

EXHIBIT H – FORM OF CONSERVATION EASEMENT DEED

RECORDING REQUESTED BY:)
First American Title Company)
AND WHEN RECORDED MAIL TO:)
WILDLIFE HERITAGE FOUNDATION)
563 2ND Street, Suite 120)
Lincoln, CA 95648)
Attention: Darla Guenzler)
WITH COPIES TO:)
California Department of Fish and Wildlife)
Office of the General Counsel)
1416 Ninth Street, 12th Floor)
Sacramento, CA 95814)

Space Above Line for Recorder's Use Only

**CONSERVATION EASEMENT DEED
(INCLUDING THIRD-PARTY BENEFICIARY)
Panoche Valley Preserve**

**Panoche Valley Habitat Management Lands
East Valley Habitat Management Lands
BNLL Buffer Lands**

(San Benito County)

THIS CONSERVATION EASEMENT DEED ("Conservation Easement") is made as of the ____ day of _____, 2018 by PANOCHE VALLEY SOLAR LLC, a Delaware limited liability company (Secretary of State Entity Number 5110750) ("Grantor"), in favor of WILDLIFE HERITAGE FOUNDATION, a California nonprofit public benefit corporation ("Grantee"), with reference to the following facts:

RECITALS

A. Grantor proposes to construct and operate a utility-scale, approximately [____] alternating current (AC) megawatt (MW), solar photovoltaic (PV) energy generating facility, known as the Panoche Valley Solar Facility ("Project"), on private lands in San Benito County, California.

B. Grantor is the sole owner in fee simple of certain real property ("Conservation Lands") containing approximately [one thousand nine hundred nineteen (1,919) acres], located in San Benito County, State of California, commonly referred to individually as the following: Panoche Valley Habitat Management (HM) Lands, East Valley HM Lands and BNLL Buffer Lands. Only the Panoche Valley HM Lands and East Valley HM Lands are required to be

managed for their habitat values by the ITP, as defined in Recital F. The ITP does not require a conservation easement over or management of the BNLL Buffer Lands. The Conservation Lands are legally described in **Exhibit A** and depicted on the maps in **Exhibit B-1** through **B-2** attached to this Conservation Easement and incorporated herein by this reference.

C. The Conservation Lands (1) possess open space, various biotic habitat types, wildlife, and other habitat values (collectively, "Conservation Values") of great importance to Grantee, the people of the State of California, and the people of the United States; (2) will provide high quality natural, restored and enhanced habitat for the San Joaquin kit fox (*Vulpes macrotis mutica*), giant kangaroo rat (*Dipodomys ingens*), blunt-nosed leopard lizard (*Gambelia sila*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), California tiger salamander (*Ambystoma californiense*), and California condor (*Gymnogyps californianus*); (3) will provide established, enhanced and preserved seasonal drainages and wetland features of the United States; (4) are and will remain in a Natural Condition (as defined herein); and (5) are intended to be perpetually conserved, managed, and preserved to maintain their ecological, genetic, historical, visual, and educational values. The establishment, enhancement, preservation, and management of the Conservation Lands pursuant to this Conservation Easement will mitigate certain impacts of the Project.

D. Grantee is authorized to hold conservation easements pursuant to California Civil Code Section 815.3 and California Government Code Section 65967. Specifically, Grantee is a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and qualified to do business in California, which has as its primary purpose and activity the protection and preservation of natural lands. Grantee has been accredited by the Land Trust Alliance Accreditation Commission.

E. The California Department of Fish and Wildlife ("CDFW") has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of these species pursuant to California Fish and Game Code Section 1802. CDFW is authorized to be a beneficiary under conservation easements by California law. CDFW is the third-party beneficiary ("Third-Party Beneficiary") of this Conservation Easement as described further below.

F. This Conservation Easement is being executed and delivered to provide mitigation for certain impacts of the Project, as required by the California Endangered Species Act Incidental Take Permit (2081-2014-035-04) issued by CDFW on November 20, 2015 as amended by Amendment No. 1 on April 21, 2016, Amendment No. 2 on July 1, 2016, and Amendment No. 3 on [_____] (collectively "ITP").

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G. A separate conservation easement, Conservation Easement Deed (Including Third-Party Beneficiary), entered into by Panoche Valley Solar, LLC and Center for Natural Lands Management, dated December 8, 2015, and recorded by the San Benito County Recorder on December 11, 2015 (2015-0011955) and the Fresno County Recorder on December 11, 2015 (DOC-2015-0156261-00) ("2015 Conservation Easement"), was previously executed and delivered to provide mitigation for certain impacts of the Project, as required by the ITP.

H. As stated in Recital Q to the 2015 Conservation Easement, the parties recognized that Grantor intended to add acreage to the Conservation Lands and, accordingly, that the 2015 Conservation Easement may be amended in this limited regard and rerecorded by agreement of Grantor and Grantee. Instead of amendment and modification, the execution of this Conservation Easement is intended to provide for the perpetual encumbrance of the additional acreage referenced in Recital Q to the 2015 Conservation Easement.

I. A habitat management plan detailing the implementation measures to accomplish management goals and objectives of the 2015 Conservation Easement has been developed in accordance with the ITP and other Permits (as defined in the 2015 Conservation Easement), entitled "Habitat Management Plan, Panoche Valley Solar Project Conservation Lands, San Benito and Fresno Counties, California," June 16, 2015, and has been approved by CDFW, USFWS, and San Benito County ("Existing Habitat Management Plan" or "Existing HMP"). The Existing HMP describes the measures proposed to be implemented on the lands subject to the 2015 Conservation Easement to compensate and mitigate unavoidable impacts of the Project on federal- and state-listed species. The Existing HMP provides management goals and objectives, roles and responsibilities, a description of the covered species and habitats, a management strategy, detailed management implementation tasks, monitoring methods, timelines, reporting, and funding details.

J. A draft addendum to the Existing HMP has been developed in accordance with the ITP entitled "Addendum to Habitat Management Plan for Panoche Valley Habitat Management Lands and East Valley Habitat Management Lands," [] 2018 ("Addendum to HMP") and has been approved in writing by CDFW. The Addendum to HMP adds the Conservation Lands to the Existing HMP without changing any of the conservation measures. The Addendum to HMP and Existing HMP shall collectively be known as the "Management Plan."

K. The Management Plan is intended and acknowledged to be an adaptive management plan.

L. The Grantor and/or Grantee are responsible for providing a copy of the Management Plan to any respective successor or assign of Grantor or Grantee. In the event the Grantor or Grantee does not provide a copy of the Management Plan to any successor or assign of Grantor or Grantee, the successor or assign may request a copy from CDFW at the address for notices listed in Section 18 (Notices) of this Conservation Easement.

M. Grantor and Grantee each acknowledge that certain biological and other physical attributes of the Conservation Lands particularly relevant to the Conservation Easement are further documented in a written inventory of such attributes ("Baseline Documentation Report"), which has been prepared by a competent natural resource professional familiar with the Conservation Lands and approved in writing by Grantor and Grantee. Grantor and Grantee acknowledge that each has a copy of the Baseline Documentation Report, as approved by such party. Grantor and Grantee agree that the Baseline Documentation Report contains an accurate representation of such attributes of the Conservation Lands at the time that the Conservation Easement is recorded, and is intended to serve as an objective, though non-exclusive, source of baseline information for monitoring compliance with the terms of the Conservation Easement. The foregoing notwithstanding, if a dispute arises with respect to the nature and extent of the biological or physical condition of the Conservation Lands, neither Grantor nor Grantee nor CDFW shall be foreclosed from utilizing any and all other relevant documents, surveys, or any evidence or information to assist in the resolution of the dispute.

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the United States and the State of California, including California Civil Code Section 815, *et seq.*, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Conservation Lands.

1. Purposes.

a. The purposes of this Conservation Easement are to ensure that the Conservation Lands will be retained forever in their natural, restored, or enhanced condition ("Natural Condition") as contemplated by the ITP and the Management Plan, and to prevent any use of the Conservation Lands that will impair or interfere with the Conservation Values of the Conservation Lands. Grantor intends that this Conservation Easement will confine the use of the Conservation Lands to activities that are consistent with such purposes, including, without limitation, those involving the preservation, establishment, re-establishment, and enhancement of native species and their habitats

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implemented in accordance with the Management Plan as approved by the CDFW.

b. The term "Natural Condition," as referenced in the preceding Subsection, shall mean the condition of the Conservation Lands as they exist at the time this Conservation Easement is executed, as well as future changes to the Conservation Lands that occur directly as a result of preservation, establishment, re-establishment, enhancement, and/or perpetual maintenance and management activities, as approved by CDFW.

c. If a controversy arises with respect to the Natural Condition of the Conservation Lands, Grantor, Grantee, and CDFW shall not be foreclosed from utilizing any and all other relevant documents, surveys, photographs, or other evidence or information to assist in the resolution of the controversy.

