

COOPERATIVE AGREEMENT

This Cooperative Agreement (the "Agreement") is entered into by and between the San Luis Obispo County Flood Control and Water Conservation District (the "FCWCD") and the Upper Salinas-Las Tablas Resource Conservation District (the "RCD") (the FCWCD and the RCD are each referred to individually as a "Party" and collectively as the "Parties").

A. WHEREAS, the FCWCD implemented the Nacimiento Water Project, as described in the Nacimiento Water Project Environmental Impact Report certified in January 2004 (State Clearing House No. 2001061022) (the "Project"); and

B. WHEREAS, the California Regional Water Quality Control Board (the "Water Board") issued a Clean Water Act Section 401 Water Quality Certification for the Project in April 2007 (amended in June 2009) (Certification No. 34006WQ19) (the "Certification"); and

C. WHEREAS, the Certification requires the FCWCD to implement a compensatory mitigation project to mitigate the Project's permanent impacts to 0.32 acres (the "Impacts"); and

D. WHEREAS, in order to comply with the Certification, the FCWCD intends to allocate funds to the RCD to complete a stream restoration project within the Salinas River watershed that will mitigate for the Impacts at a ratio of 2:1 by restoring and enhancing 0.64 acres of streambank (the "Mitigation Project"); and

E. WHEREAS, FCWCD has determined that the estimated cost to complete the Mitigation Project is \$96,225.00 as set forth in Exhibit A, attached hereto and incorporated herein by this reference, and will be paid for from the Nacimiento Water Project Fund Environmental Mitigation Construction Costs as described in the Water Delivery Entitlement Contracts; and

F. WHEREAS, the Mitigation Project will occur on a portion of the property commonly known as APN 026-233-036 within the Salinas River watershed in San Luis Obispo County, California and more particularly described in Exhibit B and depicted on Exhibit C, attached hereto and incorporated herein by this reference (the "Property"); and

G. WHEREAS, the purpose of the Agreement is to set forth the terms and conditions under which the RCD will implement the Mitigation Project.

NOW, THEREFORE, the Parties agree as follows:

SECTION I

The RCD agrees:

1. To implement the Mitigation Project, including all of the requirements and/or conditions set forth in the Scope of Work, attached hereto as Exhibit D and incorporated herein by this reference.

2. All work performed by the RCD or performed on the RCD's behalf, to implement the Mitigation Project, shall be performed in accordance with all applicable local, state and federal laws, regulations, policies, procedures and standards.
3. To obtain any and all environmental approvals and/or resource agency agreements, approvals and/or permits required prior to implementation of the Mitigation Project and to fully comply with any terms and conditions thereof.
4. To submit a draft Mitigation and Monitoring Plan (the "MMP") to FCWCD within ten (10) calendar days of execution of the Agreement for FCWCD's review and comment. The draft MMP shall address the requirements set forth in Exhibit D.
5. To address FCWCD's comments on the draft MMP and thereafter submit a final draft MMP to FCWCD within five (5) calendar days of receipt of FCWCD's comments on the draft MMP for FCWCD's review and approval, if appropriate. RCD shall provide FCWCD with a copy of the final approved MMP.
6. To use one hundred percent (100%) of the FCWCD's funds provided pursuant to the Agreement in order to satisfy the RCD's obligations and responsibilities set forth herein.
7. To submit to FCWCD invoices as described below:
 - (a) At the start of Phase 1 (Planting Preparation), the RCD shall submit an invoice to FCWCD in the amount of \$10,125.00 to compensate the RCD for Phase 1 tasks. Phase 1 tasks shall include the tasks set forth in Exhibit A under the headings Mitigation & Monitoring Plan, Permit Coordination & Environmental Documentation and Site Preparation & Weed Removal.
 - (b) At the start of Phase 2 (Planting), the RCD shall submit an invoice in the amount of \$71,820.00 to compensate the RCD for Phase 2 tasks. Phase 2 tasks shall include the tasks set forth in Exhibit A under the heading Planting and Project Management & Administrative Costs.
 - (c) At the start of Phase 3 (Maintenance, Monitoring and Reporting), the RCD shall submit an invoice in the amount of \$14,280.00 to compensate the RCD for Phase 3 tasks. Phase 3 tasks shall include the tasks set forth in Exhibit A under the headings Ongoing Maintenance and Monitoring & Reporting.
8. To submit one (1) draft planting report within fourteen (14) calendar days of completing the streambank plantings of 0.64 acres to FCWCD for FCWCD's review and comment. Said report shall contain all of the information described in Exhibit D.
9. To address FCWCD's comments on the draft planting report and thereafter submit a final draft planting report to FCWCD within seven (7) calendar days of receipt of FCWCD's comments for FCWCD's review and approval, if appropriate.
10. To submit draft monitoring reports to FCWCD for five (5) years (with monitoring anticipated to begin in the year 2016 and end five (5) years later, currently anticipated to be

