

Exhibit B

CALIFORNIA LAND CONSERVATION CONTRACT

No. _____

* * * * *

**FARMLAND SECURITY ZONE CONTRACT PROVIDING FOR A MINIMUM TWENTY-
YEAR TERM FOR PARCELS 1, 3, AND 4 CREATED BY A LOT LINE ADJUSTMENT
[COUNTY FILE NO. PLN2021-00327]**

THIS CALIFORNIA LAND CONSERVATION CONTRACT, made and entered into this ___ day of _____, 2022, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereinafter referred to as “COUNTY” and Peninsula Open Space Trust or successors thereof, hereinafter referred to as “OWNER”;

WHEREAS, the OWNER is the legal owner of certain real property herein referred to as the subject property situated in the County of San Mateo, State of California; and

WHEREAS, the subject property is described in EXHIBIT “A” which is made a part of this Contract; and

WHEREAS, the subject property is located in an Agricultural Preserve which has heretofore been established by the COUNTY and a map of which is on file with the Recorder of San Mateo County; and

WHEREAS, the OWNER and COUNTY desire to limit the use of the subject property to agricultural uses and compatible uses to preserve the limited supply of agricultural land and to discourage the premature and unnecessary conversion of agricultural land to urban uses; and

WHEREAS, the OWNER and the COUNTY recognize that agricultural land has definite public value as open space, that preservation of land in agricultural production will assure an adequate food supply and that such agricultural land constitutes important social, aesthetic, and economic assets to the people of the County and the State of California; and

WHEREAS, both the OWNER and the COUNTY intend that this Contract is and shall continue to be, through its initial term and any extension thereof, an enforceable restriction within the meaning of Section 8 of Article XIII of the State Constitution and that this Contract shall thereby qualify as an enforceable restriction under the provisions of the California Revenue and Taxation Code, Section 422.

NOW, THEREFORE, the parties, in consideration of the mutual benefits and conditions set forth herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. AGREEMENT MADE PURSUANT TO CALIFORNIA LAND CONSERVATION ACT

This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code commencing with Section 51200), hereinafter referred to as the Act, and is subject to all provisions thereof.

2. CONSIDERATION

It is agreed that the consideration for the execution of this Contract is the substantial public benefit to be derived by the COUNTY from the preservation of land in agricultural or compatible uses, and the advantage which will accrue to the OWNER as a result of the effect on the method of determining the assessed value of the subject property, including any reduction thereto due to the imposition of limitations on its use set forth in this Contract. Neither the COUNTY nor the OWNER shall receive any payment in consideration of the obligations imposed herein.

3. SUCCESSORS IN INTEREST

This Contract shall run with the land described herein and shall be binding upon and insure to the benefit of all successors in the interest of the OWNER. This Contract shall also be binding upon and insure to the benefit of any succeeding city or county acquiring jurisdiction over all or any portion of the subject property, except as provided in Section 51234(b) of the Act in the case of certain annexations to cities.

4. DIVISION OF SUBJECT PROPERTY

In the event the subject property is divided, the OWNER or successors thereof, as the case may be, agree as a condition of such division to execute such contract or contracts as will restrict any parcels created by said division to the same extent as the subject property is restricted by the Contract at the time of division. The COUNTY shall, as a condition of approving the division of the subject property, require the execution of the contracts provided for in this paragraph.

The OWNER of any parcel created by division of the subject property may exercise, independently of any other OWNER of a portion of the divided property, any of the rights of the OWNER executing this Contract, including the right to give notice of non-renewal as provided in Paragraph 8. The effect of any such action by an OWNER of a parcel created by a division the subject property shall not be imputed to the owners of the remaining parcels and shall have no effect on the Contracts which apply to the remaining parcels of the divided land.

5. USE OF SUBJECT PROPERTY

During the term of the Contract, or any extensions thereof, the subject property shall not be used for any purpose other than the "Permitted Agricultural Uses" or "Compatible Uses" set forth in the Resolution establishing the boundaries and rules governing administration of the Agricultural Preserve in which the subject property is located (Board of Supervisor's Resolution No. 067704, adopted December 21, 2005). The OWNER shall be limited to the uses specified in the aforementioned Resolution, except that if the ordinance, codes, or regulations of the COUNTY are more restrictive as to the use of said property than is the Resolution, the ordinances, codes or regulations shall prevail.

6. ADDITIONAL USES

The Board of Supervisors of the COUNTY may from time to time during the term of this Contract, or any extensions thereof, by resolution revise the lists of "Permitted Agricultural Uses" or "Compatible Uses" for the Agricultural Preserve in which the subject property is located; provided that said Board shall not eliminate any such permitted agricultural or compatible use during the term of the Contract or any extensions thereof without the written consent of the OWNER or successors in interest.

7. TERM

This Contract shall be effective on the date first written above, hereinafter the anniversary date, and shall remain in effect for a period of twenty (20) years therefrom. On each succeeding anniversary date, one (1) year shall automatically be added to the unexpired term unless notice of non-renewal is given as proved in Paragraph 8. If either party gives notice not to renew, it is understood and agreed that this Contract shall remain in effect for the unexpired term.

