

RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

APN No: 011-021-016

**AGREEMENT GRANTING AN OPEN-SPACE EASEMENT
TO THE COUNTY OF SAN LUIS OBISPO**

THIS AGREEMENT is made and entered into this ____ day of _____,
20____, by and between BUDDY RAGGED, LLC, a Nevada limited liability company,
hereinafter referred to as "Owner," and the COUNTY OF SAN LUIS OBISPO, a political
subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Owner is the record owner of certain real property (hereinafter
referred to as the "Property") located in the County of San Luis Obispo, State of
California, which is more particularly described in Exhibit A attached hereto and
incorporated by reference herein as though set forth in full; and

WHEREAS, the Property is located within the coastal zone as defined in section
30103 of Division 20 of the California Public Resources Code, hereinafter referred to as
the "California Coastal Act of 1976"; and

WHEREAS, Owner has filed an application for approval of Minor Use
Permit/Coastal Development Permit DRC2011-00036 in order to authorize the

construction of a single family dwelling on privately-owned land in the unincorporated area of the County of San Luis Obispo, State of California; and

WHEREAS, as agreed to by the Owner and as a requirement of the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2011-00036 (as shown in the attachments to the Notice of Final County Action attached hereto as Exhibit D), and in accordance with section 23.07.170 of the San Luis Obispo County Code, Owner is required to enter into an agreement with the County, on behalf of itself and its successors in interest, in order to preserve in perpetuity an area of wetlands in an easement that will preclude any use not consistent with the preservation of the wetlands; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of the Property (hereinafter referred to as the "Easement Area") which is more particularly described and shown in Exhibits B and C, attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and subsequent performance of its obligations by Owner and his successors in interest, will satisfy the requirement imposed by condition 9 of the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2011-00036 as follows:

9. Prior to vegetation or surface disturbance and the issuance of construction permits, the applicant will place identified wetland (as mapped by biologist) as shown on the site plan (see site plan exhibit) into an open space easement in a form acceptable to County Counsel. The purpose of the easement will be to permanently protect and maintain the wetland.

; and

WHEREAS, the Easement Area has important habitat conservation values, and both Owner and County desire to preserve and conserve for the public benefit the habitat conservation values of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use of the Easement Area for the purpose of protecting and preserving the wetland habitat by restricting the use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance with the provisions of the California Coastal Act of 1976; the Local Coastal Program, as set forth in the Land Use Element of the General Plan of the County and in Title 23 of the San Luis Obispo County Code, hereinafter referred to as the "Local Coastal Program" and; Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974;" and

WHEREAS, both Owner and County intend that the open-space easement granted herein is irrevocable and shall constitute an enforceable restriction within the meaning of Article XIII, section 8 of the California Constitution and under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner has supplied County with a current title company preliminary title report, interim binder of title insurance for Owner's purchase of the Property, or lot book guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on the Property.

NOW, THEREFORE, in consideration of the promises and in compliance with the provisions of the California Coastal Act of 1976, the Local Coastal Program, and the

Open-Space Easement Act of 1974, and in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the benefit of the People of the State of California, in perpetuity as specified in paragraph 6 below, an open-space easement in and to the Easement Area described above. For the purpose of accomplishing the intent of the parties hereto, Owner hereby agrees on behalf of itself, its successors and assigns with the County, its successors and assigns, to the following terms, conditions and restrictions.

2. Purposes. The purposes of this agreement and the open-space easement granted herein are to ensure that the Easement Area will be retained forever in its natural, restored, or enhanced condition as contemplated by the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2011-00036 approved by the County, and to prevent any use of the Easement Area that will impair or interfere with the conservation values of the Easement Area. Owner intends that this agreement and open-space easement will confine the use of the Easement Area to activities that are consistent with such purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats implemented in accordance with the permit referenced above.

3. Restrictions on use of the Easement Area. No development, as that term is defined under the California Coastal Act of 1976, Public Resources Code section 30106, attached as Exhibit E, and the County's Local Coastal Plan, shall be permitted on the Easement Area, except as necessary to permanently protect and maintain the wetland.

4. Development subject to applicable laws. Land uses permitted or reserved to the Owner by this agreement shall be subject to and in compliance with all applicable laws regulating the use of land.