2. Grantee's Rights. To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee:

a. To preserve and protect the Conservation Values of the Conservation Lands.

b. To enter the Conservation Lands at reasonable times in order to monitor compliance with the Conservation Easement.

c. To prevent any activity on or use of the Conservation Lands that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Conservation Lands that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement.

d. To require that all mineral, air and water rights owned by Grantor that Grantee deems reasonably necessary to preserve and protect the biological resources and Conservation Values of the Conservation Lands shall not be separated from the Conservation Lands by transfer, encumbrance, lease, sale, or otherwise.

e. All present and future development rights appurtenant to, allocated, implied, reserved or inherent in the Conservation Lands are hereby terminated and extinguished, and may not be exercised on or transferred to any portion of the Conservation Lands or any adjacent property.

f. To enforce by any lawful means, including, without limitation, injunctive relief, the terms and conditions of this Conservation Easement.

3. Prohibited Uses. Any activity on or use of the Conservation Lands that is inconsistent with the purposes of this Conservation Easement is

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prohibited. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties are expressly prohibited to the extent provided below:

- a. Watering, except for purposes of revegetation or restoration necessary to maintain the Natural Condition of the Conservation Lands.
- b. Except as otherwise specifically provided in the Management Plan: grazing; planting of certain native shrubs; use of chemical herbicides; and weed abatement activities. Use of chemical fertilizers, pesticides, biocides, rodenticides, fungicides, or other agricultural chemicals or agents is prohibited.
- c. Incompatible fire protection activities.
- d. Use of unmanned aerial vehicles (UAVs) unless authorized by the Management Plan for management and/or Conservation Value protection.
- e. Use of off-road vehicles and other ground-based motorized vehicles except on existing roadways and as otherwise specifically provided in the Management Plan.
- f. Agricultural activities of any kind, except as specifically provided in the Management Plan with respect to grazing, planting of certain native shrubs, or otherwise.
- g. Recreational activities, including, but not limited to, horseback riding, biking, hunting, or fishing.
- h. Commercial, residential, institutional, or industrial uses.
- i. Any legal or de facto division, subdivision, or partitioning of the Conservation Lands, including a request for a certificate of compliance pursuant to the Subdivision Map Act (California Government Code Section 66499.35), except to for any subdivision necessary to transfer fee title of the BNLL Buffer Lands to CNLM or successor.
- j. Construction, reconstruction, expansion, location, relocation, installation, erection, or placement of any building, billboard, or any other structure or improvement of any kind, except for fencing, corrals, and water systems specifically provided in the Management Plan. Signs are only allowed for the purposes of public safety, identifying the Conservation Easement and its participants and posting the Conservation Lands to control unauthorized entry or use; provided, no sign resulting in the impairment of Conservation Values shall be allowed.

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- k. Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials.
- l. Planting, introduction or dispersal of non-native or exotic plant or animal species.
- m. Except for normal and customary road maintenance as specifically provided in the Management Plan, filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extracting minerals, loam, soil, sands, gravel, rock, or other material on or below the surface of the Conservation Lands, or granting or authorizing surface entry for any of these purposes.
- n. Altering the surface or general topography of the Conservation Lands, including but not limited to any material alterations to habitat, building roads or trails, paving or otherwise covering any portion of the Conservation Lands.
- o. Removing, disturbing, altering, destroying, or cutting of trees, shrubs or other vegetation, except (1) as required by law for fire breaks, (2) for prevention or treatment of disease or controlling invasive plant species, or (3) as otherwise specifically provided in the Management Plan.
- p. Manipulating, impounding, or altering any natural water course, body of water or water circulation on the Conservation Lands, except as otherwise specifically provided in the Management Plan, and any activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters.
- q. Transferring, encumbering, selling, leasing or other separation of the mineral, air or water rights for the Conservation Lands, or changing the place or purpose of use of the water rights, without first obtaining the written consent of Grantee and CDFW, which Grantee or CDFW may withhold in its reasonable discretion. Grantor shall not abandon or allow the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights, or other rights in and to the use of water historically used on or otherwise appurtenant to the Conservation Lands including, without limitation: (1) riparian water rights; (2) appropriative water rights; (3) rights to waters which are secured under contract with any irrigation or water district, to the extent such waters are customarily applied to the Conservation Lands; or (4) any water from wells that are in existence or may be constructed in the future on the Conservation Lands.
- r. Engaging in any use or activity on the Conservation Lands that may violate, or may fail to comply with, relevant federal, state, or local laws,

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regulations, or policies applicable to Grantor, the Conservation Lands, or the use or activity in question.

s. Any and all other activities and uses which may adversely affect the Conservation Values of the Conservation Lands or otherwise interfere with the purposes of this Conservation Easement.

4. Grantee's Duties. To ensure that the purposes of this Conservation Easement as described in Section 1 ("Purposes") are being accomplished, Grantee and its successors and assigns shall (a) perform annually, a comprehensive compliance monitoring inspection of the Conservation Lands; (b) enforce the terms of this Conservation Easement and defend this Conservation Easement; (c) prepare an annual report on the results of the compliance monitoring inspection; and (d) provide those reports to CDFW upon request.

5. Grantor's Duties.

a. Grantor shall undertake reasonable efforts to prevent unlawful entry and trespass by persons whose activities may degrade or harm the Conservation Values of the Conservation Lands or that are otherwise inconsistent with this Conservation Easement.

b. Grantor shall undertake all necessary actions to perfect and defend rights of Grantee under Section 2 ("Grantee's Rights") of this Conservation Easement, and to implement the Management Plan.

c. If (1) any subsurface mineral rights have been severed from the surface estate of the Conservation Lands ("Severed Mineral Rights") prior to the date of the recording of this Conservation Easement, and (2) Grantor is given notice or otherwise learns that a third party intends to develop such subsurface mineral rights, then Grantor shall provide Grantee and CDFW written notice of such intended development as soon as is practicable and shall cooperate with Grantee in exercising Grantee's legal rights to limit any such development to protect the Conservation Values of the Conservation Lands.

6. Grantee's Remedies. If Grantee determines that a violation of this Conservation Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation ("Notice of Violation"). At the time of giving any such notice, Grantee shall give a copy of the notice to CDFW (or, if CDFW gives a Notice of Violation it shall also give a copy of the notice to Grantee). Notice shall be provided in accordance with Section 18 of this Conservation Easement. If Grantor fails to cure the violation within thirty (30) days after receipt of a Notice of Violation, or if the cure reasonably requires more than thirty (30) days to complete and Grantor fails to begin the cure within the thirty (30)-day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in

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a court of competent jurisdiction for any or all of the following: to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or for any injury to the Conservation Values of the Conservation Lands; to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies; to pursue any other legal or equitable relief, including but not limited to, the restoration of the Conservation Lands to the condition in which it existed prior to any violation or injury; or to otherwise enforce this Conservation Easement. Without limiting the liability of Grantor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Conservation Lands.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate injury to the Conservation Values of the Conservation Lands, then Grantee may pursue its remedies under this Conservation Easement without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this Section apply equally to actual or threatened violations of this Conservation Easement.

Grantor agrees that Grantee's remedies at law for any violation of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to the remedies set forth in California Civil Code Section 815, *et seq.* The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

a. Costs of Enforcement. All costs incurred by Grantee, where Grantee is the prevailing party, in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and reasonable attorneys' and experts' fees, and any costs of restoration necessitated by negligence or breach of this Conservation Easement, shall be borne by Grantor.

b. Grantee's Discretion. Enforcement of the terms of this Conservation Easement by Grantee or CDFW shall be at the discretion of Grantee or CDFW and any forbearance by Grantee or CDFW to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any rights of Grantee (or any rights of CDFW, as

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the third-party beneficiary ("Third-Party Beneficiary") under this Conservation Easement. No delay or omission by Grantee or the Third-Party Beneficiary in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

c. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee or the Third-Party Beneficiary to bring any action against Grantor for any injury to or change in the Conservation Lands resulting from (1) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Lands resulting from such causes; or (2) acts by Grantee or CDFW, or any of their employees or agents.

d. Notice of Conflict. If Grantor receives a Notice of Violation from Grantee or the Third-Party Beneficiary with which it is impossible for Grantor to comply consistent with any prior uncured Notice(s) of Violation, Grantor shall give written notice of the conflict (hereinafter "Notice of Conflict") to the Grantee and the Third-Party Beneficiary. In order to be valid, a Notice of Conflict shall be given within fifteen (15) business days of the date Grantor receives a conflicting Notice of Violation, shall include copies of the conflicting Notices of Violation, and shall describe the conflict with specificity, including how the conflict makes compliance with the uncured Notice(s) of Violation impossible. Upon issuing a valid Notice of Conflict, Grantor shall not be required to comply with the conflicting Notices of Violation until such time as one or more of the entity or entities issuing said conflicting Notices of Violation issue(s) revised Notice(s) of Violation that resolve the conflict or the entities issuing the conflicting Notices of Violation provide Grantor with written notice explaining why the Notices of Violation do not conflict. Upon receipt of one or more revised Notices of Violation or a written explanation of why the Notices do not conflict, Grantor shall comply with such notice(s) within the time period(s) described in this Section. The failure of Grantor to issue a valid Notice of Conflict within fifteen (15) business days of receipt of a conflicting Notice of Violation shall constitute a waiver of Grantor's ability to claim a conflict.

e. Third-Party Beneficiary Right of Enforcement.