8. NOTICE OF NON-RENEWAL

If either the OWNER or the COUNTY desires in any year not to renew this Contract, that party shall serve written notice of non-renewal of the Contract upon the other party in advance of the anniversary date. Unless such written notice is served by the OWNER at least ninety (90) days prior to the anniversary date or by the COUNTY at least (60) days prior to the anniversary date, the Contract shall be considered renewed as provided in Paragraph 7. Upon receipt by the OWNER of a notice from the COUNTY of non-renewal, the OWNER may protest the non-renewal, provided such protest is made in writing and is filed with the Clerk of the Board of Supervisors of the COUNTY not later than thirty (30) days after receipt of said notice of non-renewal. The COUNTY may withdraw the notice of non-renewal at any time prior to the anniversary date. Upon request by the OWNER, the Board of Supervisors of the COUNTY may authorize the OWNER to serve a notice of non-renewal on a portion

of the subject property, provided that such notice is in accordance with the forgoing provisions of this paragraph.

9. ACTION IN EMINENT DOMAIN TO TAKE ALL OR PART OF THE SUBJECT PROPERTY

Upon the filing of an action in eminent Domain by an agency or person specified in Section 51295 of the Government Code, for the condemnation of the fee title of all or a portion of the subject property or upon the acquisition of the fee in lieu of condemnation, this Contract shall be null and void as provided in said Section 51295.

10. ABANDONMENT OF ACTION IN EMINENT DOMAIN

In the event a condemnation suit is abandoned in whole or in part, or if funds are not provided to acquire the subject property in lieu of condemnation, the OWNER agrees to execute a new contract for all of the subject property to have been taken or acquired, which contract shall be identical to the Contract in effect at the time the suit was filed or on the date the land was to have been acquired, provided that: (1) a notice for non-renewal was not given by either party prior to the filing of the suit or date the property was to have been acquired, and (2) the property at the time of said execution of a new Contract is within the boundaries of an Agricultural Preserve.

11. REMOVAL OF SUBJECT PROPERTY FROM AGRICULTURAL PRESERVE

In the event any proposal to disestablish or to alter the boundary of an Agricultural Preserve will remove the subject property from such a Preserve, the Board of Supervisors of the COUNTY shall furnish such notice of the proposed alteration or disestablishment to the OWNER as required by Section 51232 of the Act. Removal of any of the property from the Agricultural Preserve in which the subject property is located shall be the equivalent of notice of non-renewal, as provided in Paragraph 8, at least sixty (60) days prior to the anniversary date following the removal. The COUNTY shall record the notice of non-renewal in the office of the Recorder of the COUNTY, as required by Paragraph 13 herein; however, the OWNER agrees that failure of the COUNTY to record said notice of non-renewal shall not invalidate or in any manner affect said notice.

12. INFORMATION TO COUNTY

The OWNER shall furnish the COUNTY with such information as the COUNTY may require in order to enable it to determine the value of the subject property for assessment purposes and the eligibility of the subject property under the provisions of the Act.

13. RECORDING OF DOCUMENTS

In the event of the termination of the Contract with respect to any part of the subject property, the COUNTY shall record the documents evidencing such termination with the Recorder of the COUNTY.

14. ENFORCEMENT OF CONTRACT

Any conveyance, contract, or authorization (whether written or oral) by the OWNER, or successors in interest, which would permit use of the subject property contrary to the terms of the Contract or the rules of the Agricultural Preserve in which the subject property is located, will be deemed a breach of this Contract. The COUNTY may bring any action in court necessary to enforce this Contract including but not limited to an action to enforce the Contract by specific performance or injunction. It is understood and agreed that the enforcement proceedings provided in this Paragraph are not exclusive and that both the OWNER and the COUNTY may pursue their legal and equitable remedies.

15. CANCELLATION

This Contract may not be cancelled before completion of its term. The Board of Supervisors has found in its Resolution No. 65067 that cancellation of Farmland Security Zone Contracts is not in the best public interest of the County's citizens. However, the COUNTY or the OWNER has the right to file a notice of non-renewal

under Government Code Section 51245 and as provided in Paragraph 8 of the Contract.

16. SEVERABILITY

It is understood and agreed by the parties hereto that if any of these provisions shall contravene or be invalid under any law, such contravention or invalidity shall not invalidate the whole Contract, but is shall be construed as if not containing that particular provision or provisions held to be invalid, and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

17. ASSESSMENT INFORMATION

OWNER agrees to provide COUNTY, upon request, with all information concerning OWNER'S agricultural, recreational or open space and compatible activities upon the subject property, including but not limited to, income derived in the course of OWNER's agricultural pursuits in relation to the subject property. Said information will be necessary to implement the assessment process, pursuant to the California Land Conservation Act of 1965 (as amended) and the San Mateo County Land Conservation Act Uniform Rules and Procedures (as amended).

18. CONTRACT SUBJECT TO EXERCISE OF POLICE POWER

Nothing in this Contract shall limit or supersede the planning, zoning, health, safety and other police powers of the COUNTY, and the right of the COUNTY to exercise such powers with regard to the subject property.

19. EXCULPATORY CLAUSE

The OWNER shall hold the COUNTY harmless from any demand, claim, cause of action or action for damages involving the OWNER'S interest or rights in and to the real property described herein. Person or persons signing this Contract represent that they are OWNERS of the real property entitled to and possessing the authority to enter into this Contract and to bind the real property in accordance with this Contract.

20. COSTS OF LITIGATION

In case the COUNTY shall, without any fault on its part, be made a party to any litigation commenced by or against OWNER, the OWNER shall and will pay all costs together with reasonable attorney's fees incurred by or imposed upon COUNTY by or in connection with such litigation; further, OWNER shall and will pay all costs and reasonable attorney's fees which may be incurred or paid by COUNTY in enforcing the covenants and agreements of this

Contract.

21. ANNEXATION

This Contract shall be transferred from COUNTY to any succeeding City or County acquiring jurisdiction over the subject property in the manner provided for in Section 51296 of the California Government Code. On the completion of annexation proceedings by a City, that City shall succeed to all rights, duties and powers of the County under this Contract for that portion of the subject property annexed to the City.