5. No authorization for public trespass. Except as provided in the above-referenced permit or in a subsequently issued coastal development permit, the grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize, and is not to be construed as authorizing, the public, or any member thereof, to trespass upon or use all or any portion of the Easement Area, or as granting to the public, or any member thereof, any tangible rights in or to the Easement Area or the right to go upon or use or utilize the Easement Area in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Easement Area may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public by preserving habitat and the conservation value of the Easement Area.

6. Duration of easement. The grant of easement to the County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors (the "Board") in the manner provided by law. Upon approval and acceptance by the Board, the Clerk of the Board shall record the resolution (attached hereto as Exhibit F) and this agreement together in the Office of the County Clerk-Recorder. The easement shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974. No easement shall be abandoned or otherwise terminated without first obtaining (1) approval of an amendment to the Minor Use Permit/Coastal Development Permit DRC2014-00022 authorizing such abandonment or

termination and, (2) if applicable, any additional required approval under the California Coastal Act of 1976 or the Local Coastal Program.

7. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Easement Area shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

8. Binding on successors in interest. The restrictions set forth in this agreement shall be deemed equitable servitudes and covenants running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of the Property or any portion thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

9. Effect of waiver. County's waiver of the breach of any one term, covenant, or provision of this agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

10. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

11. Interpretation, governing law and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California, including the California Coastal Act of 1976, the Local Coastal Program and the Open-Space Easement Act of

1974. To the extent that there is a conflict between these provisions, the California Coastal Act of 1976 shall govern, followed by the provisions of the Local Coastal Program, and the language in this agreement. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, and such County shall be the venue for any action or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

12. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

13. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices shall be addressed as follows:

To the County: Director of Planning and Building
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, California 93408

To the Owner: Buddy Ragged, LLC ^{OR}
5939 Madison Rd. 211 Shearidan Creek Court
La Canada, California 91014 GARANDVILLE, NV 89460

Either party may change the address above by providing notice in writing to the other party. Subsequent notices shall be addressed and transmitted to the new address.

14. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation shall serve as constructive notice of the obligations

contained herein to be performed by the Owner and the successors in interest to all or any portion of the Easement Area.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

BUDDY RAGGED, LLC, a Nevada corporation

By: *[Signature]*

Its: manager

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: *[Signature]*
Deputy County Counsel

Dated: 5.3.16

LEGAL DESCRIPTION APPROVED AS TO FORM:

JOE MORRIS
Deputy County Surveyor

By: Joseph P. Morris

Dated: 5/3/2016

[NOTE: This Open-Space Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

594plhagr.docx

ACKNOWLEDGMENT

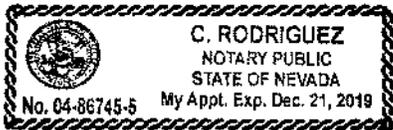
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA Nevada)
Douglas) ss.
COUNTY OF SAN LUIS OBISPO)

On April 26, 2016, before me, C. Rodriguez, a Notary Public, in and for the State of California, personally appeared Dana L Manders, Manager Nevada, who 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 the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature C. Rodriguez
Signature of Notary Public

[SEAL]

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

PARCEL 2 OF PARCEL MAP COAL-85-239 IN THE COUNTY OF SAN LUIS OBISPO,
STATE OF CALIFORNIA, AS PER MAP RECORDED DECEMBER 4, 1986 IN BOOK
40 PAGE 50 OF PARCEL MAPS, IN THE COUNTY RECORDER OF SAID COUNTY.

* * *



Michael B. Stanton, PLS5702

3-7-2016

Date

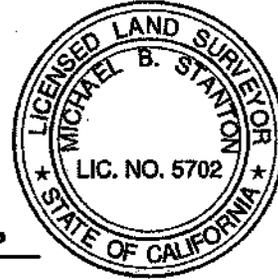


EXHIBIT "B"
LEGAL DESCRIPTION OF EASEMENT AREA

THAT PORTION OF PARCEL 2 OF PARCEL MAP COAL 85-239 IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, AS SHOWN ON THE MAP FILED IN BOOK 40 OF PARCEL MAPS AT PAGE 50 AND ALSO SHOWN ON THE RECORD OF SURVEY FILED IN BOOK 96 OF LICENSED SURVEYS AT PAGE 32, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