(1) Grantor and Grantee acknowledge and agree that CDFW is the Third-Party Beneficiary of this Conservation Easement to the extent set forth above in this Conservation Easement. Except as expressly set forth herein, this Conservation Easement has been made solely for the benefit of the parties hereto and their respective successors and permitted assigns, and nothing in this Conservation Easement is intended to, or shall, confer upon any other person any benefits, rights or remedies.

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(2) All rights and remedies conveyed to Grantee under this Conservation Easement shall extend to and are enforceable by the Third-Party Beneficiary against Grantee if Grantee fails to enforce this Conservation Easement within sixty (60) days of written notice from the Third-Party Beneficiary and against Grantor if Grantee fails to cause Grantor to comply with its obligations under this Conservation Easement within sixty (60) days of written notice from the Third-Party Beneficiary of such breach. These rights are in addition to, and do not limit, any separate rights of enforcement in favor of the Third-Party Beneficiary that may exist under the Management Plan. If at any time in the future Grantor uses, allows the use, or threatens to use or allow use of, the Conservation Lands for any purpose that is inconsistent with or in violation of this Conservation Easement then, despite the provisions of California Civil Code Section 815.7, the Third-Party Beneficiary has standing as an interested party in any proceeding affecting this Conservation Easement.

f. Reversion. If, following the expiration of applicable notice and cure periods, CDFW reasonably determines that Grantee is not holding, monitoring, enforcing, or defending this Conservation Easement for conservation purposes in the manner specified in this Conservation Easement then, pursuant to California Government Code Section 65967(e), Grantee's interest in this Conservation Easement shall revert to the State of California, or to another public agency or nonprofit organization qualified pursuant to California Civil Code Section 815.3 and California Government Code Section 65965 (and any successor or other provision(s) then applicable) and approved by CDFW.

7. [INTENTIONALLY OMITTED]

8. Access. This Conservation Easement does not convey any right of access (general or otherwise) to the public.

9. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Conservation Lands. Grantor agrees that neither Grantee nor CDFW shall have any duty or responsibility for the operation, upkeep or maintenance of the Conservation Lands, the monitoring of hazardous conditions on it, or the protection of Grantor, the public or any third parties from risks relating to conditions thereon. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals required for any activity or use permitted by this Conservation Easement, including those required from CDFW acting in its regulatory capacity, and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency statutes, codes, ordinances, rules, regulations, orders and requirements.

a. Taxes; No Liens. Grantor shall pay before delinquency all taxes, assessments (general and special), fees, and charges of whatever description levied on or assessed against the Conservation Lands by competent authority (collectively "Taxes"), including any Taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee or the Third-Party Beneficiary with satisfactory evidence of payment upon request. Grantor shall keep the Conservation Lands free from any liens (other than a security interest that is subordinate to this Conservation Easement), including those arising out of any obligations incurred by Grantor for any labor or materials furnished or alleged to have been furnished to or for Grantor at or for use on the Conservation Lands.

b. Hold Harmless.

(1) Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, and disclosed agents, and representatives and the heirs, successors and assigns of each of them (each an "Indemnified Party" and, collectively, "Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Conservation Lands, caused by Grantor, unless due to the negligence of Grantee or any of its directors, officers, employees, and disclosed agents and representatives; (b) the obligations specified in Sections 5 and 9; and (c) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party.

(2) Grantor shall hold harmless, protect and indemnify the Third-Party Beneficiary and its respective directors, officers, employees, and disclosed agents, and representatives and the heirs, successors and assigns of each of them (each a "Third-Party Beneficiary Indemnified Party" and collectively, "Third-Party Beneficiary Indemnified Parties") from and against any and all Claims arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Conservation Lands, caused by Grantor and (ii) the existence or administration of this Conservation Easement. Provided, however, that the indemnification in this Section shall be inapplicable to a Third-Party Beneficiary Indemnified Party with respect to any Claim due to the negligence of that Third-Party Beneficiary Indemnified Party or any of its directors, officers, employees, agents, contractors

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or representatives. If any action or proceeding is brought against any of the Third-Party Beneficiary Indemnified Parties by reason of any Claim to which the indemnification in this Section applies, then at the election of and upon written notice from the Third-Party Beneficiary Indemnified Party, Grantor shall defend such action or proceeding by counsel reasonably acceptable to the applicable Third-Party Beneficiary Indemnified Party or reimburse the Third-Party Beneficiary Indemnified Party for all reasonable charges incurred for services of the California Attorney General or the U.S. Department of Justice in defending the action or proceeding.

(3) Grantee shall hold harmless, indemnify, and defend Grantor and its officers, directors, employees, legal representatives, disclosed agents, heirs, successors and assigns, (each a "Grantor Indemnified Party" and, collectively, "Grantor Indemnified Parties") and each of them from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' and experts' fees, arising from or in any way connected with any injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Conservation Lands to the extent caused by the conduct of Grantee.

10. Extinguishment. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, then this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

11. Condemnation. The purposes of this Conservation Easement are presumed to be the best and most necessary public use as defined at California Code of Civil Procedure Section 1240.680 notwithstanding California Code of Civil Procedure Sections 1240.690 and 1240.700. Pursuant to California Code of Civil Procedure Section 1240.055, this Conservation Easement is "property appropriated to public use," as used in Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610) of the California Code of Civil Procedure. A person authorized to acquire property for public use by eminent domain shall seek to acquire the Conservation Lands, if at all, *only* as provided in Code of Civil Procedure Section 1240.055. CDFW is a public entity that imposed conditions on approval of the Project that were satisfied, in whole or in part, by the creation of this Conservation Easement. If any person seeks to acquire the Conservation Lands for public use, then Grantee shall provide notice to CDFW and comply with all obligations of the holder of a conservation easement under California Code of Civil Procedure Section 1240.055. If the Conservation Easement is condemned, then the net proceeds from the condemnation shall be used in compliance with California Government Code Section 65966(j).

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12. Merger. The doctrine of merger shall not operate to extinguish this Conservation Easement if the Conservation Easement and the Conservation Lands become vested in the same party. If, despite this intent, the doctrine of merger applies to extinguish the Conservation Easement then, unless Grantor, Grantee, and CDFW otherwise agree in writing, a replacement conservation easement or restrictive covenant containing the same protections embodied in this Conservation Easement shall be recorded against the Conservation Lands.

13. Transfer of Conservation Easement. This Conservation Easement may be assigned or transferred by Grantee upon written approval of Grantor and CDFW, which approval shall not be unreasonably withheld or delayed, but Grantee shall give Grantor and CDFW at least ninety (90) days prior written notice of the transfer. Grantee may assign or transfer its rights under this Conservation Easement only to an entity or organization authorized to acquire and hold conservation easements pursuant to California Civil Code Section 815.3 (or any successor provision then applicable) and approved by CDFW pursuant to California Government Code Section 65967. Evidence of the assignment of Grantee's rights under this Conservation Easement shall be the execution by Grantee and the transferee of an assignment and assumption agreement pursuant to which the transferee agrees to assume all obligations of the Grantee hereunder. A form of such assignment and assumption agreement shall be provided to Grantor and CDFW no less than thirty (30) days prior to the date Grantee and the transferee intend to enter into such agreement. Grantee shall require the assignee to record the assignment and assumption agreement in San Benito County, and Grantee shall provide or shall cause transferee to provide a copy of such recorded assignment and assumption agreement to Grantor and CDFW promptly upon receipt thereof. The failure of Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforcement in any way. Any transfer under this Section is subject to the requirements of Section 12 and 14.

14. Binding Upon Successors. Grantor agrees that the terms of this Conservation Easement shall run with the land and be binding upon any and all successors in interest. Accordingly, any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Conservation Lands, including, without limitation, a leasehold interest, shall be subject to this Conservation Easement. Any security interest in the Conservation Lands granted from and after the date of this Conservation Easement shall be subject and subordinate to this Conservation Easement. Grantor further agrees to give written notice to Grantee and CDFW of the intent to transfer any interest at least ninety (90) days prior to the date of such transfer. Grantee and CDFW shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor or Grantee to perform any act provided in this Section shall not impair the validity of

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this Conservation Easement or limit its enforceability in any way. Any transfer under this Section is subject to the requirements of Section 12 and 13.

15. Transfer of Conservation Lands. Notwithstanding Sections 13 and 14 of this Conservation Easement, Grantor, Grantee, and CDFW intend to have the fee title to the Conservation Lands transferred as set forth in this Section. Within thirty (30) days of recordation of this Conservation Easement, Grantor Panoche Valley Solar, LLC shall provide to CDFW a draft grant deed or other appropriate instrument to transfer fee title to the Conservation Lands to the Center for Natural Lands Management. Grantor Panoche Valley Solar, LLC shall ensure that the final deed or other instrument transferring fee title to the Conservation Lands are recorded in San Benito County.

