

PROPERTY LOCATION	South Camanche Parkway, Wallace, CA 95254
COUNTY	Calaveras County
APN	048-001-003 (portion)
TITLE COMPANY	Old Republic Title Company
<b>PROJECT</b>	<b>Calaveras County East Sale</b>

## EBMUD PROPERTY PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (PPA-JEI)

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between East Bay Municipal Utility District (hereinafter referred to as “District”), and the undersigned buyer(s) (hereinafter referred to as “Buyer”) for acquisition by Buyer of certain real property interests as hereinafter set forth:

### IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve District of all further obligation or claims.
2. District agrees to sell to Buyer, for the consideration hereinafter stated, the following described real property, herein referred to as “the Property”, as further legally described in **Exhibit “A”** and depicted on **Exhibit “B”** attached hereto and made a part hereof.
3. Purchase Price. The total purchase price, payable through escrow, shall be:

**Total Purchase Price:** \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Deposit:** Fifteen Thousand Dollars (\$ 15,000.00 )

**Cash:** \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Loan:** \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Balance of Purchase Price:** \_\_\_\_\_ (\$ \_\_\_\_\_ )

The Property is to be conveyed together with any easements, rights-of-way, or rights-of-use which may be appurtenant or attributable to the Property, and any and all improvements, which may be attached or affixed thereto.

4. Conveyance of Title. District agrees to convey to Buyer by Grant Deed, hereinafter as “Deed”, rights to the Property free and clear of all recorded liens, encumbrances, assessments, leases, and taxes EXCEPT:
- A. Quasi-public utility, public alley, public street easements, licenses and rights of way recorded or unrecorded.
  - B. Exceptions to Title as identified by the policy of title insurance to be issued by Old Republic Title Company.
  - C. Disclosures as described further in **Exhibit “C”**.
5. Escrow. District shall open escrow in accordance with this Agreement at:

Old Republic Title Company  
555 12th Street, Suite 2000  
Oakland, CA 94607

Escrow Officer: Julie Massey  
Email: JMassey@ortc.com  
Phone: 510-272-1121

This Agreement constitutes the joint escrow instructions of District and Buyer, and hereby empowers the Escrow Officer, to whom these instructions are delivered, to act under this Agreement.

Within three (3) days of written acceptance of the offer by the person conducting the sale, Seller will deposit or will provide the nonrefundable \$15,000 Purchase Deposit to the escrow holder for deposit. Subsequently, the offer will be presented to the District Board of Directors at the next available Board Meeting date.

Upon Board of Director approval, District will execute and deliver the Deed to the Escrow Officer. The parties hereto agree to do all acts necessary to close this escrow no later than thirty (30) days after acceptance by the District Board of Directors and the completion of the parcelization process with Calaveras County.

District and Buyer agree to deposit with the Escrow Officer in a timely manner any additional instruments as may be necessary to complete this transaction. The balance of the purchase price must be deposited by Buyer on or prior to the scheduled Close of Escrow with all support material, necessary documentation, and fully executed documents to complete this transaction.

ESCROW AGENT IS AUTHORIZED TO, AND SHALL:

- A. Provide Buyer with the latest Title Report.
- B. Record instruments delivered through this escrow.
- C. Deliver copy of Deed to both parties when conditions of this escrow have been fulfilled by both District and Buyer.

**All time limits within which any matter herein specified is to be performed may be extended by mutual agreement of the parties hereto. Any amendment of, or supplement to, this Agreement must be in writing.**

6. Escrow Costs. Buyer shall pay all escrow and recording fees, all premiums for title insurance incurred in this transaction. Any unpaid taxes at time of Close of Escrow will be split pro-rata between the Parties.
7. Warranties, Representations, and Covenants of District. District hereby warrants, represents, and/or covenants to Buyer that:
  - A. To the best of District's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.
  - B. To the best of District's knowledge, there are no encroachments onto the Property by improvements on any adjoining property, nor do any buildings or improvements encroach on other property, owned by others.
  - C. Until the Close of Escrow, District shall maintain the Property in good condition and in a state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Property.
  - D. Until the Close of Escrow, District shall not do anything which would impair District's title right to any of the Property.
  - E. To the best of District's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which District's Property may be bound.
  - F. Until the Close of Escrow, District shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section to not be true as of Close of Escrow, immediately give written notice of such fact or condition to Buyer.
8. Environmental. The District hereby represents and warrants that it has no knowledge of any hazardous substances or hazardous wastes on, from, or under the Property. District further represents and warrants that District has no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes on, from, or under the property which may have occurred prior to District taking title to the Property.
9. The rights and privileges granted to Buyer, may, at the written election of Buyer, be exercised by any authorized agent or contractor of Buyer.
10. The terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns, and successors of the parties hereto.
11. Right of Inspection. Prior to Close of Escrow and effective beginning \_\_\_\_\_, 20\_\_\_\_, District hereby grants permission to Buyer to enter in, over and upon the Property for the purpose of

performing any and all Buyer inspections as deemed necessary provided they are conducted in the presence of District personnel or scheduled with and approved by District personnel in advance.