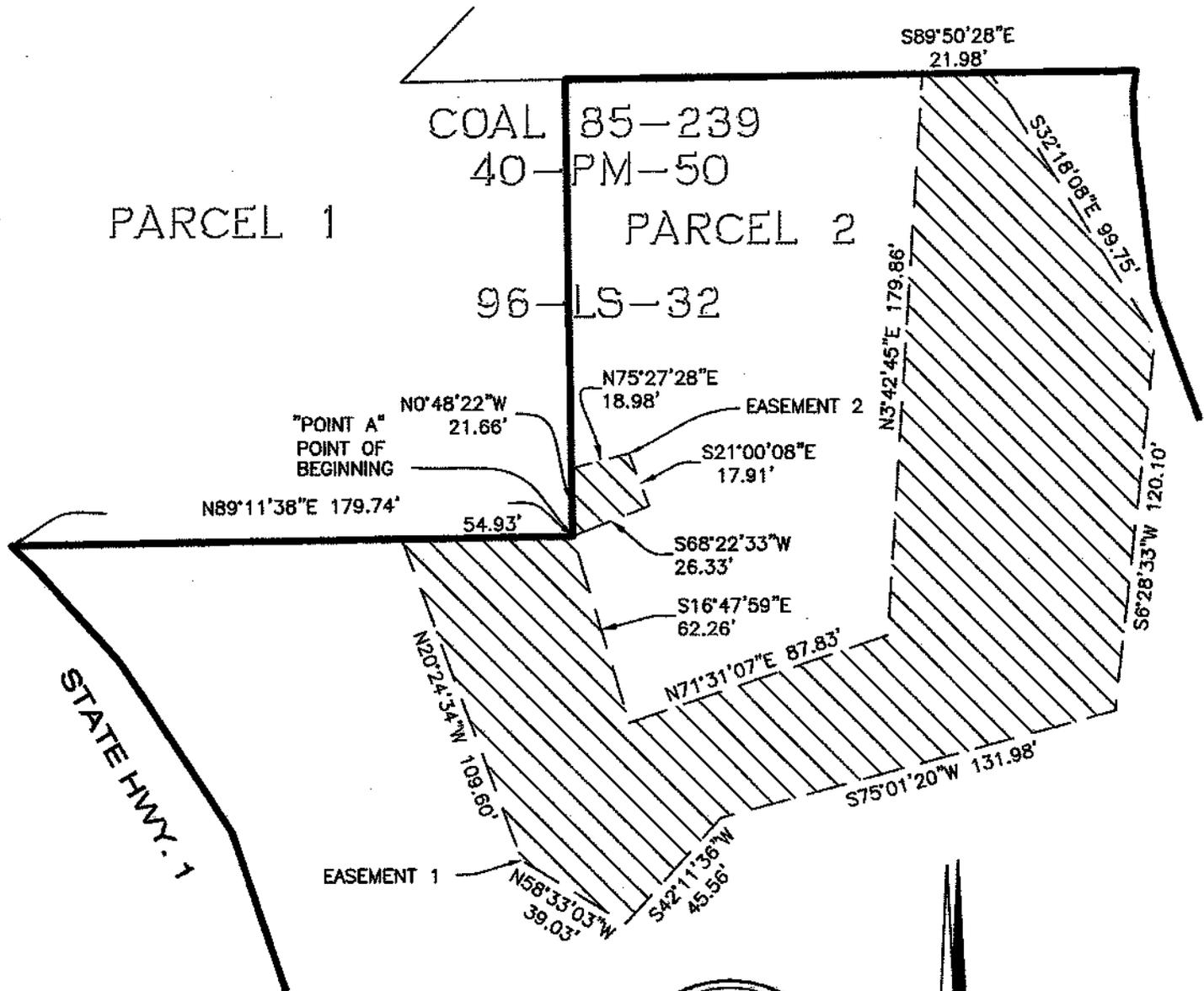
EASEMENT 1

BEGINNING AT AN ANGLE POINT ON THE NORTHERLY BOUNDARY OF SAID PARCEL 2, SAID POINT BEING AT THE EASTERLY TERMINUS OF THAT CERTAIN LINE SHOWN AS "N89°11'38"E 179.74" FEET ON SAID RECORD OF SURVEY, SAID POINT BEING HEREINAFTER CALLED "POINT A"; THENCE