16. Conservation Easement Monitoring; Preserve Restoration; and Compliance Reporting.

a. Grantee's Responsibilities. Grantee, its successors and assigns shall be responsible for monitoring for compliance with this Conservation Easement in perpetuity.

b. Restoration Responsibilities. Grantor, Grantee, their successors and assigns shall each individually be obligated to repair, remediate, or restore the Conservation Lands damaged by any activities prohibited by Section 3 herein for which it is responsible.

c. Annual Compliance Reporting. Grantee, its successors and assigns shall prepare an annual Conservation Easement monitoring, enforcement, and defense documenting those activities performed under this Section 16, and shall make such report available to the Grantor and CDFW upon request or as required. This report may be combined with an the annual compliance report prepared for the 2015 Conservation Easement.

17. Endowment. Grantor shall transfer to Grantee upon recording of the Conservation Easement a certain sum agreed upon and calculated using a "Property Analysis Record" ("PAR") for the purpose of fulfilling Grantee's monitoring, enforcement, and defense obligations under this Conservation Easement. Grantee shall establish a Conservation Easement Monitoring, Enforcement, and Defense Endowment ("CE MED Endowment") that may be used by Grantee to fund its Conservation Lands obligations pursuant to this Conservation Easement. Funding for the initial three-year costs and the perpetual CE MED Endowment provided to Grantee shall be provided pursuant to the terms and conditions of an endowment management agreement ("Endowment Management Agreement") between the respective parties.

18. Notices. Any notice, demand, request, consent, approval, or other communication that Grantor or Grantee desires or is required to give to the other shall be in writing, with a copy to CDFW, and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class United States mail, postage fully prepaid, addressed as follows:

To Grantor: Panoche Valley Solar LLC
c/o Consolidated Edison Development, Inc.
Attn: General Counsel
100 Summit Lake Drive, Suite 210
Valhalla, NY 10595

To Grantee: Wildlife Heritage Foundation
Attn: Executive Director
563 Second Street, Suite 120
Lincoln, CA 95648

To CDFW: California Department of Fish and Wildlife
Central Region (Region 4)
1234 E. Shaw Avenue
Fresno, CA 93710

or to such other address a party or CDFW shall designate by written notice to Grantor, Grantee and CDFW. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

19. Amendment. This Conservation Easement may be amended only by mutual written agreement of Grantor and Grantee, and prior written approval of CDFW (which approval shall not be unreasonably withheld, conditioned or delayed). Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of San Benito County, and Grantee shall promptly provide an electronic copy of the recorded amendment to Grantor, CDFW, and the Attorney General of California.

20. Management Plan. The Management Plan may be amended only upon mutual written agreement of Grantor, Grantee, and CDFW. The Management Plan may be amended without requiring amendment of this Conservation Easement; provided, however, that the Management Plan cannot change any provision or requirement of this Conservation Easement.

21. Additional Provisions.

a. Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the United States and State of California, disregarding the conflicts of law principles of such state.

b. Liberal Construction. Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of California Civil Code Section 815, *et seq.* and California Government Code Section 65965 *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, then such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, then such action shall not affect the application of the provision to any other persons or circumstances.

d. Entire Agreement. This instrument (including its exhibits) sets forth the entire agreement of the parties and CDFW with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 19.

e. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f. Successors. The rights, obligations, covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Conservation Lands.

g. Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Conservation Lands, except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.

h. 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 its construction or interpretation.

i. No Hazardous Materials Liability.

(1) Except as set forth in **Exhibit C**, Grantor represents and warrants that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Conservation Lands, or transported to or from or affecting the Conservation Lands.

(2) Without limiting the obligations of Grantor under Section 9(b), Grantor hereby releases and agrees to indemnify, protect and hold harmless the Indemnified Parties (defined in Section 9) from and against any and all Claims (defined in Section 9) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Conservation Lands at any time, except any Hazardous Materials placed, disposed or released by Grantee, its employees or agents or disclosed in **Exhibit C**. This release and indemnification includes, without limitation, Claims for injury to or death of any person or physical damage to any property; and the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for its reasonable costs and expenses in defending the action or proceeding.

(3) Without limiting the obligations of Grantor under Section 9(b), Grantor hereby releases and agrees to indemnify, protect and hold harmless the Third-Party Beneficiary Indemnified Parties (defined in Section 9) from and against any and all Claims arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Conservation Lands at any time to the extent arising from Grantor's actions, except that this release and indemnification shall be inapplicable to a Third-Party Beneficiary Indemnified Party with respect to any Hazardous Materials placed, disposed or released by that Third-Party Beneficiary Indemnified Party or any of its employees or disclosed in **Exhibit C**. This release and indemnification includes, without limitation, Claims for (a) injury to or death of any person or physical damage to any property; and (b) the violation or alleged violation of, or other failure to comply with, any Environmental Laws. If any action or proceeding is brought against any of the Third-Party Beneficiary Indemnified Parties by

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reason of any such Claim, Grantor shall, at the election or and upon written notice from the applicable Third-Party Beneficiary Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Third-Party Beneficiary Indemnified Party or reimburse the Third-Party Beneficiary Indemnified Party for all reasonable charges incurred for services of the California Attorney General in defending the action or proceeding.

(4) Without limiting the obligations of Grantee under Section 9(b), Grantee hereby releases and agrees to indemnify, protect and hold harmless the Grantor Indemnified Parties (defined in Section 9) from and against any and all Claims (defined in Section 9) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Conservation Lands at any time to the extent arising from the actions of Grantee, except any Hazardous Materials placed, disposed or released by Grantor, its employees or agents or disclosed in **Exhibit C**. This release and indemnification includes, without limitation, Claims for injury to or death of any person or physical damage to any property; and the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against any of the Grantor Indemnified Parties by reason of any such Claim, Grantee shall, at the election of and upon written notice from Grantor, defend such action or proceeding by counsel reasonably acceptable to the Grantor Indemnified Party or reimburse Grantor for its reasonable costs and expenses in defending the action or proceeding.

(5) Despite any contrary provision of this Conservation Easement, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee or the Third-Party Beneficiary, any of the following:

(A) The obligations or liability of an “owner” or “operator,” as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, *et seq.*; hereinafter, “CERCLA”); or

(B) The obligations or liabilities of a person described in 42 U.S.C. § 9607(a) (3) or (4); or

(C) The obligations of a responsible person under any applicable Environmental Laws; or

(D) The right to investigate and remediate any Hazardous Materials associated with the Conservation Lands; or

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(E) Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Conservation Lands.

(6) The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, *et seq.*; hereinafter, "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. § 6901, *et seq.*; hereinafter, "HTA"); the Hazardous Waste Control Law (California Health & Safety Code § 25100, *et seq.*; hereinafter, "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code § 25300, *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement.

(7) The term "Environmental Laws" includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials.

j. Warranty. Grantor represents and warrants that, as of the date of this Conservation Easement, Grantor is the sole owner of fee simple title to the Conservation Lands and that there are no outstanding mortgages, liens, encumbrances, or other interests in the Conservation Lands that may conflict or are otherwise inconsistent with this Conservation Easement and which have not been expressly subordinated to this Conservation Easement by a written, recorded Subordination Agreement approved by Grantee and CDFW, and that the Conservation Lands are not subject to any other conservation easement.

k. Additional Interests. Grantor shall not grant any additional easements, rights of way, or other interests in the Conservation Lands, nor shall Grantor separately (i.e., apart from a transfer of the entire Conservation Lands) grant, transfer, abandon or relinquish any mineral, air, or water rights or any water associated with the Conservation Lands, without first obtaining the written consent of Grantee and the Third-Party Beneficiary, which shall not be unreasonably withheld. Grantee or the Third-Party Beneficiary may withhold such consent in its reasonable discretion if Grantee or the Third-Party Beneficiary determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or may impair or interfere with the Conservation Values of the Conservation Lands. This Subsection 21(k) shall not limit the provisions of Section 2(d) (Grantee's Rights - Mineral/Air/Water Rights),

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nor prohibit transfer of a fee or leasehold interest in the Conservation Lands that is subject to this Conservation Easement and complies with Section 15 (Transfer of Conservation Lands).

I. Recording. Grantee shall record this Conservation Easement in the Official Records of San Benito County, and may re-record it at any time as Grantee deems necessary to preserve its rights in this Conservation Easement.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties have executed and delivered this Conservation Easement Deed on the day and year first above written.

Panoche Valley Solar LLC,
a Delaware limited liability company

By: _____

Date: _____, 2018

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 _____

County of _____)

On _____ before me, _____
(insert name and title of officer)

personally appeared _____,
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 that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature)

(Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Conservation Easement Deed dated _____, 2018, from Panoche Valley Solar, LLC (Grantor) to Wildlife Heritage Foundation (Grantee), is hereby accepted on the terms and conditions set forth in the Conservation Easement Deed by the undersigned officer on behalf of Wildlife Heritage Foundation.

Wildlife Heritage Foundation,
a California nonprofit public benefit corporation

By: _____
Darla Guenzler
Executive Director

Date: _____, 2018

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

County of _____)

On _____ before me, _____
(insert name and title of officer)

personally appeared DARLA GUENZLER, 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 that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature)

(Seal)

EXHIBIT H – FORM OF CONSERVATION EASEMENT DEED

EXHIBIT A

LEGAL DESCRIPTION

MAFEI/URRUTIA PARCEL (APN: 027-290-010-000)

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA:

THE EAST 1/2 OF THE SOUTHEAST 1/4, AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 15 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

GONZALES PARCEL (APN: 027-310-018-000)

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA:

A PORTION OF SECTION 25 OF TOWNSHIP 15 SOUTH RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH HALF OF THE NORTHWEST QUARTER AND ALL OF THE NORTHEAST QUARTER OF SAID SECTION 25.