year 2020) by October 1st of each year. Said reports shall contain all of the information described in Exhibit D.

11. To address the FCWCD's comments on each draft monitoring report and thereafter submit a final draft monitoring report to FCWCD by December 1st for five (5) years (with monitoring anticipated to begin in the year 2016 and end five (5) years later, currently anticipated to be year 2020) for FCWCD's review and approval, if appropriate.

12. If at any time during the five (5) year monitoring period (with monitoring anticipated to begin in the year 2016 and end five (5) years later, currently anticipated to be year 2020) it is determined by FCWCD that progress toward the success criteria, as described in Exhibit D (the "Success Criteria") is not being achieved, then the RCD shall implement any necessary remedial or adaptive management measures such as replanting and/or weed control.

13. To retain all books, documents, papers, accounting records and other evidence pertaining to costs incurred, including support data for cost proposals, and to make such materials available at the respective offices of FCWCD at all reasonable times for three (3) years after the termination date of the Agreement. FCWCD shall have access to any books, records and documents of the RCD that are pertinent to the Agreement for audits, examinations, excerpts and transactions and copies thereof shall be furnished when requested.

14. Not to assign, transfer, delegate or sublet any interest herein or any obligation to perform work hereunder without the prior written consent of FCWCD, and any such assignment, transfer, delegation or sublease without the FCWCD's prior written consent shall be considered null and void.

SECTION II

The FCWCD agrees:

1. To pay the RCD as compensation in full for all services performed by RCD pursuant to the Agreement, a sum not to exceed \$96,225.00, as follows:

a. Within thirty (30) calendar days of receipt of the RCD's invoice for Phase 1 tasks in accordance with Section I(7)(a), the FCWCD will deposit the sum of \$10,125.00 with the RCD.

b. Within thirty (30) calendar days of receipt of the RCD's invoice for Phase 2 tasks in accordance with Section I(7)(b), the FCWCD will deposit the sum of \$71,820.00 with the RCD, *provided that* the RCD has completed all Phase 1 tasks, including without limitation, submission of a draft final MMP approved by FCWCD, to the satisfaction of FCWCD.

c. Within thirty (30) calendar days of receipt of the RCD's invoice for Phase 3 tasks in accordance with Section I(7)(c), the FCWCD will deposit the sum of \$14,280.00 with the RCD, *provided that* the RCD has completed all Phase 1 and Phase 2 tasks, including, without limitation, submission of a draft final planting report approved by FCWCD, to the satisfaction of FCWCD.

2. To review and provide comments to the RCD with ten (10) calendar days from receipt of the draft MMP.

3. Within five (5) calendar days of receipt, to review and approve, if appropriate, the draft final MMP submitted by the RCD to the FCWCD.

4. To review and provide comments to the RCD within fourteen (14) calendar days from receipt of the draft planting report.

5. Within seven (7) calendar days of receipt, to review and approve, if appropriate, the draft final planting report submitted by the RCD to FCWCD.

6. To review and provide comments to the RCD by November 1st on the draft monitoring reports prepared by the RCD, and submitted to the FCWCD for five (5) years (with monitoring anticipated to begin in the year 2016 and end five (5) years later, currently anticipated to be year 2020).

