



SMRPD's Mission Statement -

"To promote community well being through programs and activities that protect, preserve and enrich the canyons' heritage, open space and unique way of life."

P.O. Box 8, Silverado California 92676 • <http://www.smrpd.org>

**SPECIAL MEETING OF THE BOARD OF DIRECTORS  
MONDAY, SEPTEMBER 1, 2011 AT 7:00PM  
AT MODJESKA STATION 16  
MODJESKA, CA 92676**

**DIRECTORS**

Ron Shepston – President  
Tom Smisek – Vice-President  
Marty Weel – Treasurer  
Greg Bates – Secretary  
Brett Peterson – Director

**STAFF**

Aimee Bryer – SCC Director  
Elizabeth Martyn – General Counsel  
Bev Mileham – Admin. Assistant  
Steve Reighart – Caretaker  
Meghan Warner – Bookkeeper

## **AGENDA**

(A: Action Item) This document is available in PDF format here <http://www.smrpd.org/about/agenda-minutes/>

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. PUBLIC AND BOARD INPUT**

Receive Public written or oral information/reports only; this is to enable Public input to the Board on any Park District relevant subject and is not a forum for discussion, though Directors may ask for clarification of points. Time limit is 3 minutes per person. Board input is limited to requests to add urgent items to this Agenda.

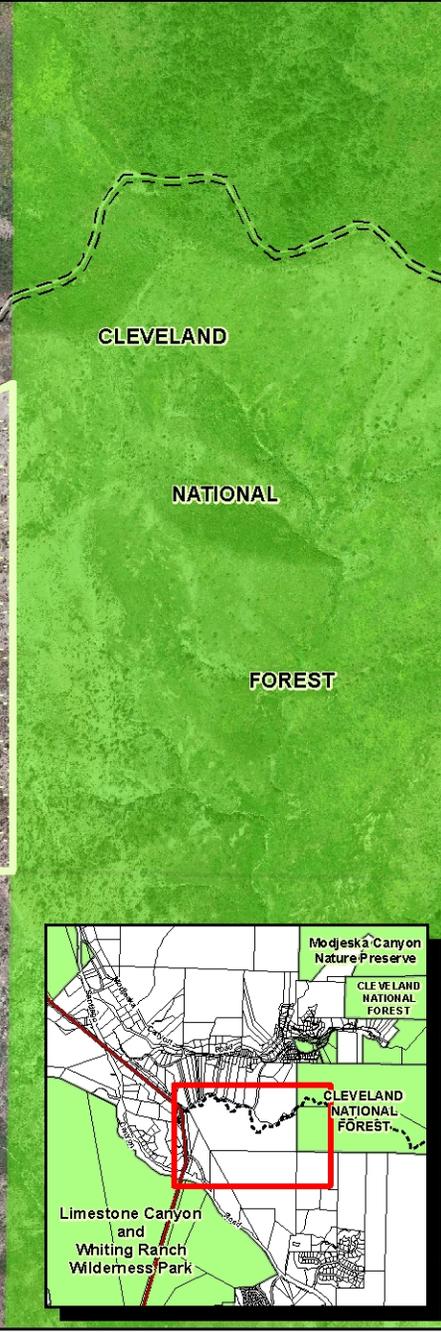
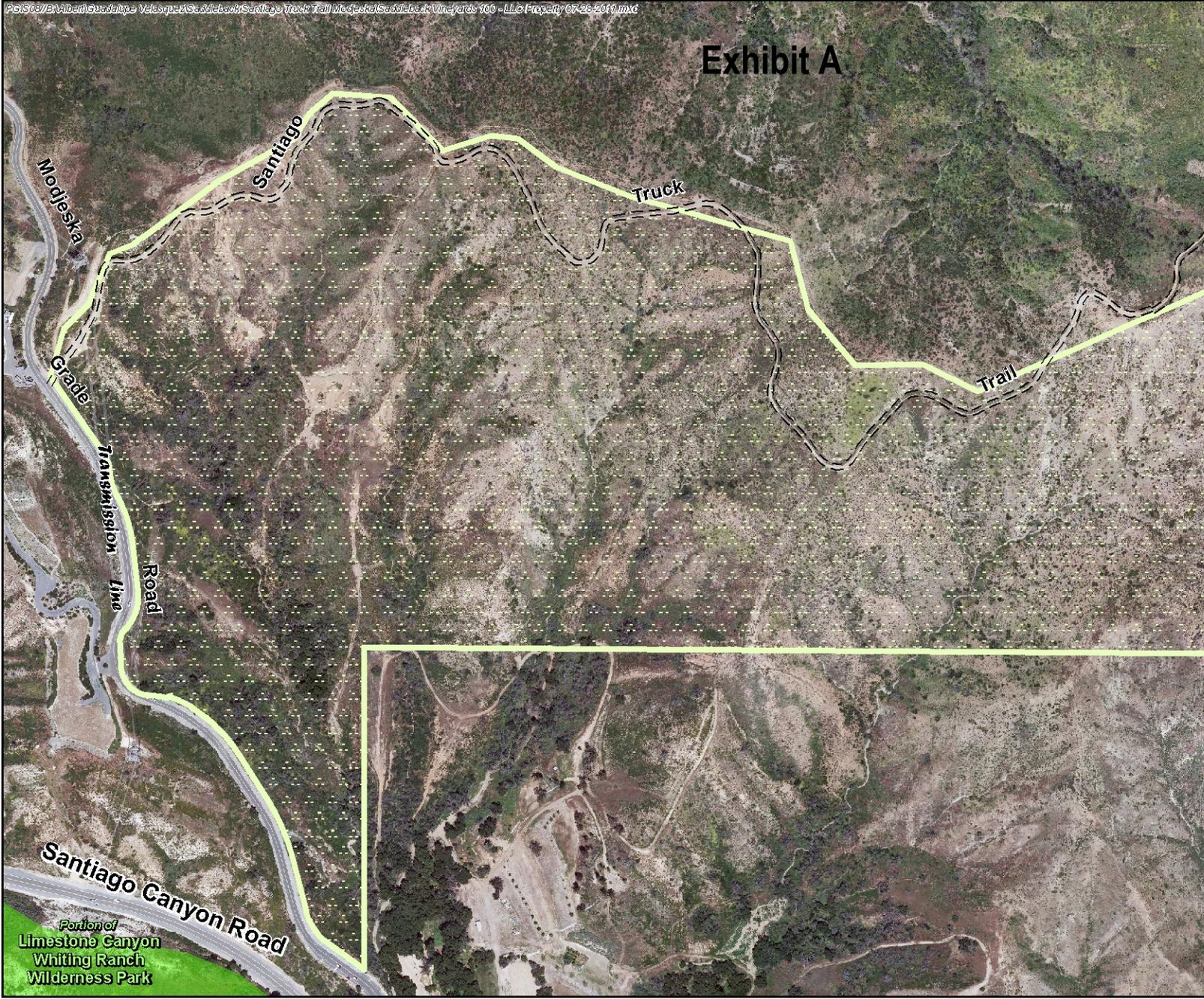
**V. COMMUNITY FORUM ON 100-ACRE SADDLEBACK VINEYARD 100 PROPERTY**