EXCEPTING THEREFROM THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 25 AND ANY PORTION LYING SOUTHERLY OF PANOCHE ROAD.

ALSO EXCEPTING THEREFROM 10 ACRES IN SQUARE FORM IN THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 25, AS GRANTED TO ARTHUR J. NEILSON BY DEED FROM DANIEL BERG AND HELENA BERG, HIS WIFE, DATED FEBRUARY 5, 1914 AND RECORDED MARCH 13, 1914 IN VOLUME 52 OF DEEDS, AT PAGE 249, SAN BENITO COUNTY RECORDS.

ALSO EXCEPTING THEREFROM AN UNDIVIDED 49% INTEREST IN AND TO ALL OIL, GAS AND/OR MINERALS LOCATED BELOW THE SURFACE OF THE HEREIN DESCRIBED REAL PROPERTY, WITHOUT THE RIGHT OF SURFACE ENTRY AS RESERVED IN THE DEED FROM HENRY C. BERG, AS TO A LIFE ESTATE, ETAL TO GREGORY H. WARD, A SINGLE MAN, RECORDED OCTOBER 19, 1990 UNDER DOCUMENT NO. 9009028, OFFICIAL RECORDS OF SAN BENITO COUNTY.

DULING PARCEL (APN: 027-350-019)

PARCEL 1

BEING ALL OF THOSE CERTAIN PARCELS ONE AND TWO AS ARE FOUND DESCRIBED IN THE GRANT DEED FROM PATRICK DAUGHERTY, TRUSTEE OF THE PATRICK DAUGHERTY TRUST, UNDER TRUST AGREEMENT DATED AUGUST 10, 2000 AS TO PARCEL ONE, AND PATRICK DANA DAUGHERTY, TRUSTEE OF PATRICK DAUGHERTY TRUST DATED AUGUST 10, 2000 LIVING REVOCABLE TRUST AS TO PARCEL TWO, TO 34565 PANOCHE ROAD, LLC, SAID GRANT DEED RECORDED JANUARY 24, 2014 AT RECORDERS FILE NO. 2014-0000597, SAN BENITO COUNTY RECORDS, BOUNDED BY A LINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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BEGINNING AT THE NORTHERLY CORNER COMMON TO THE ABOVE SAID PARCEL ONE AND PARCEL TWO ON THE SOUTHERLY LINE OF LOT 7 IN SECTION 19, TOWNSHIP 15 SOUTH, RANGE 11 EAST, MOUNT DIABLO BASE AND MERIDIAN AND SHOWN ON THAT CERTAIN RECORD OF SURVEY RECORDED FEBRUARY 3, 2014 IN BOOK 15 OF MAPS, PAGE 66, SAN BENITO COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING AND ALONG THE NORTHERLY LINE OF SAID PARCEL TWO SOUTH 89° 53' 17" EAST 1480.50 FEET TO THE NORTHEASTERLY CORNER OF PARCEL TWO; THENCE ALONG THE EASTERLY LINE OF THEREOF SOUTH 0° 44' 51" WEST 2673.17 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID SECTION 19, SAID POINT ALSO BEING IN THE NORTHERLY LINE OF SECTION 30 OF THE SAME SAID TOWNSHIP AND RANGE; THENCE CONTINUING ALONG THE SAID EASTERLY LINE OF PARCEL TWO SOUTH 1° 21' 42" WEST 2653.49 FEET TO A POINT IN THE NORTHERLY LINE OF PANOCHE ROAD, 60 FEET WIDE, AND THE SOUTHEASTERLY CORNER OF SAID PARCEL TWO; THENCE ALONG THE SOUTHERLY LINE OF PARCEL TWO AND THE SAID NORTHERLY LINE OF PANOCHE ROAD NORTH 89° 30' 32" WEST 545.09 FEET; THENCE SOUTH 89° 51' 46" WEST 904.12 FEET TO THE SOUTHERLY CORNER COMMON TO SAID PARCEL TWO AND PARCEL ONE; THENCE CONTINUING ALONG SAID NORTHERLY LINE OF PANOCHE ROAD AND THE SOUTHERLY LINE OF PARCEL ONE SOUTH 89° 51' 46" WEST 1739.24 FEET TO THE SOUTHWEST CORNER OF PARCEL ONE AT THE INTERSECTION OF THE SAID NORTHERLY LINE OF PANOCHE ROAD AND THE EASTERLY LINE OF DAN BERG ROAD, 40 FEET WIDE; THENCE ALONG SAID EASTERLY LINE OF DAN BERG ROAD AND THE WESTERLY LINE OF SAID PARCEL ONE NORTH 0° 32' 27" EAST 2663.41 FEET TO THE NORTHEASTERLY CORNER OF DAN BERG ROAD; THENCE ALONG THE NORTHERLY LINE OF DAN BERG ROAD NORTH 89° 50' 31" WEST 40.00 FEET TO THE SOUTHWESTERLY CORNER OF LOT 5 OF THE ABOVE SAID SECTION 19 AND ALSO BEING IN THE WESTERLY LINE OF SAID PARCEL ONE; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 0° 13' 07" EAST 1335.19 FEET TO A POINT IN THE WESTERLY LINE OF SAID LOT 5 AND EASTERLY CORNER COMMON TO LOTS 3 AND 4 OF SAME SAID SECTION 19 AND AN ANGLE POINT IN THE WESTERLY LINE OF SAID PARCEL ONE; THENCE ALONG SAID WESTERLY LINE SOUTH 89° 51' 55" EAST 1367.10 FEET TO AN ANGLE POINT IN SAID WESTERLY LINE OF PARCEL ONE, SAID ANGLE POINT ALSO BEING MID-POINT IN THE LINE COMMON TO LOTS 5 AND 8 OF SAID SECTION 19; THENCE ALONG SAID COMMON LINE AND SAID WESTERLY LINE OF PARCEL ONE NORTH 0° 29' 02" EAST 1335.77 FEET TO THE NORTHWESTERLY CORNER OF PARCEL ONE AND THE SOUTHWESTERLY CORNER OF THE ABOVE SAID LOT 7; THENCE ALONG SAID SOUTHERLY LINE AND THE NORTHERLY LINE OF SAID PARCEL ONE SOUTH 89° 53' 17" EAST 437.26 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM TO FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF SAID PARCEL ONE, SAID POINT ALSO BEING IN THE NORTHERLY LINE OF PANOCHE ROAD, 60 FEET WIDE, AND WHICH BEARS NORTH 89° 51' 46" EAST 714.73 FEET FROM THE INTERSECTION THEREOF WITH THE EASTERLY LINE OF DAN BERG ROAD, 40 FEET WIDE; THENCE FROM SAID POINT OF BEGINNING AND RUNNING ALONG A LINE WHICH IS PARALLEL TO THE EASTERLY LINE OF SAID PARCEL ONE NORTH 0° 57' 04" EAST 1855.00 FEET; THENCE PARALLEL TO SOUTHERLY LINE OF SAID PARCEL ONE NORTH 89° 51' 46" EAST 939.50 FEET; THENCE ALONG A LINE WHICH IS PARALLEL TO AND 85.00 FEET WESTERLY OF AS MEASURED AT RIGHT ANGLES TO THE SAID EASTERLY LINE OF PARCEL ONE SOUTH 0° 57' 04" WEST 1855.00 FEET TO A POINT IN THE NORTHERLY LINE OF PANOCHE ROAD; THENCE

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ALONG SAID NORTHERLY LINE SOUTH 89° 51' 46" WEST 939.50 FEET TO THE POINT OF BEGINNING.

PARCEL 2

BEING A PORTION OF THAT CERTAIN PARCEL ONE AS IS FOUND DESCRIBED IN THE GRANT DEED FROM PATRICK DAUGHERTY, TRUSTEE OF THE PATRICK DAUGHERTY TRUST, UNDER TRUST AGREEMENT DATED AUGUST 10, 2000 AS TO PARCEL ONE, AND PATRICK DANA DAUGHERTY, TRUSTEE OF PATRICK DAUGHERTY TRUST DATED AUGUST 10, 2000 LIVING REVOCABLE TRUST AS TO PARCEL TWO, TO 34565 PANOCHÉ ROAD, LLC, SAID GRANT DEED RECORDED JANUARY 24, 2014 AT RECORDERS FILE NO. 2014-0000597, SAN BENITO COUNTY RECORDS, BOUNDED BY A LINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF SAID PARCEL ONE, SAID POINT ALSO BEING IN THE NORTHERLY LINE OF PANOCHÉ ROAD, 60 FEET WIDE, AND WHICH BEARS NORTH 89° 51' 46" EAST 714.73 FEET FROM THE INTERSECTION THEREOF WITH THE EASTERLY LINE OF DAN BERG ROAD, 40 FEET WIDE; THENCE FROM SAID POINT OF BEGINNING AND RUNNING ALONG A LINE WHICH IS PARALLEL TO THE EASTERLY LINE OF SAID PARCEL ONE NORTH 0° 57' 04" EAST 1855.00 FEET; THENCE PARALLEL TO SOUTHERLY LINE OF SAID PARCEL ONE NORTH 89° 51' 46" EAST 939.50 FEET; THENCE ALONG A LINE WHICH IS PARALLEL TO AND 85.00 FEET WESTERLY OF AS MEASURED AT RIGHT ANGLES TO THE SAID EASTERLY LINE OF PARCEL ONE SOUTH 0° 57' 04" WEST 1855.00 FEET TO A POINT IN THE NORTHERLY LINE OF PANOCHÉ ROAD; THENCE ALONG SAID NORTHERLY LINE SOUTH 89° 51' 46" WEST 939.50 FEET TO THE POINT OF BEGINNING.