7. Within seven (7) calendar days of receipt, to review and approve, if appropriate, the draft final monitoring report submitted by the RCD to the FCWCD for five (5) years (with monitoring anticipated to begin in the year 2016 and end five (5) years later, currently anticipated to be year 2020).

SECTION III

The Parties mutually agree:

1. All applicable laws, rules and policies relating to the use of federal or state funds shall apply, notwithstanding other provisions of the Agreement.

2. The Agreement is not intended to, nor does it address, any remediation work which may be required if the Success Criteria are not achieved by October 1, 2020.

3. Neither FCWCD nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the RCD and/or its agents under or in connection with any work, authority or jurisdiction conferred upon the RCD under the Agreement. It is understood and agreed that the RCD, to the extent permitted by law, will defend, indemnify and save harmless the FCWCD and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the RCD and/or its agents under the Agreement.

4. Neither the RCD nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the FCWCD and/or its agents under or in connection with any work, authority or jurisdiction conferred upon the FCWCD under the Agreement. It is understood and agreed that the FCWCD, to the extent permitted by law, will defend, indemnify and save harmless the RCD and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth

under, including, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the FCWCD and/or its agents under the Agreement.

5. In the event of any breach of the Agreement by either Party, the other Party may enforce the Agreement by any means available at law or in equity. In the event of litigation, mediation or arbitration to resolve any breach of, or dispute related to the Agreement, each Party agrees to pay for their own attorneys' costs and expenses, without regard to who prevails.

6. A failure by either Party to enforce any provision of the Agreement shall not be construed as a continuing waiver, or as a waiver of the right to compel enforcement of that provision.

7. The Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the Parties, notwithstanding that all of the Parties are not a signatory to the original or the same counterpart.

8. If any provision of the Agreement is held invalid, the other provisions shall not be affected thereby.

9. No alteration or variation of the terms of the Agreement shall be valid unless made by a formal amendment executed by the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

10. Nothing within the provisions of the Agreement is intended to create duties or obligations to or rights in third parties not a party to the Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

11. The RCD shall, during the term of the Agreement, be construed to be an independent contractor and nothing in the Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow FCWCD to exercise discretion or control over the professional manner in which RCD performs the services that are the subject matter of the Agreement; *provided that* the services to be performed by RCD shall be provided in a manner consistent with all applicable standards and regulations governing such services. The RCD understands and agrees that the RCD's personnel are not and will not be eligible for membership in or any benefits from FCWCD's group plan for hospital, surgical or medical insurance or for membership in any FCWCD retirement program or paid vacation, paid sick leave, or other leave, with or without pay or for any other benefit which accrues to a FCWCD employee.

12. The RCD shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the RCD, its agents, representatives or employees.

- a. Coverage shall be at least as broad as:
- i. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - ii. Automobile Liability: ISO Form Number CA 0001 covering Code 1 (any auto), or if RCD has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
 - iii. Worker's Compensation: Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. If RCD will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the FCWCD as the Alternate Employer, and the endorsement form shall be modified to provide that FCWCD will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to RCD's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law. If the RCD maintains higher limits than the minimums shown above, the FCWCD requires and shall be entitled to coverage for the higher limits maintained by the contractor.
 - iv. Professional Liability/Errors and Omissions: Insurance covering RCD's liability arising from or related to the Agreement, with limits of not less than \$1,000,000 per claim and \$2,000,000 aggregate. Further, RCD understands and agrees it shall maintain such coverage for a period of not less than three (3) years following the Agreement's expiration, termination or cancellation.
- b. The FCWCD, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the RCD; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the RCD including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the RCD's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).
- c. For any claims related to the Agreement, the RCD's insurance coverage shall be primary insurance as respects the FCWCD, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the FCWCD, its officers, officials, employees, or volunteers shall be excess of the RCD's insurance and shall not contribute with it.
- d. Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days prior written notice has been given to the FCWCD.
- e. RCD's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Agreement, upon

which the FCWCD immediately may withhold payments due to RCD, and/or suspend or terminate the Agreement. The FCWCD, at its sole discretion, may obtain damages from RCD resulting from said breach.