IN WITNESS WHEREOF, the parties hereto have executed the Contract on the day and year first written above.

Peninsula Open Space Trust

“Owner”

Walter T. Moore

COUNTY OF SAN MATEO

By _____

President, Board of Supervisors

“County”

ATTEST:

Clerk of Said Board of Supervisors

(NOTARIAL ACKNOWLEDGMENT)

* * * * *

Exhibit C

OPEN SPACE EASEMENT AGREEMENT

No. _____

**OPEN SPACE EASEMENT AGREEMENT
PORTION OF JOHNSTON RANCH PROPERTY**

THIS OPEN SPACE EASEMENT AGREEMENT, made and entered into this ____ day of ____, 2022, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and Midpeninsula Regional Open Space District or successors thereof, hereinafter referred to as "DISTRICT";

WHEREAS, District is owner of certain real property in the County of San Mateo created by that Approval of Lot Line Adjustment recorded _____, 2022 Document # _____ and subsequent Grant Deed recorded _____, 2022

WHEREAS, a portion of the subject property was subject to a California Land Conservation Contract (Contract) with a ten (10) year term recorded December 21, 2005, Document No. 2005-222499 between Peninsula Open Space Trust and the County of San Mateo; and

WHEREAS, a condition of the County's Approval of Lot Line Adjustment requires the parcels created by the division and subject to the Contract be rescinded and

replaced by new contract for the same ten (10) term.

WHEREAS, the County and District accordingly agree to enter into an Open Space Easement Agreement (Agreement) for a term of ten (10) years over a portion of the subject property shown in Exhibit A.

NOW, THEREFORE, in consideration of the above recitals, and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of California and in particular, inter alia, Sections 815 through 816 of the California Civil Code, District hereby grants to County an Open Space Easement Agreement (“Easement”) over the 226-acre portion of Johnston Ranch Lowerlands property south of Higgins Canyon Road shown in “Exhibit A” attached hereto and incorporated herein by this reference (“Easement Property”), subject to the following terms and conditions.

1. Purpose. The purpose of the Easement is to assure that the Easement Property will be retained in its natural, scenic, agricultural and open space condition, to promote compatible low-intensity recreational use (including public trails), and to prevent any use of the Easement Property that will significantly impair or interfere with these conservation values. Accordingly, this Easement restricts the use of the Easement Property to allow only activities involving conservation grazing, agriculture, low-intensity public recreational use, open space, resource management, natural habitat and environmental protection, and related uses that are consistent with the Easement.
2. Term. This Easement shall run for a period of ten (10) years and shall expire on the tenth anniversary of the date this Easement is accepted by County. Upon the expiration of this Easement, County agrees to prepare and record a quitclaim of this Easement as more particularly set forth in Section 10 hereunder.
3. Rights of County. To accomplish the purposes of the Easement, District conveys to County the right:

- (a) To preserve and protect the conservation values of the Easement Property consistent with this Easement.
- (b) To enter upon the Easement Property in order to monitor District's compliance with the terms of the Easement and to enforce such terms, provided that such entry shall be upon reasonable prior notice to District.
- (c) Pursuant to Section 7 hereof ("Disputes and Remedies"), to prevent any activity on or use of the Easement Property which is inconsistent with the terms of the Easement and to require the restoration of such areas or features of the Easement Property that may be damaged by any inconsistent activity or use.

4. Prohibited Uses. Any activity on or use of the Easement Property that is inconsistent with the terms of the Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (a) Commercial or Industrial Use. Any commercial or industrial development, use of, or activity on the Easement Property is prohibited. This provision excludes agricultural use and the use of the Easement Property by District's agricultural tenant under the terms of the Lease Agreement as referenced in Section 5 hereunder.
- (b) Building. The placement or construction of any new buildings, structures or other improvements on the Easement Property is prohibited other than the existing agricultural, public open space and recreational improvements permitted in Section 5 hereunder. This provision also excludes any improvements authorized by the Agreement referenced in Section 5 hereunder.

- (c) Soil Erosion or Degradation. Any use or activity that causes, or is likely to cause, significant soil degradation or erosion or significant pollution of any surface or subsurface waters is prohibited. This prohibition shall not apply to the use of agrochemicals such as fertilizers, pesticides, herbicides, and fungicides, which are used in accordance with law and USDA, manufacturer's, and the County Agricultural Commissioner's regulations, directions, and policies, or those of their successors.
- (d) Tree Cutting. The cutting down, or other removal of live trees, except when required for safety or fire protection and subject to the prior written approval of the District, which approval shall not be unreasonably withheld, is prohibited.
- (e) Dumping. The dumping or disposal of any and all waste, refuse, or debris on the Easement Property is prohibited.
- (f) New Utilities. The installation of new above-ground utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities is prohibited. This provision excludes the installation of underground utilities serving existing agricultural improvements and facilities located on Butano Farms, or that may be necessary to serve future public recreation or access, and excludes any utilities authorized by the Lease Agreement referenced in Section 5 hereunder.
- (g) Mineral Rights. The exploration for, or development and extraction of, minerals and hydrocarbons by any mining method is prohibited.
- (h) Off Road Vehicles. Use of off-road or all-terrain vehicles or motorcycles is prohibited except by District's personnel and contractors for resource

management, patrol, maintenance or construction purposes permitted under the terms of this Easement, or by District's agricultural tenant under the terms of the Lease Agreement referenced in Section 5 hereunder.