EAST VALLEY HABITAT MANAGEMENT LANDS

BEING A PORTION of that certain Parcel 1 as is found shown on Parcel Map No. 1238-16, recorded October 20, 2016, in Book 11 of Parcel Maps, page 48, San Benito County Records, bounded by a line more particularly described as follows:

BEGINNING at the northerly corner common to Parcel's 1 and 4 as are shown on the above said Parcel Map No. 1238-16 and running along their common line South 59°45'10" East, 144.23 feet; thence South 40°28'30" East, 605.91 feet; thence South 01°01'30" West, 556.23 feet; thence South 32°51'52" East, 222.58 feet; thence South 67°43'45" East, 139.34 feet; thence South 52°43'12" East, 120.66 feet; thence South 19°37'38" East, 105.07 feet; thence South 13°02'49" East, 223.42 feet; thence South 68°41'08" East, 93.96 feet; thence South 54°28'11" East, 116.22 feet; thence South 24°00'25" East, 311.45 feet; thence South 02°36'57" West, 345.95 feet; thence South 18°26'36" East, 61.22 feet; thence South 34°23'55" East, 344.64 feet; thence South 26°20'58" East, 95.13 feet; thence South 51°18'45" East, 382.06 feet; thence South 23°17'51" East, 483.65 feet; thence South 02°27'18" West, 370.61 feet; thence North 87°32'41" West, 19.51 feet; thence South 02°00'00" West, 55.07 feet; thence South 42°24'56" East, 27.44 feet; thence South 00°53'33" West, 249.59 feet; thence South 43°52'29" East, 134.91 feet; thence South 82°12'48" East, 473.04 feet; thence South 26°41'31" East, 158.25 feet; thence South 00°04'13" West, 513.89 feet; thence South 32°45'39" East, 103.59 feet; thence South 61°56'49" East, 326.23 feet; thence South 21°07'31" East, 159.51 feet; thence South 00°22'39" West, 907.11 feet; thence South 44°07'20" East, 180.27 feet; thence South 52°31'20" East, 500.54 feet; thence South

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32°46'45" East, 438.98 feet; thence South 23°30'28" East, 885.43 feet; thence South 50°46'28" East, 310.38 feet; thence South 16°07'51" East, 139.22 feet; thence South 00°00'00" East, 744.73 feet; thence South 89°36'50" East, 848.13 feet; thence South 34°47'06" East, 593.39 feet; thence South 53°51'55" East, 262.43 feet; thence South 35°21'49" East, 405.93 feet; thence South 23°51'56" East, 116.31 feet; thence South 60°47'07" East, 136.51 feet; thence South 72°07'09" East, 523.92 feet; thence South 47°05'58" East, 391.15 feet; thence South 61°25'27" East, 595.57 feet; thence South 50°32'29" East, 399.54 feet; thence South 46°14'50" East, 253.44 feet; thence South 44°12'50" East, 723.69 feet; thence South 11°22'13" West, 294.33 feet; thence South 01°38'51" West, 1124.38 feet; thence North 80°16'05" West, 433.28 feet; thence South 89°33'01" West, 85.40 feet; thence South 00°05'45" East, 274.15 feet; thence North 90°00'00" West, 764.00 feet; thence North 00°05'45" West, 775.74 feet; thence North 44°18'47" West, 28.67 feet; thence North 88°31'49" West, 3108.72 feet; thence North 00°03'04" West, 911.09 feet; thence North 45°08'58" West, 28.36 feet; thence North 90°00'00" West, 356.59 feet; thence North 00°41'43" West, 606.49 feet; thence North 88°33'03" West, 1833.03 feet; thence North 22°13'55" West, 471.65 feet; thence North 89°04'55" West, 1694.10 feet; thence North 89°59'31" West, 1412.07 feet to a point on the easterly line of Panoche Road, 60 feet wide, as is shown on the above said Parcel Map No. 1238-16; thence along the said easterly line of Panoche Road North 01°06'14" East, 363.86 feet to the corner of Parcel 2 of the same said Parcel Map No. 1238-16; thence leaving the said easterly line of Panoche Road and running along the line common to Parcel's 1 and 2 North 89°35'33" East, 1273.98 feet; thence North 01°09'31" East, 64.89 feet; thence North 89°37'52" East, 135.06 feet; thence South 00°41'43" West, 328.83 feet; thence South 89°04'55" East, 1644.55 feet; thence North 24°13'25" West, 66.17 feet; thence North 01°14'49" East, 86.14 feet; thence North 89°59'45" East, 95.02 feet; thence North 01°14'49" East, 176.00 feet; thence North 05°41'43" West, 363.51 feet; thence North 90°00'00" West, 95.47 feet; thence North 05°41'43" West, 452.52 feet; thence North 00°04'58" East, 1261.18 feet; thence North 90°00'00" East, 70.00 feet, more or less, to the corner of Parcel 3 as is shown on said Parcel Map No. 1238-16; thence along the line common to Parcel's 1 and 3 North 90°00'00" East, 2064.51 feet; thence South 00°00'00" East, 1255.41 feet; thence North 90°00'00" West, 362.98 feet; thence South 00°00'00" East, 456.05 feet; thence North 90°00'00" West, 1602.83 feet; thence South 05°41'43" East, 362.33 feet; thence South 01°14'49" West, 177.17 feet; thence North 89°59'53" East, 2280.15 feet; thence North 00°02'01" West, 595.60 feet; thence North 90°00'00" East, 392.88 feet; thence North 00°02'39" East, 469.97 feet; thence North 32°51'26" West, 85.73 feet; thence North 12°05'22" West, 82.10 feet; thence North 01°56'54" East, 799.72 feet, thence North 23°11'48" West, 95.85 feet, thence North 48°22'15" West, 289.03 feet; thence North 26°10'54" West, 530.02 feet; thence North 90°00'00" West, 505.97 feet; thence North 00°00'00" East, 65.71 feet; thence North 90°00'00" West, 1855.83 feet, more or less, to the northwest corner common to said Parcel's 1 and 3; thence North 90°00'00" West, 136.35 feet to the corner common to said Parcel's 1 and 2; thence along their common line and along a non-tangent curve to the left having a radius point of which bears South 87°30'51" W 1667.00 feet distant, a central angle of 09°45'39", and an arc length of 283.99 feet to a point; thence North 19°18'25" West, 273.10 feet; thence North 22°14'04" West, 1115.60 feet; thence along a tangent curve to the left having a radius of 1509.00 feet, a central angle of 16°10'42", an arc length of 426.09 feet to a point; thence North 38°24'47" West, 347.71 feet; thence North 01°39'15" East, 212.63 feet; thence along a tangent curve to the left with a radius of 1700.00 feet, a central angle of 29°15'53", and an arc length of

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CONSERVATION EASEMENT

868.31 feet to a point; thence along a compound curve to the left with a radius of 1943.50 feet, a central angle of 46°56'11", and an arc length of 1592.10 feet to a point; thence along a non-tangent curve to the left having a radius point of which bears South 58°30'03" W 1750.00 feet distant, a central angle of 07°13'56", and an arc length of 220.89 feet to a point; thence North 02°06'24" East, 3069.69 feet; thence North 89°45'03" West, 70.04 feet, more or less, to a point in the easterly line of said Panoche Road; thence along said easterly line North 02°06'24" East, 16.01 feet to the northerly line of said Parcel 1; thence along said northerly line South 89°45'03" East, 1162.38 feet to the **POINT OF BEGINNING**.

TOGETHER WITH a portion of the above said Parcel 1 bounded by a line more particularly described as follows:

BEGINNING at the intersection of the northerly line of said Parcel 1 and the westerly line of said Panoche Road, 60 feet wide, and running along said westerly line South 02°06'24" West, 16.01 feet to the corner common to Parcel's 1 and 2; thence along their common line North 89°46'43" West, 70.04 feet; thence South 02°06'24" West, 2869.80 feet; thence along a non-tangent curve to the left the radius point of which bears South 41°09'16" W 1751.00 feet distant, having a central angle of 08°48'07", and an arc length of 269.00 feet to a point; thence North 24°15'56" West, 823.48 feet; thence North 15°47'48" West, 198.42 feet; thence North 21°38'16" West, 157.04 feet; thence North 26°50'29" West, 583.00 feet; thence North 24°37'59" West, 533.58 feet; thence North 25°08'23" West, 436.29 feet; thence North 33°20'59" West, 289.05 feet to a point on the northerly line of said Parcel 1; thence along said northerly line South 89°46'43" East 1671.66 feet to the **POINT OF BEGINNING**.