**VI. ADJOURNMENT**

The next regular meeting of the Board of Directors will be at the Silverado Community Center, 27641 Silverado Canyon Road at 7:00 PM on September 27, 2011.

Materials related to an item on this agenda submitted after distribution of the agenda packet are either available for public inspection at the Silverado Library, or posted on the SMRPD website at <http://www.smrpd.org/about/agenda-minutes/>. Materials prepared by SMRPD will be available at the meeting, those provided by others after the meeting.

# Exhibit A

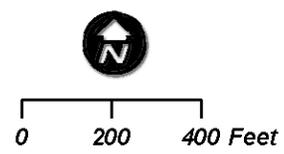


DESIGNED AND PRODUCED BY:  
 OOCR  
 OC Parks GIS  
 Albert Lucero

DATA SOURCE:  
 - Geomatics Land Information Systems Division - Eagle Aerial 2010

The County of Orange and OOCR/OC Parks/Survey/GIS/LIS make no representations or warranties regarding the registration or accuracy of the data from which this map was derived. Neither the County nor OOCR/OC Parks/Survey/GIS/LIS shall be liable under any circumstances for any direct, indirect, special, incidental or consequential damages with respect to any claim by any user or any third party on account of or arising from the use of this map.

DATE: July 28, 2011



**Saddleback Vineyards**  
**100, LLC Property**  
**Modjeska Canyon**



**AGENDA STAFF REPORT**

**ASR Control 11-001278**



**MEETING DATE:** 08/23/11  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** 3  
**SUBMITTING AGENCY/DEPARTMENT:** OC Community Resources (Approved)  
**DEPARTMENT CONTACT PERSON(S):** Steve Franks (714) 480-2788  
 Mark Denny (949) 923-3743

**SUBJECT:** Purchase Agreement – Saddleback Vineyards 100, LLC

<b>CEO CONCUR</b>	<b>COUNTY COUNSEL REVIEW</b>	<b>CLERK OF THE BOARD</b>
Concur	Approved Agreement to Form	Discussion 3 Votes Board Majority
<b>Budgeted:</b> Yes	<b>Current Year Cost:</b> \$2,310,000	<b>Annual Cost:</b> N/A
<b>Staffing Impact:</b> No	<b># of Positions:</b>	<b>Sole Source:</b> N/A
<b>Current Fiscal Year Revenue:</b> N/A		
<b>Funding Source:</b> OCDA/NDAPP: 100%		
<b>Prior Board Action:</b> December 14, 2010 and April 5, 2011		

**RECOMMENDED ACTION(S):**

1. Find that the recommended actions are Categorically Exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15316.
2. Approve the Agreement for Purchase and Sale and Joint Escrow Instructions with Saddleback Vineyards 100, LLC for the purchase of 100 acres in the amount of \$2,300,000.
3. Authorize the Chair of the Board to execute the Agreement and direct the Clerk of the Board to return two executed copies to OC Community Resources.
4. Authorize the OC Community Resources Director or designee to sign all escrow documents and perform all activities specified to be performed by the County under the terms of the Agreement, including Internal Revenue Service Form 8283.
5. Authorize the OC Community Resources Director or designee to accept the Grant Deed.
6. Authorize the Auditor-Controller, upon notification from OC Community Resources, to issue to escrow a check for the account of Saddleback Vineyards 100, LLC, in the amount of \$2,300,000, and checks, as required, for title insurance and for other fees associated with escrow.