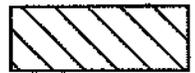
1. SOUTH 16°47'59" EAST, 62.26 FEET ; THENCE
2. NORTH 71°31'07" EAST, 87.83 FEET ; THENCE
3. NORTH 03°42'45" EAST, 179.86 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL 2 ; THENCE ALONG SAID NORTHERLY LINE OF PARCEL 2,
4. SOUTH 89°50'28" EAST (NORTH 89°11'38" EAST, RECORD PER SAID RECORD OF SURVEY), A DISTANCE OF 21.98 FEET; THENCE LEAVING SAID NORTHERLY LINE OF PARCEL 2
5. SOUTH 32°18'08" EAST, 99.75 FEET ; THENCE
6. SOUTH 06°28'33" WEST, 120.10 FEET ; THENCE
7. SOUTH 75°01'20" WEST, 131.98 FEET ; THENCE
8. SOUTH 42°11'36" WEST, 45.56 FEET ; THENCE
9. NORTH 58°33'03" WEST, 39.03 FEET ; THENCE
10. NORTH 20°24'34" WEST, 109.60 FEET, MORE OR LESS, TO A POINT ON THE NORTHWESTERLY LINE OF SAID PARCEL 2; THENCE ALONG SAID NORTHWESTERLY LINE OF PARCEL 2
11. NORTH 89°11'38" EAST, 54.93 FEET TO THE **POINT OF BEGINNING.**

THE ABOVE DESCRIBED PROPERTY CONTAINS 23,496 SQUARE FEET OR 0.539 ACRES OF LAND, MORE OR LESS AND IS SHOWN GRAPHICALLY ON EXHIBIT "C" ATTACHED HERETO AND INCORPORATED HEREIN.

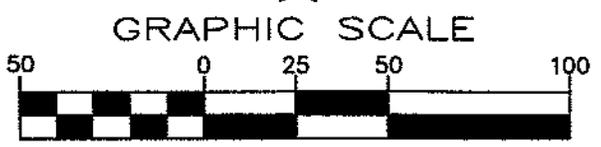
EXHIBIT C MAP OF EASEMENT AREA



M:\11-063 Ragged Point\C3D 2013\Ragged Point Wetlands Easement.dwg, 8:5X11 EXH, Feb 18, 2016 3:05pm, Rellison



INDICATES WETLANDS EASEMENT



(IN FEET)

1 inch = 50 ft.



MICHAEL B. STANTON, PLS 5702
 3563 SUELDO ST. UNIT Q
 SAN LUIS OBISPO, CA 93401
 805-594-1960

February 18, 2016

JOB #11-063

EXHIBIT D NOTICE OF FINAL COUNTY ACTION



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

August 2, 2013

Dana Manders & Mike McCauley
5939 Madison Road
La Canada, CA 91011

Steve Puglisi
583 Dana Street
San Luis Obispo, CA 93401

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: August 2, 2013

SUBJECT: DANA MANDERS & MIKE MCCAULEY
County File Number: DRC2011-00036
Minor Use Permit / Coastal Development Permit
DOCUMENT NUMBER: 2013-049_PDH

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Hearing Officer, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non-coastal issues there is a fee of \$850.00. This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

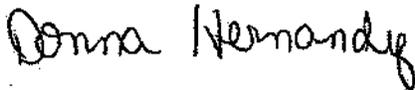
Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact **Kerry Brown, Project Manager**, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 788-2947.

Sincerely,

A handwritten signature in cursive script that reads "Donna Hernandez".

**DONNA HERNANDEZ, SECRETARY PRO TEM
PLANNING DEPARTMENT HEARINGS**

REVISED EXHIBIT A - FINDINGS

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on June 27, 2013 for this project. Mitigation measures are proposed to address aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, public services/utilities, water/hydrology and land use and are included as conditions of approval.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Highway 1, a principal arterial constructed to a level able to handle any additional traffic associated with the project

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project site is located on the east side of Highway 1 and not adjacent to the shore.

Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features and resources of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features because the proposed residence and accessory structures are proposed with a 100 foot setback from the identified wetland, the existing driveway is located within 25 feet of the wetland and grading for widening will occur within 10 feet of the wetland and mitigation measures

have been incorporated into the project to ensure that the project will not result in adverse impacts.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because the proposed residence would be located 100 feet from the identified wetland, the existing driveway is located within 25 feet of the wetland; however due to other site constraints (visual impacts and sight distance for access from Highway 1) the driveway is located in the best possible location.
- J. The proposed clearing of topsoil, trees, is the minimum necessary and will not create significant adverse effects on the identified sensitive resource, because the proposed residence will not require the removal of trees and the residence will be setback from the wetland.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and the project has been conditioned to prepare drainage plans, prior to construction activities, to prevent soil erosion and sedimentation of streams through undue surface runoff.