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BEING A PORTION of that certain Parcel 1 as is found shown on Parcel Map No. 1238-16, recorded October 20, 2016, in Book 11 of Parcel Maps, page 48, San Benito County Records, bounded by a line more particularly described as follows:

COMMENCING at a point in the westerly line of Little Panoche Road as is shown on the above said Parcel Map No. 1238-16 at the southeasterly corner of said Parcel 1 and the northeasterly corner of Parcel 2 as is shown on the same said Parcel Map No. 1238-16; thence along the line common to said Parcels 1 and 2 North 87°20'03" West, 424.57 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said common line North 87°20'03" West, 438.97 feet; thence along a tangent curve to the left, having a radius of 852.13 feet, a central angle of 58°58'23", and an arc length of 877.07 feet; thence leaving said common line and along a non-tangent curve to the right the radius point of which bears North 29°50'00" East 853.02 feet distant, through a central angle of 92°33'23", and an arc length of 1377.97 feet; thence along a non-tangent curve to the right the radius point of which bears North 87°30'18" East 853.02 feet distant, through a central angle of 214°53'04", and an arc length of 3199.19 feet; thence along a non-tangent curve to the right the radius point of which bears South 87°30'18" West 853.02 feet distant, through a central angle of 29°05'27", and an arc length of 433.10 feet to the **TRUE POINT OF BEGINNING**.

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CONSERVATION EASEMENT

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EXHIBIT H – FORM OF CONSERVATION EASEMENT DEED

EXHIBIT B

MAP OF CONSERVATION LANDS

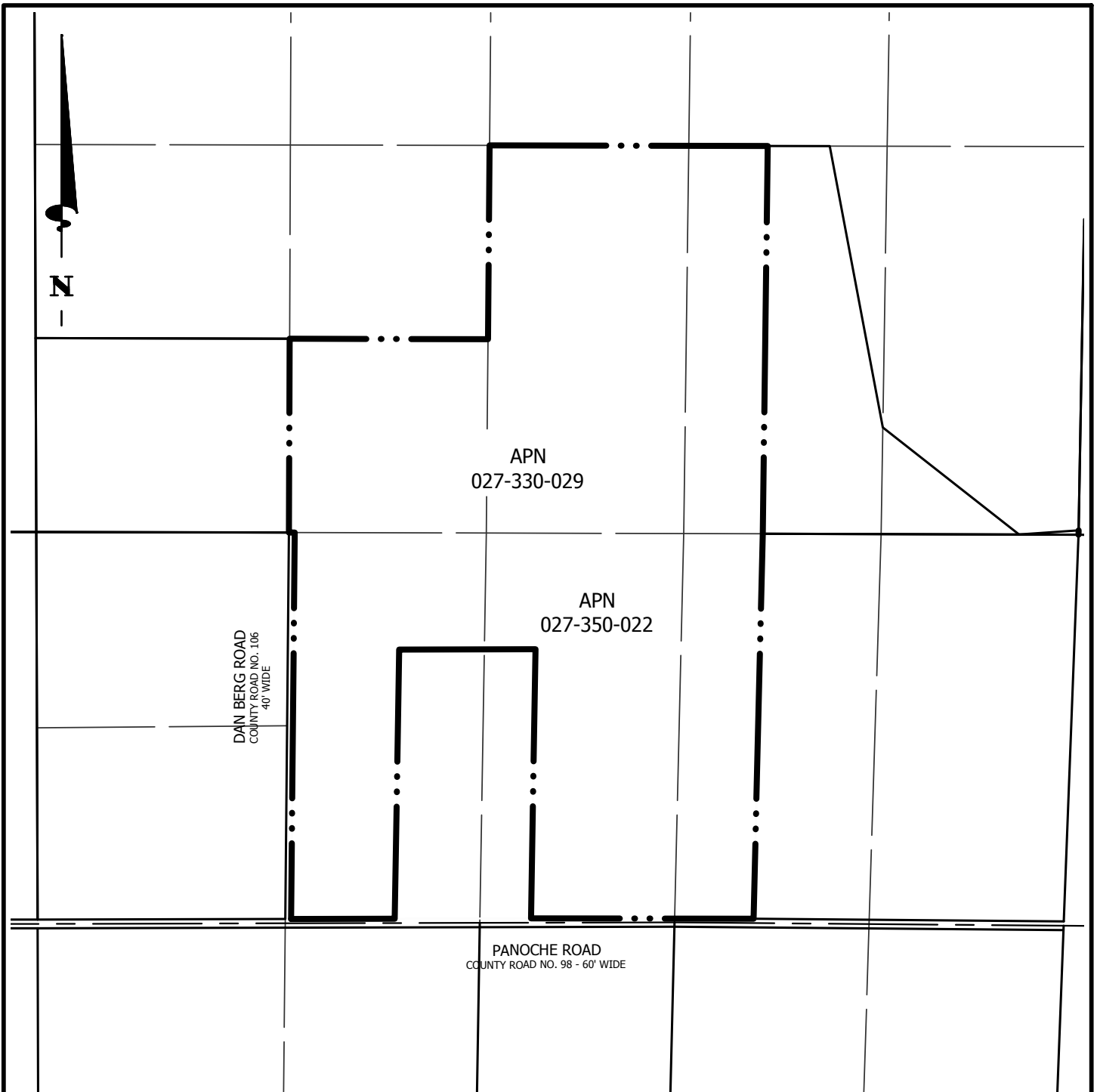


EXHIBIT B

APN 027-330-029 & 027-350-022

NOVEMBER 2017 SCALE 1" = 1000'
SAN BENITO ENGINEERING & SURVEYING, INC.
502 MONTEREY STREET
HOLLISTER, CA 95023
831-637-2763



APN
027-290-010

RECALDE ROAD

EXHIBIT B

APN 027-290-010

NOVEMBER 2017 SCALE 1" = 1000'
SAN BENITO ENGINEERING & SURVEYING, INC.
502 MONTEREY STREET
HOLLISTER, CA 95023
831-637-2763

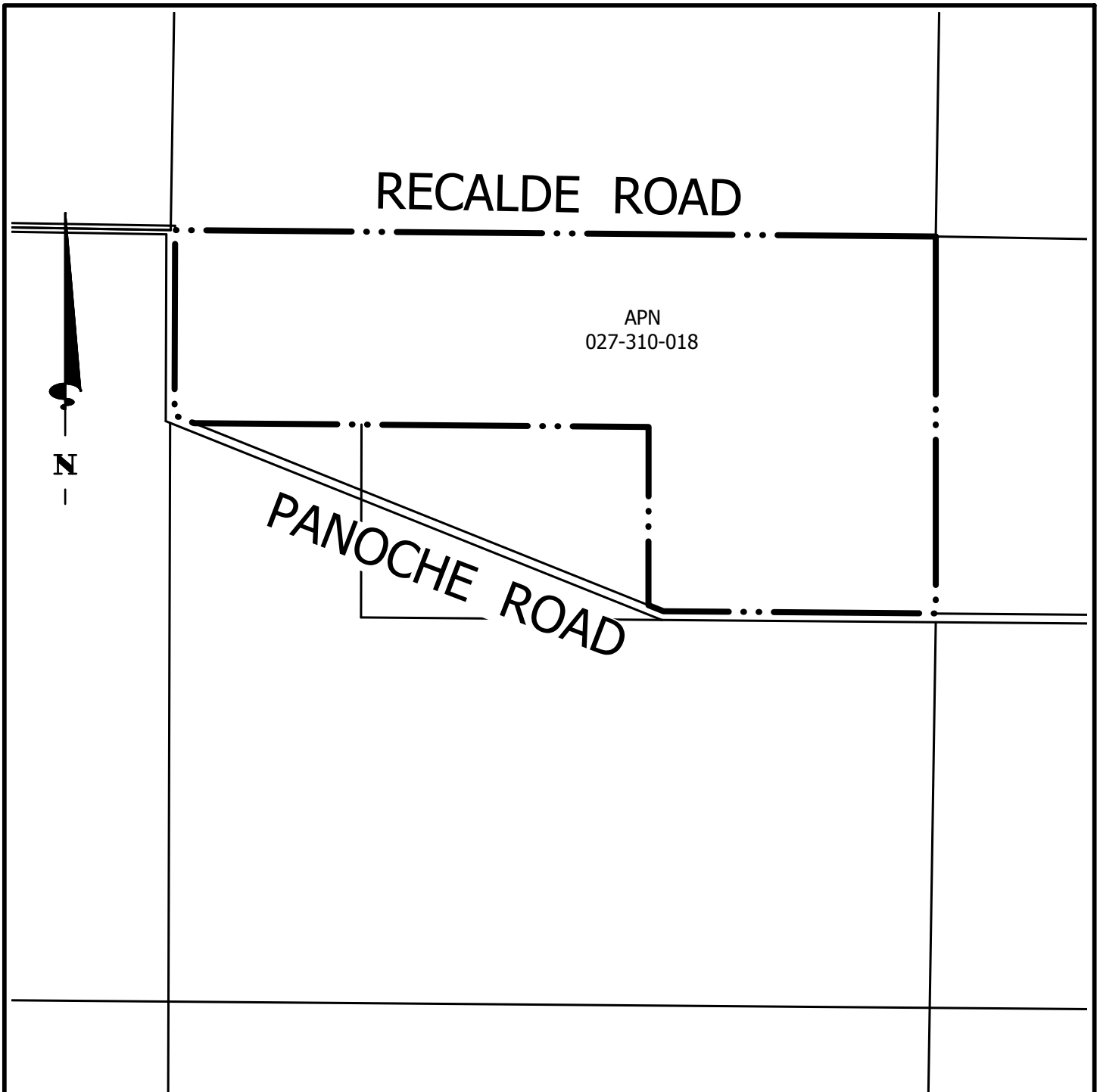


EXHIBIT B

APN 027-31-018

NOVEMBER 2017 SCALE 1" = 1000'
SAN BENITO ENGINEERING & SURVEYING, INC.
502 MONTEREY STREET
HOLLISTER, CA 95023
831-637-2763