f. RCD hereby grants to FCWCD a waiver of any right to subrogation which any insurer of RCD may acquire against the FCWCD by virtue of the payment of any loss under such insurance. RCD agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the FCWCD has received a waiver of subrogation endorsement from the insurer.

g. Any deductibles or self-insured retentions must be declared to and approved by the FCWCD. The FCWCD may require the RCD to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

h. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A;VII, unless otherwise acceptable to the FCWCD.

i. If any of the required policies provide coverage on a claims-made basis:
i. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the work described herein.
ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the work described herein.
iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Agreement effective date, the RCD must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work described herein.

j. The RCD shall furnish the FCWCD with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the FCWCD before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the RCD's obligation to perform. The FCWCD reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Certificates and copies of any required endorsements shall be sent to:

San Luis Obispo County
Department of Public Works
County Government Center, Room 206
San Luis Obispo, CA 93408
Attention: Eric Wier

k. The RCD shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein.

l. The FCWCD reserves the right to modify the insurance requirements set forth in this Section 12, including limits, based on the nature of the risk, prior experience,

insurer, coverage or other special circumstances.

13. The Agreement shall be effective as of the day it is fully executed by both parties and is conditioned upon the following: execution of a Riparian Habitat Conservation Easement Deed (the "Conservation Easement") by the Property owner in favor of the FCWCD and acceptance of the Conservation Easement by the FCWCD Board of Supervisors. The RCD shall not commence work on the Mitigation Project until said conditions are satisfied.

14. The Agreement shall terminate upon the RCD's written acknowledgement that the Mitigation Project has met the Success Criteria and the final monitoring report has been approved by FCWCD unless earlier terminated as set forth below:

a. Termination of Agreement for Cause. If the RCD fails to perform its duties to the satisfaction of the FCWCD or if the RCD fails to fulfill in a timely and professional manner RCD's obligations under the Agreement or the RCD shall violate any of the terms or provisions of the Agreement or if RCD, RCD's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the FCWCD, then the FCWCD shall have the right to terminate the Agreement effective immediately upon the FCWCD giving written notice thereof to the RCD. Termination shall have no effect upon the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of termination. If the FCWCD's termination of RCD for cause is defective for any reason, including but not limited to, FCWCD's reliance on erroneous facts concerning the RCD's performance, or any defect in notice thereof, the Agreement shall automatically terminate without cause thirty (30) calendar days following the FCWCD's written notice of termination for cause to the RCD. Notwithstanding the foregoing, within ten (10) days of receipt of a notice of termination for cause from the FCWCD, the RCD shall notify the FCWCD in writing of all work performed on the present phase up to and including the date of said notice and shall return to the FCWCD any and all funds advanced by the FCWCD at the commencement of the present phase for tasks not completed by the RCD prior to receipt of notice of termination.

b. Termination of Agreement for Convenience. Either Party may terminate the Agreement at any time by giving to the other Party thirty (30) days written notice of such termination. Termination shall have no effect upon the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of said termination. Notwithstanding the foregoing, within ten (10) days of the effective date of termination for convenience, the RCD shall notify the FCWCD in writing of all work performed on the present phase up to the effective date of termination for convenience and shall return to the FCWCD any and all funds advanced by the FCWCD at the commencement of the present phase for tasks not completed by the RCD prior to receipt of notice of termination.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS THEREOF, the Parties have executed the Agreement as of the day and year written below.

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: _____ Date: _____
Chairperson of the Board
San Luis Obispo County Flood Control and
Water Conservation District
State of California

ATTEST:

By: _____ Date: _____
County Clerk and Ex-Officio Clerk of the
Board of Supervisors, San Luis Obispo County
Flood Control and Water Conservation District
State of California

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By:  _____ Date: 1.8.2015

UPPER SALINAS-LAS TABLAS RESOURCE CONSERVATION DISTRICT

By:  _____ Date: 1/13/2015
Executive Director
Upper Salinas-Las Tablas
Resource Conservation District

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By:  _____ Date: 1-8-2015
Deputy County Counsel

EXHIBIT A

Estimated costs for labor, materials, planting, maintenance, monitoring and reporting.