Environmentally Sensitive Habitat Area

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat because mitigation measures have been incorporated into the project to reduce impacts associated with the new residence and accessory structures to less than significant impacts.
- M. The proposed use will not significantly disrupt the habitat, all new development will be located 100 feet away from the wetland, except for the widening of the existing driveway.

Wetland setback adjustment (for widening of the existing road)

- N. The site would be physically unusable for the principal permitted use unless the setback is reduced, because the existing driveway is located within 25 feet of the wetland and due to site constraints such as sight distance requirements for access and the sites visibility from Highway 1; the driveway is sited in the best possible location.
- O. The reduction is the minimum that would enable a principal permitted use to be established on the site after all practical design modifications have been considered. Given the site constraints (sight distance and visual impacts); the driveway is located in the best possible location. Additionally the residence and accessory structures will all meet the required 100 foot setback from the wetland.
- P. That the adjustment would not allow the proposed development to locate closer to the wetland than allowed by using the stringline setback method pursuant to Section 23.04.118a because that section applies to coastal bluff top parcels and this site is not a coastal bluff.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a 3,423 square-foot single-story residence, 1,545 square-foot detached garage, a 600 square-foot guesthouse.

Conditions required to be completed at the time of application for construction permits

Site Development

2. AES-4. At the time of application for construction permits, the applicant shall submit architectural elevations of all proposed structures to the Department of Planning and Building for review and approval in consultation with the Environmental Coordinator.
 - a. The elevations shall show exterior finish materials, colors, and height above the existing natural ground surface. Colors shall minimize the structure massing of new development by reducing the contrast between the proposed development and the surrounding environment. Colors shall be compatible with the natural colors of the surrounding environment, including vegetation, rock outcrops, etc. Darker, non-reflective, earth tone colors shall be selected for walls, chimneys etc. and darker green, grey, slate blue, or brown colors for the roof structures.
 - b. Windows will be finished with low-reflective coatings to minimize potential for glare. Exterior finish will be matte or otherwise low-reflective to further minimize glare.
 - c. Prior to final inspection or occupancy, whichever occurs first, the applicant shall provide verification to the satisfaction of the county that these measures have been met.
3. At the time of application for construction permits, the applicant shall submit a revised site plan that shows all structures (residence and accessory structures) set back 100 from the identified wetland on site.
4. At the time of application for construction permits, the applicant shall provide an exterior lighting plan. The plan shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from neighboring properties. All lighting poles, fixtures, and hoods shall be dark colored. Security lighting shall be shielded so as not to create glare when viewed from neighboring properties.

AES-3. The applicant shall include exterior lighting in final plans for review and approval by the County. The lighting plan shall be prepared using guidance and best practices endorsed by the International Dark Sky Association and shall address all aspects of exterior lighting, including all buildings, outdoor use areas, and security lighting. The plan shall, at minimum, include measures to shield exterior lighting from off-site views, and direct light downward to protect the dark night sky and prevent light trespass.

Mitigation Measures

5. AES-1. At the time of application for construction permits, the applicant shall submit landscape, irrigation, landscape maintenance plans and specifications to the Department of Planning and Building for review and approval in consultation with the Environmental Coordinator. The landscape plan shall be prepared as provided in Section 23.04.186 of the San Luis Obispo County Coastal Zone Land Use Ordinance, and shall provide

vegetation that will adequately screen a minimum of 50 percent of new development upon installation when viewed from southbound Highway 1. The landscape plan shall utilize only native, drought-tolerant plant material. Landscaping shall not detract from minimum sight distance requirements along Highway 1 (200 feet to the south and 250 feet to the north). Prior to final inspection, the applicant shall provide verification to the satisfaction of the county that these measures have been met. Vegetation shall be maintained for the life of the project.

6. **BIO-2.** At the time of application for construction permits, final plans shall specify energy dissipators, rip-rap, or other similar measures at the outfall of the cutoff drainage ditch to eliminate the potential for erosion downslope of the drainage outfall.