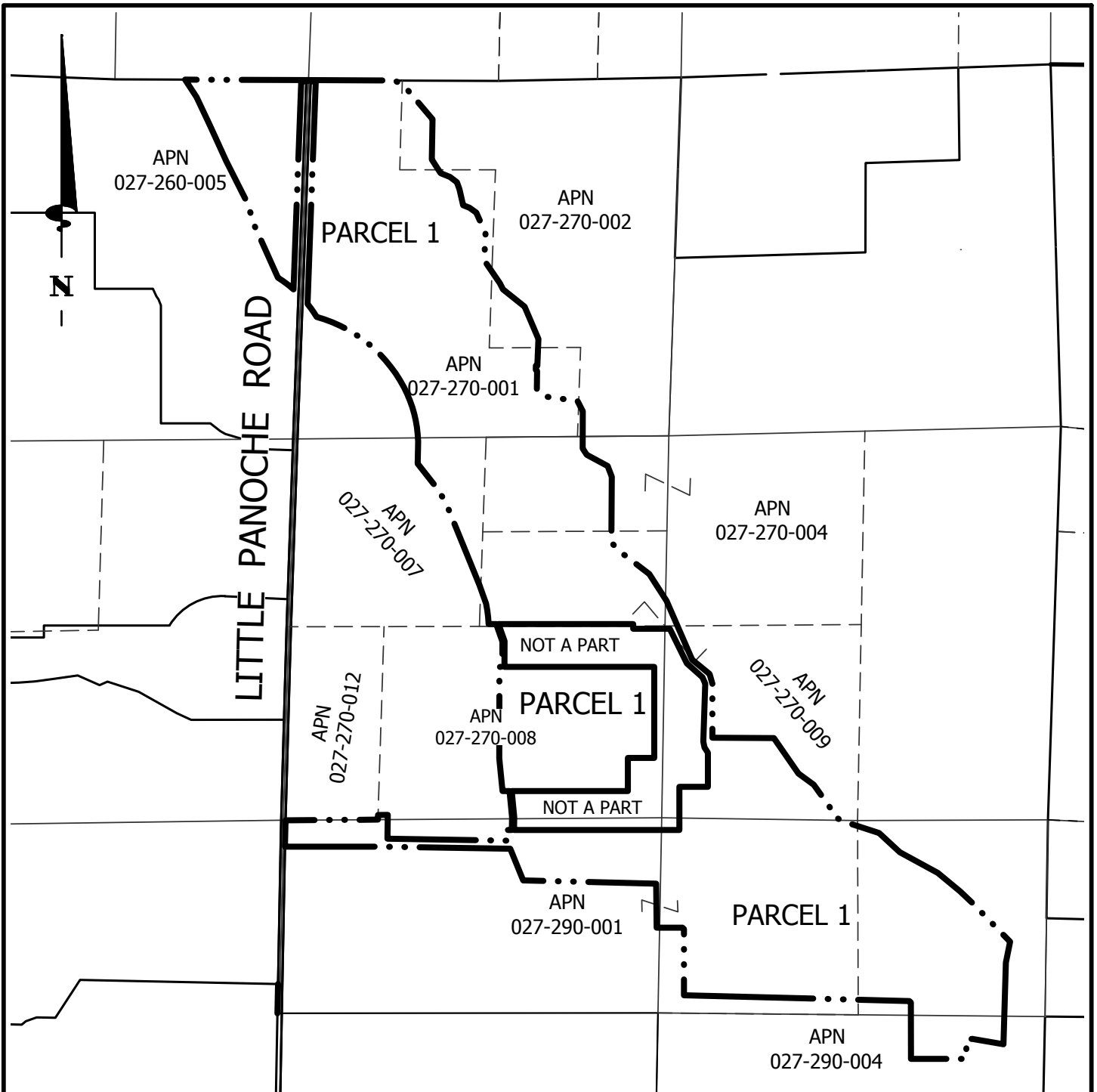


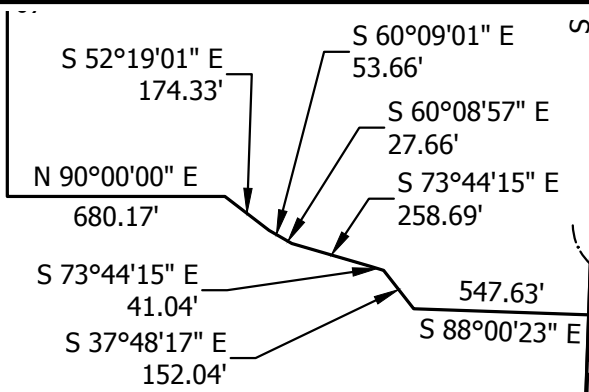
EXHIBIT B

PARCEL 1

NOVEMBER 2017 SCALE 1" = 2000'
SAN BENITO ENGINEERING & SURVEYING, INC.
502 MONTEREY STREET
HOLLISTER, CA 95023
831-637-2763

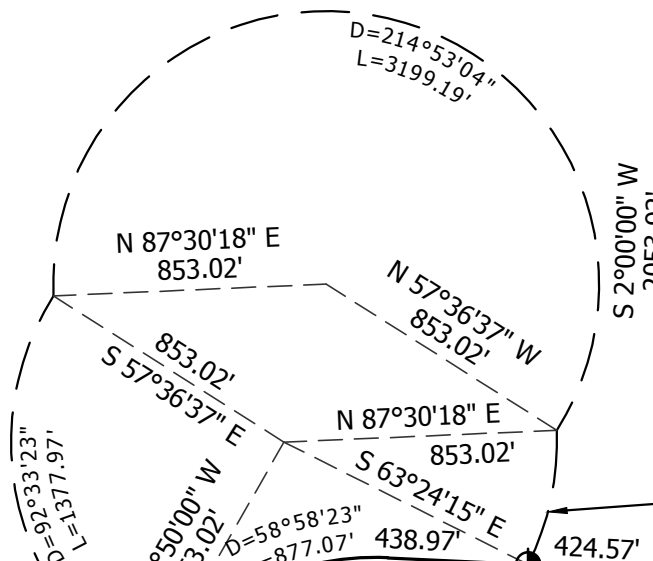


PARCEL 1
11 PM 48



N 2°00'00" E 2590.67'

LITTLE PANOCHÉ ROAD

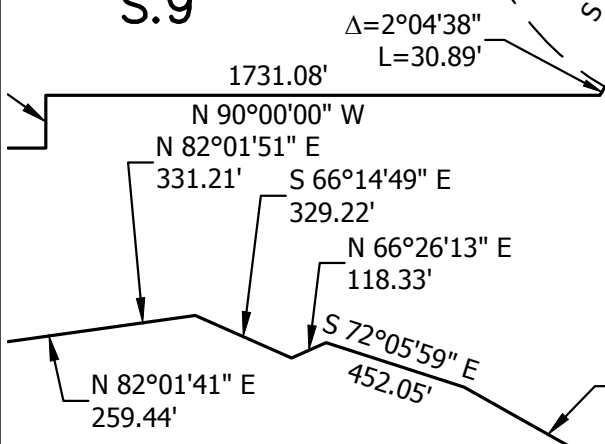


S 2°00'00" W 2053.92'

Δ=29°05'27" L=433.10'

TRUE P.O.B.

S.9



PARCEL 2
11 PM 48

S 1°36'30" W 1282.98'

EXHIBIT MAP

CONSERVATION EASEMENT

DECEMBER 2017 SCALE 1" = 600'
 SAN BENITO ENGINEERING & SURVEYING, INC.
 502 MONTEREY STREET
 HOLLISTER, CA 95023
 831-637-2763

EXHIBIT H – FORM OF CONSERVATION EASEMENT DEED

EXHIBIT C

SUMMARY OF ENVIRONMENTAL CONDITIONS