Parrish Restoration Project - Adelaida

	Est. hours	Rate \$	Flat Cost	Ttl Cost
Mitigation & Monitoring Plan				
Environmental Planner/Development	8	75		600
Permit Coordination & Environmental Documentation				
Environmental Planner/coordination & reporting	15	75		1125
Site Preparation & Weed Removal				
hand broadcast native seed cover, mulching, chipping (labor & materials)			2450	2450
straw wattles/stabilization materials (labor & materials)			750	750
remove debris/remove invasive weeds (includes transport & dump fees)	80	65		5200
Planting				
All Plantings, including 400 plant materials and trees (with gopher baskets)			11520	11520
Install drip irrigation system (including pipelines, controllers, etc.)			11500	11500
Trees & Shrubs (with baskets where applicable)			1000	1000
Ongoing Maintenance				
Landscaping/Oversight (monthly year one, quarterly years 2-5)	112	65		7280
Replacement Plants (100, 5 years)			800	800
Monitoring & Reporting				
quarterly photo monitoring & documentation	40	65		2600
Replant dead plants labor	40	65		2600
Other on-going maintenance			1000	1000
Project Management & Administrative Costs				
site construction mgmt, boulder relocation, planting labor and/or contract work, erosion control plan, site survey	295	75		22125
RCD record keeping, accounting	195	65		12675
Reporting/admin/coordination costs - 5 years			13000	13000
Total Project Cost				96,225

EXHIBIT B
LEGAL DESCRIPTION OF MITIGATION PROJECT AREA

EXHIBIT "B"

In the County of San Luis Obispo, State of California, portions of Parcel 1 of COAL 12-0069 described in the Certificate of Compliance recorded November 1, 2013 as Document No. 2013061750 of Official Records, in the office of the County Recorder of said County and State, said parcel being shown on the Record of Survey map filed December 9, 2013, in Book 108, Page 1 of Records of Surveys, in the office of said County Recorder, being more particularly described as follows:

PORTION ONE

Commencing at the northwest corner of said Parcel 1, thence southerly along the westerly line thereof South 00°27'58" East 1148.05 feet; thence leaving said westerly line westerly at a right angle to said westerly line South 89°32'02" West 396.08 feet to the TRUE POINT OF BEGINNING; thence along the following courses:

North 44°37'24" West 25.24 feet;

North 47°38'28" West 48.83 feet;

North 47°37'22" West 80.82 feet;

North 51°15'51" East 15.36 feet;

South 43°47'35" East 78.95 feet;

South 52°27'24" East 47.78 feet;

South 38°42'27" East 28.55 feet; and

South 53°25'48" East 11.02 feet to the TRUE POINT OF BEGINNING.

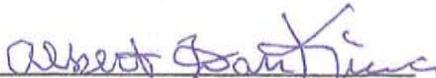
Together with:

PORTION TWO

That portion of said Parcel 1 of COAL 12-0069 described as follows;
Commencing at the northwest corner of said Parcel 1, thence southerly along the westerly line thereof South 00°27'58" East 1025.63 feet; thence leaving said westerly line westerly at a right angle to said westerly line South 89°32'02" West 523.38 feet to the TRUE POINT OF BEGINNING; thence along the following courses:

North 41°18'07" West 27.61 feet;
North 45°34'54" West 19.73 feet;
North 31°19'58" West 63.30 feet;
North 37°39'10" West 76.15 feet;
North 45°56'00" West 51.16 feet;
North 48°06'19" West 91.41 feet;
North 22°52'46" West 93.20 feet;
North 34°31'35" West 105.36 feet;
North 46°25'59" West 77.47 feet;
North 69°49'21" West 115.61 feet;
North 55°44'27" West 104.84 feet;
North 70°03'43" West 93.19 feet;
North 62°32'27" West 76.85 feet;
North 76°21'48" West 66.35 feet;
North 18°52'35" East 33.02 feet;
South 68°47'46" East 67.18 feet;
South 62°31'48" East 79.40 feet;
South 69°02'08" East 91.39 feet;
South 59°38'03" East 106.66 feet;
South 67°22'25" East 113.42 feet;
South 49°42'20" East 89.74 feet;
South 31°50'39" East 112.82 feet;
South 20°19'11" East 87.83 feet;
South 49°56'46" East 86.97 feet;
South 55°40'04" East 50.83 feet;
South 32°43'48" East 85.39 feet;
South 24°47'57" East 60.65 feet;
South 47°21'31" East 19.14 feet;
South 38°44'28" East 28.86 feet; and
South 50°51'49" East 16.13 feet to the TRUE POINT OF BEGINNING.

See Exhibit "C" attached for visual aid only.