Fire Safety

7. **At the time of application for construction permits, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the Cal Fire for this proposed project and dated 9/19/2012.**

Conditions to be completed prior to issuance of a construction permit

Fees

8. **Prior to issuance of a construction permit, the applicant shall pay all applicable school and public facilities fees.**

Open Space Easement

9. **Prior to vegetation or surface disturbance and issuance of construction permits, the applicant will place identified wetland (as mapped by biologist) as shown on the site plan (see site plan exhibit) into an open space easement in a form acceptable to County Counsel. The purpose of the easement will be to permanently protect and maintain the wetland.**

Mitigation Measures

10. **BIO-1.** Prior to issuance of construction permits, the applicant shall submit grading and construction plans identifying the limits of the wetland, a 100-foot buffer zone measured from the edge of the wetland, and limits of the Monterey cypress stand. The following notes shall be included on the plans, and implemented prior to and during construction:

Prior to construction, the southern boundary of the wetland shall be marked with highly-visible stakes and orange fencing, to be placed five feet outside the wetland boundary. Fencing shall remain in place until final inspection by the County Building Department. The wetland area shall be protected from temporary construction impacts through the use of biodegradable fiber rolls or similar technology to be approved by the County, as well as best management practices (BMPs) for stormwater runoff, including, but not limited to:
 - a. **Equipment and materials staging and storage shall not occur within 100 feet of the wetland.**
 - b. **During construction, to avoid erosion and downslope sedimentation, and to reduce impacts to the wetland, no work shall occur during the rainy season (October 15**

- through April 15) within 100-feet of the wetland feature.
- c. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. Cleaning and refueling of equipment and vehicles shall occur only within designated staging areas. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff.
 - d. No maintenance, cleaning or fueling of equipment shall occur within wetland areas, or within 100 feet of such areas. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills.
11. **BIO-3** Prior to issuance of construction permits, the applicant shall obtain all necessary permits, approvals, and authorizations from jurisdictional agencies, or documentation that such permits are not required.
 12. **BIO-4** Prior to commencement of construction, if construction activities are scheduled to occur during the typical bird nesting season (from March 1 to August 31) a qualified biologist shall be retained to conduct a pre-construction survey (approximately one week prior to construction) to determine presence/absence for tree and ground nesting birds. If no nesting activities are detected within the proposed work area, noise-producing construction activities may proceed and no further mitigation is required. If nesting activity is confirmed during pre-construction nesting surveys or at any time during the monitoring of construction activities, work activities shall be delayed within 300 feet (500 feet if raptors) of active nests until the young birds have fledged and left the nest. In addition, the results of the surveys shall be passed immediately to the California Department of Fish and Game (CDFG) and the County, possibly with recommendations for buffer zone changes, as needed, around individual nests.
 13. **BIO-6.** A County-approved biologist shall survey the development footprint within two weeks prior to construction activities to confirm that coast buckwheat plants are not present. If any coast buckwheat plant is identified onsite, it shall be flagged and fenced for avoidance, and the entire work area and a 50-foot buffer area shall be surveyed for Smith's blue butterflies. Prior to construction, the applicant shall submit a letter to the County documenting the results of the survey. If Smith's blue butterflies are indicated within the development and/or grading footprint, the applicant shall consult with the USFWS and obtain necessary take permits prior to construction.
 14. **BIO-7** Prior to issuance of construction permits, the applicant shall submit a plan identifying all cypress trees requiring trimming to meet CalFire standards. The inventory shall identify the location of each cypress tree and note areas where trimming is to occur. If removal is required by CalFire, the applicant shall provide a tree replacement plan pursuant to County standards, which require 1:1 in kind, on site replacement, in addition to the following:
 - a. The applicant shall minimize trimming. Removal of larger lower branches should be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs", 2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain wildlife habitat values associated with the lower branches, 4) retain shade to keep summer temperatures cooler (retains higher soil moisture, greater passive solar potential,

provides better conditions for volunteers) and 5) retain the natural shape of the tree. The amount of trimming (roots or canopy) done in any one season shall be limited as much as possible to reduce tree stress/shock (ten percent or less is best, 25 percent maximum). If trimming is necessary, the applicant shall use a certified arborist when removing limbs. Unless a hazardous or unsafe situation exists, major trimming shall be done only during the summer months.