- (i) Hunting or Shooting. Hunting or trapping of wildlife and the shooting of guns is prohibited, except by District's personnel or contractors for pest species.
- (j) Noise Limits. No activities such as concerts shall be permitted on the Easement Property that produce noise levels in excess of 65 decibels as measured on trails surrounding the Easement Property. Agricultural, construction, maintenance and landscaping equipment such as tractors, chainsaws, and leaf blowers are specifically excluded from this provision.
- (k) Junk Yards. Storage or disassembly of inoperable automobiles and trucks for purposes of sale or rental of space for that purpose is expressly prohibited.
- (l) Excavation. Alteration of land forms by grading or excavation of topsoil, earth, or rock is prohibited except for the construction, installation, repair, and maintenance of public trails or patrol roads, staging areas, or associated accessory facilities such as signs, gates, and fencing, or for erosion control purposes or other resource management purposes.
- (m) Scenic and Natural Character. Activities such as clearing, stripping of native vegetation, grading, or storage of materials that would clearly degrade the scenic and natural character of the Easement Property is prohibited.
- (n) Archeological and Cultural Resources. The excavation, removal, destruction, or sale of any archeological or cultural artifacts or remains

found on the Easement Property, except as part of an archeological investigation approved by District, is prohibited.

5. Permitted Uses. District may use the Easement Property for any purpose not prohibited by Section 4 herein, and which is consistent with the terms of the Easement. The following uses and practices, though not an exhaustive recital of consistent uses, are consistent with the terms and purpose of the Easement and are not precluded by it:
- (a) To use and operate the Easement Property for public open space, conservation grazing, agricultural, and recreational purposes including, but not limited to, natural resource management activities, environmental education, occasional special events, and low-intensity public recreation and trail uses. All uses and improvements shall be constructed and operated in accordance with all applicable laws, including but not limited to the Americans with Disabilities Act ("ADA"). Compliance with the ADA shall be the sole responsibility of District.
 - (b) To repair, maintain, improve and replace existing agricultural improvements: barn, livestock corrals, sheds, and outbuildings on the Easement Property.
 - (c) To plan, design and construct recreational trails, trail staging areas, parking areas, restrooms and related improvements to create opportunities for low-intensity public use of the Easement Property.
 - (d) To install gates and appropriate signage and fencing.
 - (e) To implement standard fuel management and defensible space practices consistent with the District's Wildland Fire Resiliency Program.

- (f) To remove exotic non-native invasive vegetation and restore the area with native vegetation.
- (g) To maintain existing roads to a year-round unsurfaced standard for vehicle access.
- (h) To permit conservation grazing and all other permitted activities by District's tenant or future grazing tenant on the Easement Property.
- (i) To maintain, improve and enlarge livestock/agricultural reservoir on the Easement Property, to maintain underground water lines, install livestock water troughs, spring boxes, water tanks and remove water from the Easement Property, and to perform such maintenance and repair as is necessary for the reservoirs.

6. Cooperation Between County and District. County and District acknowledge that the District will consult with the County's Planning Department on all subsequent actions to ensure compliance with the Local Coastal Plan (LCP) and Coastal Development (CD) permitting requirements. District will work cooperatively with County to facilitate the fulfillment of any conditions of the County applicable to the Easement.

7. Disputes and Remedies. If County determines that District or any occupant of the Easement Property is conducting or allowing a use, activity, or condition on the Easement Property which is prohibited by the terms of the Easement, or that a violation is threatened, County shall give written notice to District of such violation and request corrective action sufficient to cure the violation, and, where the violation involves injury to the Easement Property resulting from any use or activity inconsistent with the purposes of the Easement, to restore the portion of the Easement Property so injured, promptly and at District's sole cost and expense.

(a) Consultations Regarding Interpretation and Enforcement of Easement.

When any disagreement, conflict, need for interpretation, or need for enforcement arises between the parties to the Easement, each party shall first consult with the other party in good faith about the issue and attempt to resolve the issue without resorting to legal action.

(b) Notice of Violation; Corrective Action. If County determines that a violation of the terms of the Easement has occurred or is threatened, County shall give written notice to District of such violation and request corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Property resulting from any use or activity inconsistent with the terms of the Easement, to request restoration of the portion of the Easement Property so injured to its prior condition. Such written notice is not required in the event of any actual or imminent physical harm to the Easement Property.

(c) Injunctive Relief. If District fails to cure the violation within ninety (90) days after receipt of notice thereof from County, or under circumstances where the violation cannot reasonably be cured within a ninety (90) day period, fails to begin curing such violation within the ninety (90) day period, or fails to continue diligently to cure such violation until finally cured, County may bring an action at law or in equity in a court of competent jurisdiction which seeks to enforce the terms of the Easement, to enjoin the violation, by temporary or permanent injunction, and seeks to require the restoration of the Easement Property to the condition that existed prior to any such injury.

(d) Damages. County shall be entitled to recover damages for violation of the terms of this Easement or injury to this Easement or the interests protected by this Easement, as provided by Government Code Section

815.7.