Albert Dan King, LS 5145
Exp. 6/30/2015

10-2-2014
Date



**EXHIBIT C
DEPICTION OF MITIGATION PROJECT AREA**

EXHIBIT "C"
DEPICTION OF EASEMENT AREA

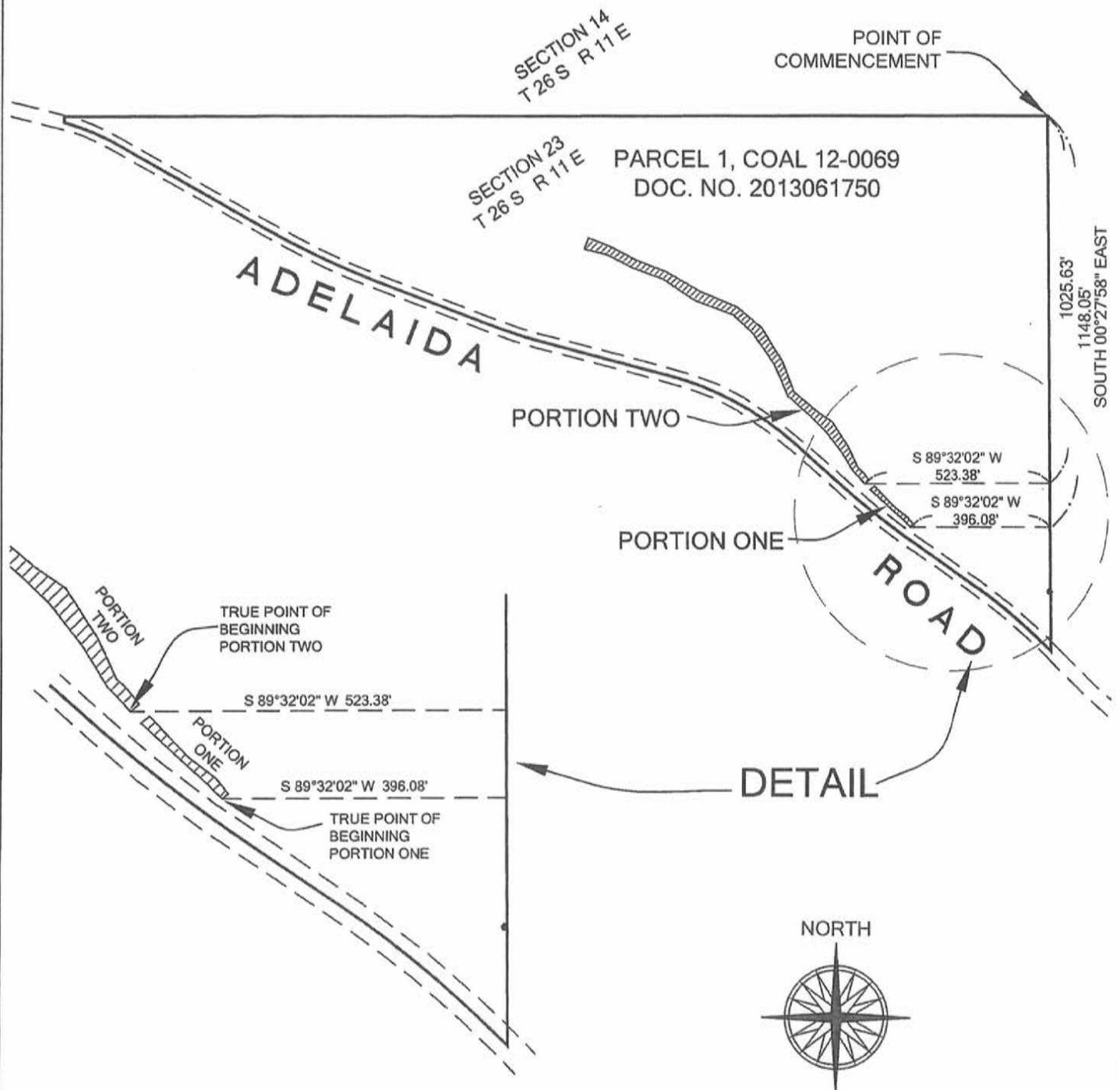


EXHIBIT "C"
DEPICTION OF
EASEMENT AREA

NOT TO SCALE

DATE OF PLAT: 09/17/2014

PREPARED FOR: SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS
PREPARED BY: DAN KING SURVEYING
P O BOX 4903
PASO ROBLES, CA 93447
PHONE: (805) 238-5427
www.dksurveying.com
DKS JOB NO.: 14-055 (SLO CO PO#3441)

EXHIBIT D

Scope of Work for Mitigation Project on APN 026-233-036 in San Luis Obispo County

The following Scope of Work addresses the responsibilities and requirements of the RCD in providing for the planting, maintenance, and monitoring of 0.64 acres of riparian habitat mitigation plantings on the Mitigation Project Area identified in Exhibit B ("Mitigation Project Area"). This Scope of Work assumes a contract total of \$96,225.00 which includes labor and material cost of plants, planting, maintenance, and monitoring for five (5) years. It is understood that all tasks will be performed in an appropriately timed and efficient manner. All RCD deliverables, including annual monitoring reports, shall be addressed to the following:

Eric Wier, Environmental Resource Specialist
County of San Luis Obispo
Department of Public Works
County Government Center Room 206
San Luis Obispo, CA 93408

Task 1.0 Mitigation and Monitoring Plan

The RCD shall prepare and submit to FCWCD a Mitigation and Monitoring Plan (MMP) within ten (10) calendar days of the effective date of the Agreement. This MMP shall include, without limitation: identification of the property where the work will be performed and the type of species to be planted; a map delineating areas to be planted; stream bank stabilization measures to be employed as applicable and erosion control measures to be employed as applicable.

Task 2.0 Permitting

The RCD shall be responsible for environmental compliance and shall obtain any and all necessary permits, agreements, and/or approvals for the planting of the 0.64 acres of riparian habitat.

Task 3.0 Planting

Following approval of the MMP, environmental compliance, issuance of any necessary permits, agreements, and/or approvals as well as removal of invasive/exotic species, the RCD shall be responsible for planting 0.64 acres of riparian habitat on the Project Area. Said planting of the 0.64 acres of riparian habitat shall be completed in accordance with the approved MMP as specified in Task 1.0.

Task 4.0 Maintenance

US-LTRCD shall perform all Maintenance tasks.

Maintenance activities are scheduled to take place immediately after planting and continue for five (5) years. Maintenance is an important task in the restoration of native plant communities and includes, but is not limited to, activities such as invasive eradication,

supplemental irrigation, and planting of additional plant material. Site maintenance will be conducted for five (5) years and will begin immediately after re-vegetation is completed.

The maintenance schedule will be flexible enough to maintain the Mitigation Project Area free of invasive species and to ensure the required survival rate and growth of plants and seed material.

