWNER's disclosure information, COUNTY shall notify OWNER of any condition it deems unacceptable and the correction

desired and shall ask OWNER, at OWNER'S expense, to correct the identified condition(s) to the reasonable satisfaction of COUNTY or any governmental body having jurisdiction over the Property. OWNER'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 Conservation Easement Area, to the extent they exist and are in OWNERS' custody, shall be delivered by OWNER to COUNTY.

#### 8. TERMINATION.

COUNTY shall have the right to terminate this Agreement at any time prior to the close of escrow. OWNER shall have the right to terminate this Agreement only following COUNTY's failure to cure a material breach following ten (10) days written notice. Should COUNTY terminate this Agreement, it shall pay to LAND TRUST the total sum of SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$7,500.00) as partial reimbursement of LAND TRUST's professional staff costs accrued in the preparation of this Agreement and its attachments.

#### 9. GENERAL PROVISIONS.

A. Effective Date. This Agreement shall become effective on the date when it has been fully executed by all parties.

B. Security Interests. Escrow Officer shall obtain any and all subordinations and/or releases of liens that may have been given on said Property covered by deeds of trust. OWNER shall cooperate with the Escrow Officer in obtaining subordination agreements from any and all creditors holding liens against said Property.

C. Entire Agreement. This Agreement supersedes all prior agreements, understandings, negotiations, and discussions of the parties, whether express or implied, and there are no warranties, representations, covenants, or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein. Each party's performance under this Agreement shall relieve that party of all further obligation or claims by any other party to this Agreement.

D. Amendment to Agreement. No amendment, supplement, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by all parties.

E. Interpretation of Agreement. The parties agree that each party has had ample opportunity to consult with legal counsel to the extent it desires in the review and acceptance of this Agreement. Accordingly, the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and provisions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against, any party hereto.



F. Section Headings. The headings of the various sections of this Agreement shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof.

G. Additional Documentation. Each party agrees to execute and deliver any instrument or to perform any act reasonably necessary to carry out the provisions of this Agreement.

H. Successors and Assigns. The rights of the parties under this Agreement shall extend to and bind their heirs, devisees, executors, administrators, successors, and assigns.

I. Certifications. OWNER represents and warrants that she is the owner of the Property or is authorized by the OWNER of the Property to execute this Agreement and that no additional signatures are required to carry out the duties contemplated herein.

J. COUNTY Contract Approval. This Agreement is subject to the approval of the COUNTY Board of Supervisors. Execution of this Agreement by the chairperson, or designee, of the Board of Supervisors shall evidence said approval by the Board.

K. Execution in Counterparts. This Agreement may be executed in any number of counterparts. Each counterpart shall be deemed for all purposes to be an original; and all such counterparts, or as many or them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

L. 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 the document bearing an original signature is provided within seventy-two (72) hours of transmission of the facsimile signature, 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 of Santa Barbara.

M. Governing Law. This Agreement shall be interpreted under the laws of the State of California and shall be enforceable thereunder.

N. Time of the Essence. The parties agree that time is of the essence in their performance under this Agreement.

O. Survival of Representations. The representations of each of the parties and their executory covenants shall survive the close of escrow and shall not be merged in the deeds delivered to and accepted by any party hereto.

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IN WITNESS WHEREOF, COUNTY, LAND TRUST, and OWNER have executed this Agreement and Escrow Instructions on the dates set forth below.

SONIA CHANTAL ANDERSON

By:   
Sonia Chantal Anderson

Date: 10.29.2010

THE LAND TRUST FOR SANTA BARBARA COUNTY

By: \_\_\_\_\_  
Warren Miller, President

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Richard Nagler, Secretary

Date: \_\_\_\_\_

*[signatures continue on following page]*



COUNTY OF SANTA BARBARA

ATTEST:  
CHANDRA L. WALLAR  
CLERK OF THE BOARD

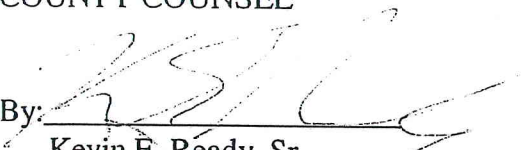
By: \_\_\_\_\_  
Chair, Board of Supervisors

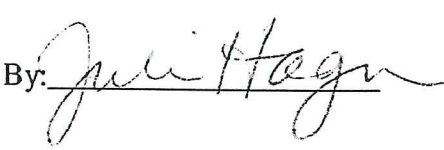
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
DENNIS MARSHALL  
COUNTY COUNSEL

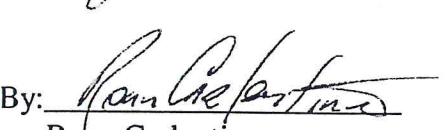
APPROVED AS TO FORM:  
ROBERT W. GEIS, CPA  
AUDITOR-CONTROLLER

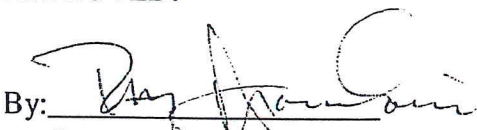
By:   
Kevin E. Ready, Sr.  
Senior Deputy County Counsel

By: 

APPROVED:

APPROVED:

By:   
Ronn Carlentine,  
Real Property Manager

By:   
Ray Aromatorio, ARM, AIC  
Risk Manager