- (e) Forbearance. Enforcement of the terms of the Easement shall be at the discretion of the County, and any forbearance by County to exercise its rights under the Easement in the event of any breach of any term of the Easement by District shall not be deemed or construed to be a waiver by County of such term or of any subsequent breach of the same or any other term of the Easement or of any of County's rights under the Easement. No delay or omission by County in the exercise of any right or remedy upon any breach by District shall impair such right or remedy or be construed as a waiver.
 - (f) Acts Beyond the District's Control. Nothing contained in the Easement shall be construed to entitle County to bring any action against District for any injury to or change in the Easement Property resulting from causes not involving any affirmative acts by District or its tenants, or causes beyond District's or its tenants' control, including without limitation, trespassers, fire, flood, storm, and earth movement or other Acts of God, or from any prudent action taken by District under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Property resulting from such causes.
 - (g) Attorneys' Fees. If either party hereto incurs any expense, including reasonable attorneys' fees, in connection with any action or proceeding instituted by reason of any violation, breach, default or alleged default of the other party hereunder, the party prevailing in such action or proceeding shall be entitled to recover from the other party reasonable expenses and attorneys' fees in the amount determined by the Court.
8. Indemnity, Costs and Responsibilities. District or its designees or authorized lessees shall have the sole responsibility for the ownership, liability, operation,

upkeep, and maintenance of the Easement Property. District shall be responsible for compliance with any Easement conditions or requirements, including but not limited to limitations and requirements regarding the use or condition of the Easement Property. District shall be responsible for, indemnify, defend, and save harmless County, its officers, agents, and employees from any and all liabilities, claims, demands, damages, or costs whatsoever, including but not limited to claims for personal injury or death of any person, whether public or private resulting from, growing out of, or in any way connected with or incident to the Easement or the condition, use, installation, construction, operation, maintenance, or lack of maintenance of the Easement Property, except for the sole or active negligence or willful misconduct of County, its officers, agents, or employees. This indemnity shall extend to any claims against County due to the release or existence of any hazardous materials (as defined by any applicable local, state or federal law) on, under or in the Easement property. This indemnity shall also extend to any claims against County concerning any failure by County to comply with the Americans with Disabilities Act in any way connected with the Easement property. The duty of District to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778.

9. Insurance. Throughout the term of this Easement, the District shall at its sole cost maintain in full force and effect either self-insurance through a government risk pool or a policy of general commercial liability insurance with a company licensed to do business in the State of California insuring the District against claims for personal injury, death, or property damage occurring in, on or about the Easement Property with a coverage limit of not less than Two Million Dollars (\$2,000,000) aggregate limit for bodily injury or death or property damage.
10. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To District: Midpeninsula Regional Open Space District
5050 El Camino Real
Los Altos, CA 94022-1404
Attn: Real Property Manager
(650) 691-1200 (Telephone)
(650) 691-0485 (Fax)

To County: County of San Mateo Planning & Building Department
455 County Center, 2nd Floor
Redwood City, CA 94063
(650) 363-4161 (Telephone)
(650) 363-3839 (Fax)

or to such other address as either party from time to time shall designate by written notice to the other.

11. Recordation. This instrument shall be recorded by County in the Official Records of the County of San Mateo, California. County may re-record this Agreement whenever re-recording is required to preserve County's rights under the Easement. County agrees to prepare a quitclaim of the Easement in substantially the same form set out in "Exhibit E", attached hereto and incorporated herein by reference, or such other form as is acceptable to District, quitclaiming all of County's rights and interests in the Easement, and to cause the quitclaim to record within 30 days of the ten (10) year anniversary of the execution of this Agreement by both parties.

12. General Provisions.

(a) Controlling Law. The interpretation and performance of the Easement shall be governed by the laws of the State of California. Venue shall be

the Superior Courts of San Mateo County.

- (b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of District to affect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. This instrument shall be construed in accordance with its fair meaning, and it shall not be construed against either party on the basis that such party prepared this instrument.
- (c) Severability. If any provision of the Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of the Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby, so long as the purposes of the Easement can still be carried out.
- (d) No Third-Party Rights. This instrument is made and entered into for the sole benefit and protection of District and County and their respective heirs, grantees, successors, and assigns. No person or entity other than the parties hereto and their respective heirs, grantees, successors, and assigns shall have any right of action under the Easement or any right to enforce the terms and provisions hereof.
- (e) No Forfeiture. Nothing contained herein is intended to result in a forfeiture or reversion of District's fee title in any respect. District specifically reserves the right to convey fee title, or to lease, or to grant easements pertaining to the Easement Property, subject to the terms of this Easement.

- (f) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- (g) Counterparts. District may execute this instrument in two or more counterparts; each counterpart shall be deemed an original instrument. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- (h) Consent not to be Unreasonably Withheld. In the event District, as required by the terms hereof, seeks consent of County, County agrees in all such circumstances not to unreasonably withhold its consent, regardless whether the paragraph hereunder requiring County's consent so provides.
- (i) Authority to Sign. The parties executing this Agreement represent that they have authority and power to sign this Agreement on behalf of the Midpeninsula Regional Open Space District and the County of San Mateo, respectively.

IN WITNESS WHEREOF, District and County have executed this Open Space Easement Agreement on the day and year shown with their signature hereon.

**MIDPENINSULA REGIONAL
OPEN SPACE DISTRICT**

COUNTY OF SAN MATEO

By: _____
Zoe Kersteen-Tucker, President
Board of Directors

By: _____
Chair, Board of Supervisors

Date: _____

Date: _____

Attest:

Attest:

By: _____
Jennifer Woodworth,

District Clerk

By: _____
_____,

Clerk of the Board of
Supervisors

Approved as to form and legality:

Approved as to form and legality:

By: _____
Hilary Stevenson,
General Counsel

By: _____
_____,
County Counsel

Exhibit D

OPEN SPACE EASEMENT AGREEMENT

No. _____

**OPEN SPACE EASEMENT AGREEMENT
PORTION OF JOHNSTON RANCH UPLANDS PROPERTY**

THIS OPEN SPACE EASEMENT AGREEMENT, made and entered into this ____ day of ____, 2022, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and Midpeninsula Regional Open Space District or successors thereof, hereinafter referred to as "DISTRICT";

WHEREAS, District is owner of certain real property in the County of San Mateo created by that Approval of Lot Line Adjustment recorded _____, 2022 Document # _____ and subsequent Grant Deed recorded _____, 2022

WHEREAS, a portion of the subject property was subject to a California Land Conservation Contract (Contract) with a twenty (20) year term recorded December 21, 2005, Document No. 2005-222500 between Peninsula Open Space Trust and the County of San Mateo; and

WHEREAS, a condition of the County's Approval of Lot Line Adjustment requires the parcels created by the division and subject to the Contract be rescinded and

replaced by new contract for the same twenty (20) year term.