During the maintenance period, non-native invasive plants will be removed as they are identified. Invasive control measures will include the following: (1) hand removal, (2) cutting or mowing, (3) and chemical herbicides where approved. Hand removal will be the primary method of invasive control since it is very effective in eliminating only the desired plants. Chemical control will be used for the highly invasive species. The use of mechanical, chemical, and hand removal methods will be used as needed and appropriate.

Livestock, if present, shall not be permitted within the Mitigation Project Area.

Riparian vegetation will be watered as needed during the establishment period to ensure long-term survival.

The RCD shall be responsible for obtaining any and all rights that are necessary to perform the work described herein and are not otherwise covered by the Conservation Easement. Water shall be taken in compliance with all state and federal laws, including any permits that may regulate such actions.

Replacement plants will be installed as needed to meet the performance criteria as defined below.

Task 5.0 Monitoring and Reporting

Success Criteria

The ultimate goal for the mitigation project is to have 0.64 acres of established riparian habitat. The success criteria for planting are based on the goal of obtaining self-sustaining native and regionally appropriate vegetation cover. The criteria established to evaluate the success of the planting plan goals are as follows:

1. Greater than seventy-five percent (75%) relative coverage of native plants within five (5) years (proportional contribution of species cover to total vegetation cover).
2. At least five (5) native plant species established within the first five (5) years and/or natural recruitment of native species, each with at least ten percent (10%) coverage.
3. At least fifty percent (50%) viability of the foliage and stems above ground.
4. Decrease non-native invasive weeds to less than ten percent (10%) cover within the first five (5) years.

Progress towards meeting the success criteria will be monitored annually at the end of the growing season (approximately September). Annual qualitative monitoring will be performed in conjunction with a long-term maintenance program. The entire site will be visually inspected and qualitative or subjective determinations will be made. Estimates regarding presence or absence, population sizes, population distribution, and population condition will be made for each species planted. In addition, permanent photographic station locations will be established to document the progress of the mitigation plantings over the course of the monitoring period. The locations will be chosen to provide unobstructed views of the mitigation plantings and will be sufficient in number to adequately document the status of the site. Photographs will be taken at these locations on an annual basis. Monitoring will take place for five (5) years after planting and will measure the progress toward and achievement of the final success criteria.

Failure to meet Success Criteria will require re-evaluation of the site conditions followed by remedial or adaptive management measures such as replanting and/or weed control. Replanting may occur during the spring or fall (rainy season). If any particular species demonstrate failure-to-thrive trends (less than 50 percent viable foliage or stems), substitution with other native species will be considered appropriate.

Reporting

One (1) planting report will be submitted to FCWCD within fourteen (14) calendar days of the planting of 0.64 acres of riparian habitat. This report will include, without limitation: a description and photo documentation of existing site conditions; a description of site preparation; a description of the planting materials used (i.e. cuttings, seedlings, seed, plugs, container size and source if not obtained from a commercial nursery); use of mulch and/or fertilizers; description of plant preparation, if necessary (i.e. how cuttings were obtained, size, treatment with rooting hormone); necessity for irrigation and/or fencing; and a summary of any planting problems and how said problems were resolved).

Monitoring results will be submitted to FCWCD annually. The report will include, at a minimum, the name and title of personnel conducting monitoring, maintenance, and reporting; observation dates for monitoring activities; photo documentation; vegetation summaries; any corrective actions that were taken and a summary and evaluation of data for the current year compared to previous years (in the second through fifth years of monitoring). The reports will specify the progress toward or achievement of the Success Criteria. The first annual draft monitoring report will be due on October 1st the year following the completion of plantings with subsequent draft reports due each October 1st for the next consecutive four (4) years.

If adaptive management measures become necessary and changes are made to the planted species/planting densities, these changes will be noted in the annual monitoring report.

If the final annual monitoring report (due October 1st in the final year of monitoring currently anticipated to be the year 2020) indicates that the Mitigation Project has failed to achieve its goals, in whole or in part, the cause of the failure will be identified and rectified through whatever means are considered adequate to meet the goals of the Mitigation Project, including consultation with FCWCD.