- b. Replacement trees shall be from regionally or locally collected stock grown in vertical tubes or deep one-gallon tree pots. Four-foot diameter shelters shall be placed over each tree to protect it from deer and other herbivores, and shall consist of 54-inch tall welded wire cattle panels (or equivalent material) and be staked using T-posts. Wire mesh baskets, at least two feet in diameter and two feet deep, shall be use below ground. Planting during the warmest, driest months (June through September) shall be avoided. The plan shall provide a species-specific planting schedule. If planting occurs outside this time period, a landscape and irrigation plan shall be submitted prior to permit issuance and implemented upon approval by the county.

Replacement trees shall be planted no closer than 20 feet on center and shall average no more than four planted per 2,000 square feet. Trees shall be planted in random and clustered patterns to create a natural appearance. Replacement trees shall be planted in natural appearance. As feasible, replacement trees shall be planted in a natural setting on the north side of and at the canopy/dripline edge of existing mature and away from continuously wet areas (e.g., lawns, irrigated areas, etc). Replanting areas shall be either in native topsoil or areas where native topsoil has been reapplied. A seasonally timed maintenance program, which includes regular weeding (hand removal at a minimum of once early fall and once early spring within at least a three-foot radius from the tree or installation of a staked "weed mat" or weed-free mulch) and a temporary watering program, shall be developed for all tree planting areas. A qualified arborist/botanist shall be retained to monitor the acquisition, installation, and maintenance of all trees to be replaced. Replacement trees shall be monitored and maintained by a qualified arborist/botanist for at least seven years or until the trees have successfully established as determined by the County Environmental Coordinator. Annual monitoring reports will be prepared by a qualified arborist/botanist and submitted to the County by October 15 each year. Annual monitoring reports will address survival, site conditions, and remedies to address any identified deficiencies in the plan's implementation.

15. HAZ-1 The following dust mitigation measures required at the start and during the entirety of construction or grading activity to address potential for naturally-occurring asbestos
- Construction vehicle speed at the work site must be limited to fifteen (15) miles per hour or less
 - Prior to any ground disturbance, sufficient water must be applied to the areas to be disturbed to prevent visible emissions from crossing the property line
 - Areas to be graded or excavated must be kept adequately wetted to prevent visible emissions from crossing the property line
 - Storage piles must be kept adequately wetted, treated with an approved chemical dust suppressant, or covered when material is not being added to or removed from the pile

- Equipment must be washed down before moving from the property onto a paved public road
 - Visible track-out onto the paved public road must be cleaned using wet sweeping or a HEPA filter equipped vacuum device within twenty-four hours
16. HAZ-2 "Naturally-occurring asbestos" has been identified by the State Air Resources Board as a toxic air contaminant. Serpentine and ultramafic rocks are very common in the state and may contain naturally occurring asbestos. Under the State Air Resources Board Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, prior to construction permit issuance, a geologic investigation will be prepared and then submitted to the county to determine the presence of naturally-occurring asbestos. If naturally occurring asbestos is found at the site, the applicant must comply with all requirements outlined in the Asbestos ATCM before grading begins. These requirements may include, but are not limited to, 1) preparation of an "Asbestos Dust Mitigation Plan", which must be approved by APCD before grading begins; 2) an "Asbestos Health and Safety Program", as determined necessary by APCD. If NOA is not present, an exemption request shall be filed with the APCD. (For any questions regarding these requirements, contact the APCD at (805) 781-5912 or go to <http://www.slocleanair.org/business/asbestos.php>). Prior to final inspection or occupancy, whichever occurs first, when naturally-occurring asbestos is encountered, the applicant shall provide verification from APCD that the above measures have been incorporated into the project.
17. HYD-1 All new drainage infrastructure shall incorporate measures to reduce long-term water quality degradation.
18. HYD-2 Prior to approval of grading permits or all project components, grading and drainage plans shall incorporate Best Management Practices for erosion control and stormwater pollutant discharge control. These plans shall be reviewed and approved by the County of San Luis Obispo.