WHEREAS, the County and District accordingly agree to enter into an Open Space Easement Agreement (Agreement) for a term of twenty (20) years over a portion of the subject property shown in Exhibit A.

NOW, THEREFORE, in consideration of the above recitals, and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of California and in particular, inter alia, Sections 815 through 816 of the California Civil Code, District hereby grants to County an Open Space Easement Agreement ("Easement") over the 207-acre portion of Johnston Ranch Uplands property north of Higgins Canyon Road shown in "Exhibit A" attached hereto and incorporated herein by this reference ("Easement Property"), subject to the following terms and conditions.

4. Purpose. The purpose of the Easement is to assure that the Easement Property will be retained in its natural, scenic, agricultural and open space condition, to promote compatible low-intensity recreational use (including public trails), and to prevent any use of the Easement Property that will significantly impair or interfere with these conservation values. Accordingly, this Easement restricts the use of the Easement Property to allow only activities involving conservation grazing, agriculture, low-intensity public recreational use, open space, resource management, natural habitat and environmental protection, and related uses that are consistent with the Easement.
5. Term. This Easement shall run for a period of twenty (20) years and shall expire on the twentieth anniversary of the date this Easement is accepted by County. Upon the expiration of this Easement, County agrees to prepare and record a quitclaim of this Easement as more particularly set forth in Section 10 hereunder.
6. Rights of County. To accomplish the purposes of the Easement, District conveys

to County the right:

- (a) To preserve and protect the conservation values of the Easement Property consistent with this Easement.
- (d) To enter upon the Easement Property in order to monitor District's compliance with the terms of the Easement and to enforce such terms, provided that such entry shall be upon reasonable prior notice to District.
- (e) Pursuant to Section 7 hereof ("Disputes and Remedies"), to prevent any activity on or use of the Easement Property which is inconsistent with the terms of the Easement and to require the restoration of such areas or features of the Easement Property that may be damaged by any inconsistent activity or use.

4. Prohibited Uses. Any activity on or use of the Easement Property that is inconsistent with the terms of the Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (b) Commercial or Industrial Use. Any commercial or industrial development, use of, or activity on the Easement Property is prohibited. This provision excludes agricultural use and the use of the Easement Property by District's agricultural tenant under the terms of the Lease Agreement as referenced in Section 5 hereunder.
- (m) Building. The placement or construction of any new buildings, structures or other improvements on the Easement Property is prohibited other than the existing agricultural, public open space and recreational improvements permitted in Section 5 hereunder. This provision also excludes any improvements authorized by the Agreement referenced in Section 5

hereunder.

- (n) Soil Erosion or Degradation. Any use or activity that causes, or is likely to cause, significant soil degradation or erosion or significant pollution of any surface or subsurface waters is prohibited. This prohibition shall not apply to the use of agrochemicals such as fertilizers, pesticides, herbicides, and fungicides, which are used in accordance with law and USDA, manufacturer's, and the County Agricultural Commissioner's regulations, directions, and policies, or those of their successors.
- (o) Tree Cutting. The cutting down, or other removal of live trees, except when required for safety or fire protection and subject to the prior written approval of the District, which approval shall not be unreasonably withheld, is prohibited.
- (p) Dumping. The dumping or disposal of any and all waste, refuse, or debris on the Easement Property is prohibited.
- (q) New Utilities. The installation of new above-ground utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities is prohibited. This provision excludes the installation of underground utilities serving existing agricultural improvements and facilities located on Butano Farms, or that may be necessary to serve future public recreation or access, and excludes any utilities authorized by the Lease Agreement referenced in Section 5 hereunder.
- (r) Mineral Rights. The exploration for, or development and extraction of, minerals and hydrocarbons by any mining method is prohibited.
- (s) Off Road Vehicles. Use of off-road or all-terrain vehicles or motorcycles is

prohibited except by District's personnel and contractors for resource management, patrol, maintenance or construction purposes permitted under the terms of this Easement, or by District's agricultural tenant under the terms of the Lease Agreement referenced in Section 5 hereunder.

- (t) Hunting or Shooting. Hunting or trapping of wildlife and the shooting of guns is prohibited, except by District's personnel or contractors for pest species.
- (u) Noise Limits. No activities such as concerts shall be permitted on the Easement Property that produce noise levels in excess of 65 decibels as measured on trails surrounding the Easement Property. Agricultural, construction, maintenance and landscaping equipment such as tractors, chainsaws, and leaf blowers are specifically excluded from this provision.
- (v) Junk Yards. Storage or disassembly of inoperable automobiles and trucks for purposes of sale or rental of space for that purpose is expressly prohibited.
- (w) Excavation. Alteration of land forms by grading or excavation of topsoil, earth, or rock is prohibited except for the construction, installation, repair, and maintenance of public trails or patrol roads, staging areas, or associated accessory facilities such as signs, gates, and fencing, or for erosion control purposes or other resource management purposes.
- (o) Scenic and Natural Character. Activities such as clearing, stripping of native vegetation, grading, or storage of materials that would clearly degrade the scenic and natural character of the Easement Property is prohibited.
- (p) Archeological and Cultural Resources. The excavation, removal,

destruction, or sale of any archeological or cultural artifacts or remains found on the Easement Property, except as part of an archeological investigation approved by District, is prohibited.