**SUMMARY:**

Approval of the Agreement for Purchase and Sale and Joint Escrow Instructions with Saddleback Vineyards 100, LLC will enhance recreational opportunities by providing for permanent trail access to the Cleveland National Forest from Modjeska Grade Road.

## **BACKGROUND INFORMATION:**

On December 14, 2010, your Board approved execution of an Access License Agreement with Saddleback Vineyards 100, LLC for the Santiago Truck Trail, effective January 1, 2011 through April 30, 2011, with two four-month extensions by mutual agreement.

The Santiago Truck Trail was established in the 1930s as a fire road between Modjeska Grade Road and the Cleveland National Forest (CNF), see Exhibit A: Location Map. As the Trail crossed private property, the Forest Service secured a Letter of Permission in 1933 from the then current property owner to use the Trail for fire road purposes. Over the ensuing years, the Trail has been used by the public to access Cleveland National Forest. The current owners of the private property, Saddleback Vineyards 100, LLC, have raised concerns about the steadily increasing public use of the Trail, principally by mountain bikers. Because of the potential liability of Trail users on their property, they have indicated that they may need to close the Trail.

To preclude possible Trail closure, the owners and the County entered into the approved Access License Agreement. Under the Agreement, the County is indemnifying Saddleback Vineyards 100, LLC against liability resulting from the public's use of the Trail. No similar indemnification is required from Saddleback Vineyards, LLC as the owners do not have any regular presence on the property.

On April 5, 2011, your Board approved the Orange County Development Agency Project List, which included a trail head/parking lot ("staging area") to provide recreational access to the Cleveland National Forest (CNF), which is immediately adjacent to the Inter-Canyons Project Area. Developing a staging area and improving associated trails are eligible Development Agency expenses as a way to provide improved infrastructure resulting in increased recreational opportunities for the Project Area per California Community Redevelopment Law. The targeted site for the staging area is on the Saddleback Vineyards 100, LLC 100-acre parcel of land located along Modjeska Grade Road and within Subarea B of the Project Area next to the trail with direct access to the CNF. The County's current temporary license from the property owners provides no access to the property for parking and is only authorized to be effective until December 31, 2011 with the extensions executed by mutual agreement.

In support of your Board's April 5, 2011 action, County staff sought to acquire permanent rights from the owners for the trail and to develop a staging area. The property owners were unwilling to sell only the portion of the property needed for the trail and staging area; from their perspective, a permanent public use would make it impossible to develop the remainder of the property. However, they were willing to sell their entire property.

Subsequent discussions led to the recommended Agreement for Purchase and Sale and Joint Escrow Instructions whereby Saddleback Vineyards 100, LLC would sell their entire property to the County for less than fair market value and seek a tax benefit, as a charitable contribution, for the difference. The negotiated price for the 100 acres is \$2,300,000, or \$23,000 per acre with estimated title, escrow and closing costs in the amount of \$10,000. A recent appraisal prepared for the County valued the property at \$4,150,000, or \$41,500 per acre. The Orange County Transportation Authority recently purchased nearby properties, for mitigation purposes, at per acre values of \$32,000, \$36,000, and \$38,000.

The recommended Agreement for Purchase and Sale and Joint Escrow Instructions include a provision that the County cooperate with Saddleback Vineyards 100, LLC in their claiming a non-cash charitable

contribution for the difference between the County's purchase price and the appraised fair market value. The County would only be obligated to sign the Internal Revenue Service (IRS) Form 8283 acknowledging receipt of the property and the amount the County paid for the property. Form 8283 states that the “acknowledgment does not represent agreement with the claimed fair market value.” It will solely be the responsibility of Saddleback Vineyards 100, LLC to justify their opinion of the fair market value of the property to the IRS.

Once the property is acquired, the County will begin the process to develop the staging area and to improve the trail to allow for continued public access. This will include preparation of plans and environmental review. The remainder of the property will be held as open space with specific plans for recreational use to be confirmed.

**Compliance with CEQA:** The recommended action is categorically exempt from CEQA per CEQA Guidelines Section 15316 – Class 16 (Transfer of Ownership of Land in Order to Create Parks).

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**EXHIBIT(S):**

Exhibit A: Location Map

Exhibit B: Purchase Agreement