Conditions to be completed during project construction

Building Height

19. The maximum height of the project is 22 feet from average natural grade.
- a. Prior to any site disturbance, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
 - b. Prior to approval of the foundation inspection, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
 - b. Prior to approval of the roof nailing inspection, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

20. **BIO-5** The applicant shall limit initial ground-disturbing activities to September 1 – November 1. If work occurs outside of this time period, pre-construction surveys for roosting bats within 250 feet of the project site (as private property access allows) shall be conducted by a County-approved biologist. Visual surveys for bats shall be conducted in the vicinity of all trees that have cavities, broken limbs resulting in hanging woody debris, and large patches of loose bark that are within 100 feet of proposed grading. Surveys shall be conducted a minimum of two weeks prior to any construction activities. If no active roosts are located, ground disturbing/construction activities can proceed. If active roosts are located, then all construction work shall be conducted outside a non-disturbance buffer zone to be developed by the qualified biologist based on the species, slope aspect and surrounding vegetation. No direct disturbance within this buffer shall occur until the young are no longer reliant on the nest site or the bat(s) has left the area as determined by the County-approved biologist. The County-approved biologist shall conduct monitoring of the nest until all young have fledged or all construction in the area of the nest is complete.

If bat roosts are found in tree that require trimming or removal, bat exclusionary measures such as netting shall be used to prevent bats from returning to the roost until the tree can be trimmed or removed. A qualified biologist shall monitor any tree trimming or removal activities. Trees shall be trimmed gradually to allow bats time to leave roosting sites. Qualified veterinary response shall be identified prior to any such activity in case of injury.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Fire Safety

21. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from Cal Fire of all required fire/life safety measures.

Development Review Final Inspection

22. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
23. **Prior to final inspection**, the biological monitor shall incorporate the findings of the monitoring effort into a final comprehensive construction monitoring report to be submitted to the County of San Luis Obispo Department of Planning and Building.
24. **Prior to final inspection or occupancy**, whichever occurs first, the approved lighting shall be implemented.
25. **AES-2** Prior to final inspection, the applicant shall ensure that all solar panels were prepared with anti-reflective coating.

On-going conditions of approval (valid for the life of the project)

26. **AES-5** For the life of the project, the applicant (and any subsequent landowner) shall work with CAL FIRE to ensure that vegetation management to reduce fire hazards, including tree trimming and removal, will not result in daylighting of structures against the ridge line. Removal and replacement of trees, if necessary, shall consider staging or

other methods to minimize potential for daylighting.

27. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
28. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

EXHIBIT E

Public Resources Code § 30106

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION APPROVING AND ACCEPTING AN AGREEMENT GRANTING AN
OPEN-SPACE EASEMENT TO THE COUNTY OF SAN LUIS OBISPO BY BUDDY
RAGGED, LLC, A NEVADA LIMITED LIABILITY COMPANY**

The following resolution is now offered and read:

WHEREAS, the County of San Luis Obispo has been duly requested to approve and accept a certain grant and offer to dedicate to the County of San Luis Obispo as open-space that certain real property described in the open-space agreement attached hereto and made a part hereof; and

WHEREAS, the Director of Planning and Building by letter dated _____, 2016, has duly recommended that the Board of Supervisors approve and accept such offer of dedication to the County of San Luis Obispo, and has further recommended that such action is consistent with the County's general plan.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. The Board of Supervisors finds and determines that the preservation of the land offered for dedication to the County of San Luis Obispo as open-space in the

Exhibit F – Board of Supervisors Resolution

attached agreement is consistent with the County's general plan; that preservation of the land is in the best interest of the County because the land is essentially unimproved and if retained in its natural state has scenic value to the public as well as significant conservation value, and the offer of dedication contained in said agreement contains appropriate covenants to that end; that it is in the public interest that the land be retained as open-space because such land will add to the amenities of living in neighboring urbanized areas; and that approval of the above agreement is categorically exempt from the requirements of the California Environmental Quality Act.

2. The Agreement Granting An Open-Space Easement to the County Of San Luis Obispo, a copy of which is attached hereto and incorporated by reference herein as though set forth in full, is hereby approved and the offer of dedication contained therein is hereby accepted by the County of San Luis Obispo and the Chairperson of the Board of Supervisors is hereby authorized and directed to execute said agreement on behalf of the County of San Luis Obispo.

3. The County Clerk is hereby authorized and directed to record the above agreement and a copy of this resolution in the office of the County Recorder of the County of San Luis Obispo, and file a copy of said agreement and resolution with the County Assessor of the County of San Luis Obispo.

Attachment 2 - Agreement
Exhibit F -- Board of Supervisors Resolution

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Deputy County Counsel

Dated: _____