5. Permitted Uses. District may use the Easement Property for any purpose not prohibited by Section 4 herein, and which is consistent with the terms of the Easement. The following uses and practices, though not an exhaustive recital of consistent uses, are consistent with the terms and purpose of the Easement and are not precluded by it:
- (j) To use and operate the Easement Property for public open space, conservation grazing, agricultural, and recreational purposes including, but not limited to, natural resource management activities, environmental education, occasional special events, and low-intensity public recreation and trail uses. All uses and improvements shall be constructed and operated in accordance with all applicable laws, including but not limited to the Americans with Disabilities Act ("ADA"). Compliance with the ADA shall be the sole responsibility of District.
 - (k) To repair, maintain, improve and replace existing agricultural improvements: barn, livestock corrals, sheds, and outbuildings on the Easement Property.
 - (l) To plan, design and construct recreational trails, trail staging areas, parking areas, restrooms and related improvements to create opportunities for low-intensity public use of the Easement Property.
 - (m) To install gates and appropriate signage and fencing.
 - (n) To implement standard fuel management and defensible space practices consistent with the District's Wildland Fire Resiliency Program.

- (o) To remove exotic non-native invasive vegetation and restore the area with native vegetation.
 - (p) To maintain existing roads to a year-round unsurfaced standard for vehicle access.
 - (q) To permit conservation grazing and all other permitted activities by District's tenant or future grazing tenant on the Easement Property.
 - (r) To maintain, improve and enlarge livestock/agricultural reservoir on the Easement Property, to maintain underground water lines, install livestock water troughs, spring boxes, water tanks and remove water from the Easement Property, and to perform such maintenance and repair as is necessary for the reservoirs.
6. Cooperation Between County and District. County and District acknowledge that the District will consult with the County's Planning Department on all subsequent actions to ensure compliance with the Local Coastal Plan (LCP) and Coastal Development (CD) permitting requirements. District will work cooperatively with County to facilitate the fulfillment of any conditions of the County applicable to the Easement.
7. Disputes and Remedies. If County determines that District or any occupant of the Easement Property is conducting or allowing a use, activity, or condition on the Easement Property which is prohibited by the terms of the Easement, or that a violation is threatened, County shall give written notice to District of such violation and request corrective action sufficient to cure the violation, and, where the violation involves injury to the Easement Property resulting from any use or activity inconsistent with the purposes of the Easement, to restore the portion of the Easement Property so injured, promptly and at District's sole cost and

expense.

(a) Consultations Regarding Interpretation and Enforcement of Easement.

When any disagreement, conflict, need for interpretation, or need for enforcement arises between the parties to the Easement, each party shall first consult with the other party in good faith about the issue and attempt to resolve the issue without resorting to legal action.

(b) Notice of Violation; Corrective Action. If County determines that a violation of the terms of the Easement has occurred or is threatened, County shall give written notice to District of such violation and request corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Property resulting from any use or activity inconsistent with the terms of the Easement, to request restoration of the portion of the Easement Property so injured to its prior condition. Such written notice is not required in the event of any actual or imminent physical harm to the Easement Property.

(c) Injunctive Relief. If District fails to cure the violation within ninety (90) days after receipt of notice thereof from County, or under circumstances where the violation cannot reasonably be cured within a ninety (90) day period, fails to begin curing such violation within the ninety (90) day period, or fails to continue diligently to cure such violation until finally cured, County may bring an action at law or in equity in a court of competent jurisdiction which seeks to enforce the terms of the Easement, to enjoin the violation, by temporary or permanent injunction, and seeks to require the restoration of the Easement Property to the condition that existed prior to any such injury.

(d) Damages. County shall be entitled to recover damages for violation of the terms of this Easement or injury to this Easement or the interests

protected by this Easement, as provided by Government Code Section 815.7.

- (e) Forbearance. Enforcement of the terms of the Easement shall be at the discretion of the County, and any forbearance by County to exercise its rights under the Easement in the event of any breach of any term of the Easement by District shall not be deemed or construed to be a waiver by County of such term or of any subsequent breach of the same or any other term of the Easement or of any of County's rights under the Easement. No delay or omission by County in the exercise of any right or remedy upon any breach by District shall impair such right or remedy or be construed as a waiver.
- (f) Acts Beyond the District's Control. Nothing contained in the Easement shall be construed to entitle County to bring any action against District for any injury to or change in the Easement Property resulting from causes not involving any affirmative acts by District or its tenants, or causes beyond District's or its tenants' control, including without limitation, trespassers, fire, flood, storm, and earth movement or other Acts of God, or from any prudent action taken by District under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Property resulting from such causes.
- (g) Attorneys' Fees. If either party hereto incurs any expense, including reasonable attorneys' fees, in connection with any action or proceeding instituted by reason of any violation, breach, default or alleged default of the other party hereunder, the party prevailing in such action or proceeding shall be entitled to recover from the other party reasonable expenses and attorneys' fees in the amount determined by the Court.

8. Indemnity, Costs and Responsibilities. District or its designees or authorized

lessees shall have the sole responsibility for the ownership, liability, operation, upkeep, and maintenance of the Easement Property. District shall be responsible for compliance with any Easement conditions or requirements, including but not limited to limitations and requirements regarding the use or condition of the Easement Property. District shall be responsible for, indemnify, defend, and save harmless County, its officers, agents, and employees from any and all liabilities, claims, demands, damages, or costs whatsoever, including but not limited to claims for personal injury or death of any person, whether public or private resulting from, growing out of, or in any way connected with or incident to the Easement or the condition, use, installation, construction, operation, maintenance, or lack of maintenance of the Easement Property, except for the sole or active negligence or willful misconduct of County, its officers, agents, or employees. This indemnity shall extend to any claims against County due to the release or existence of any hazardous materials (as defined by any applicable local, state or federal law) on, under or in the Easement property. This indemnity shall also extend to any claims against County concerning any failure by County to comply with the Americans with Disabilities Act in any way connected with the Easement property. The duty of District to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778.

9. Insurance. Throughout the term of this Easement, the District shall at its sole cost maintain in full force and effect either self-insurance through a government risk pool or a policy of general commercial liability insurance with a company licensed to do business in the State of California insuring the District against claims for personal injury, death, or property damage occurring in, on or about the Easement Property with a coverage limit of not less than Two Million Dollars (\$2,000,000) aggregate limit for bodily injury or death or property damage.
10. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as

follows:

To District: Midpeninsula Regional Open Space District
5050 El Camino Real
Los Altos, CA 94022-1404
Attn: Real Property Manager
(650) 691-1200 (Telephone)
(650) 691-0485 (Fax)

To County: County of San Mateo Planning & Building Department
455 County Center, 2nd Floor
Redwood City, CA 94063
(650) 363-4161 (Telephone)
(650) 363-3839 (Fax)

or to such other address as either party from time to time shall designate by written notice to the other.

11. Recordation. This instrument shall be recorded by County in the Official Records of the County of San Mateo, California. County may re-record this Agreement whenever re-recording is required to preserve County's rights under the Easement. County agrees to prepare a quitclaim of the Easement in substantially the same form set out in "Exhibit E", attached hereto and incorporated herein by reference, or such other form as is acceptable to District, quitclaiming all of County's rights and interests in the Easement, and to cause the quitclaim to record within 30 days of the ten (10) year anniversary of the execution of this Agreement by both parties.
12. General Provisions.
 - (j) Controlling Law. The interpretation and performance of the Easement

shall be governed by the laws of the State of California. Venue shall be the Superior Courts of San Mateo County.

- (k) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of District to affect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. This instrument shall be construed in accordance with its fair meaning, and it shall not be construed against either party on the basis that such party prepared this instrument.
- (l) Severability. If any provision of the Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of the Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby, so long as the purposes of the Easement can still be carried out.
- (m) No Third-Party Rights. This instrument is made and entered into for the sole benefit and protection of District and County and their respective heirs, grantees, successors, and assigns. No person or entity other than the parties hereto and their respective heirs, grantees, successors, and assigns shall have any right of action under the Easement or any right to enforce the terms and provisions hereof.
- (n) No Forfeiture. Nothing contained herein is intended to result in a forfeiture or reversion of District's fee title in any respect. District specifically reserves the right to convey fee title, or to lease, or to grant easements pertaining to the Easement Property, subject to the terms of this

Easement.

- (o) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- (p) Counterparts. District may execute this instrument in two or more counterparts; each counterpart shall be deemed an original instrument. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- (q) Consent not to be Unreasonably Withheld. In the event District, as required by the terms hereof, seeks consent of County, County agrees in all such circumstances not to unreasonably withhold its consent, regardless whether the paragraph hereunder requiring County's consent so provides.
- (r) Authority to Sign. The parties executing this Agreement represent that they have authority and power to sign this Agreement on behalf of the Midpeninsula Regional Open Space District and the County of San Mateo, respectively.

IN WITNESS WHEREOF, District and County have executed this Open Space Easement Agreement on the day and year shown with their signature hereon.

**MIDPENINSULA REGIONAL
OPEN SPACE DISTRICT**

COUNTY OF SAN MATEO

By: _____
Zoe Kersteen-Tucker, President
Board of Directors

By: _____
Chair, Board of Supervisors

Date: _____

Date: _____

Attest:

Attest:

By: _____
Jennifer Woodworth,

District Clerk

By: _____
_____,

Clerk of the Board of
Supervisors

Approved as to form and legality:

Approved as to form and legality:

By: _____
Hilary Stevenson,
General Counsel

By: _____
_____,
County Counsel

EXHIBIT E

WHEN RECORDED MAIL TO:

County of San Mateo
Attention: _____

NO TRANSFER TAX DUE
PUBLIC AGENCY
ACQUIRING TITLE,
CALIFORNIA REVENUE
AND TAXATION
CODE SECTION 11922

QUITCLAIM DEED

**DULY RECORDED WITHOUT
FEE**
Pursuant to Government Code
Sections 6103, 27383.

BY: _____

For a Valuable Consideration, the **COUNTY OF SAN MATEO** does hereby REMISE, RELEASE
AND QUITCLAIM to the **MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

that certain OPEN SPACE EASEMENT filed in the office of the County Recorder of San Mateo
County, State of California, on _____, 20__ as Document No. _____.

APN _____

State of California
County of San Mateo

On this _____ day of _____, before me,

[SIGNATURE Insert Name of Person Signing
and his/her title if applicable]

_____, the undersigned notary public personally appeared _____ known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s)] acted, executed the instrument.

WITNESS my official seal.

Signature

Name (typed or printed)

[2nd signature, if applicable]