**This right of inspection does not grant the Buyer the permission, without written approval from District, to do any subsurface drilling, boring, or any other testing that requires Buyer or its agents to disrupt the surface of the ground.**

12. Contingency. It is understood and agreed between the parties hereto that the completion of this transaction, and the escrow created hereby, is contingent upon the specific acceptance and approval of the District Board of Directors.
13. THIS AGREEMENT, contains the entire agreement between the parties and neither party relies upon any warranty or representation not contained in this Agreement. All prior agreements between the parties are incorporated in this Agreement which constitutes the entire contract. Its terms are intended by the parties as final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend that this Agreement constitutes the complete and exclusive statements of its terms and no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any, involving this Agreement.

IN WITNESS WHEREOF, the parties hereto executed this Agreement the day and year set forth hereinabove.

**MAILING ADDRESS OF DISTRICT:**

East Bay Municipal Utility District  
Attn: Real Estate Services  
375 11th Street, MS 903  
Oakland, CA 94607

**EAST BAY MUNICIPAL UTILITY DISTRICT,**  
a public corporation

By: \_\_\_\_\_  
Matt Elawady  
Manager of Real Estate Services

**DISTRICT**

Date: \_\_\_\_\_

**MAILING ADDRESS OF BUYER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BUYER:**

By: \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**BUYER**

Date: \_\_\_\_\_

EXHIBIT "A"


Real property situate in Calaveras County, State of California, being a portion of the land described in the Deed from ARTHUR M. SCULLY, ET AL to EAST BAY MUNICIPAL UTILITY DISTRICT, recorded May 9, 1960 in Book 131 at Page 444, Official Records of Calaveras County, and in the Final Order of Condemnation, Case No. 82700, recorded August 18, 1966 in Book 218 at Page 468, official records of said county, more particularly described as follows:

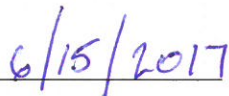
That portion of the North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of Section 15, and the North  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of Section 14, Township 4 North, Range 9 East, Mount Diablo Base and Meridian, lying southerly of County Road No. 57 (Camanche Parkway), described as Parcel Two in the Deed to COUNTY OF CALAVERAS, recorded January 9, 1967 in Book 224 at Page 561, Official Records of said County.

Exhibit "B" is attached and by this reference made a part hereof.

Containing 15.3 acres, more or less.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME, OR UNDER MY  
DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND  
SURVEYORS ACT, JUNE 2017.

  
CRAIG A. ROBERTS

  
L.S. 8736





## **Property Disclosures**

### **Exhibit C**

- 1. Property Condition:** the Property is being sold “as-is” and is subject to all title exceptions, restrictions, easements and reservations whether or not of record. It is the Buyer’s responsibility to determine the acceptable uses of the Property. The District makes no warranties upon the suitability of the Property for construction.
- 2. Safe Harbor Agreement:** the Property is currently encumbered by the District’s Safe Harbor Agreement (SHA) with the United States Fish & Wildlife Service (US FWS). The SHA covers 28,000 acres of enrolled property and functions as a mitigation agreement with the US FWS in the event of an accidental “take” or “harm” to one of the species included in the SHA. During the sale process the District is required to notify both the US FWS and prospective Buyer of the Property of the SHA, this notification removes the Property from the SHA (see *Letter from James Jones, dated 11/15/17*).
- 3. Regulatory Agencies:** Buyer may direct questions regarding the SHA or other inquiries to the applicable regulatory agencies. The contacts listed below are aware of the sale:

Rick Kuyper U.S. Fish and Wildlife Service Sierra/Cascades Division Chief richard_kuyper@fws.gov (916) 414-6621	Sandra Jacks CA Fish & Wildlife Service Senior Environmental Scientist Sandra.Jacks@wildlife.ca.gov (916) 358-2916
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- 4. Reference Documents:** Maps, Correspondence, Natural Hazard Disclosure Statement and all other documents are provided for reference purposes only. District provides no warranties or guarantees on the status, accuracy or validity of these documents.



November 6, 2017

Mr. Robert Lynn  
Senior Real Estate Rep  
East Bay Municipal Utility District  
375 11<sup>th</sup> Street  
Oakland, CA 94607

Mr. Lynn:

I am writing this letter to inform you, and the perspective buyer, of the proposed real-estate transaction of a portion of East Bay Municipal Utility District (District) lands that are enrolled under the Safe Harbor Agreement (Agreement) (SHA# 81420-2009-F-0106) between the US Fish and Wildlife Service (USFWS) and the District. The specific portion of land, approximately 17.5 acres, is within the Assessor Parcel Unit Number (APN) 048-001-003, Calaveras County, California (Figure 1).

In June of 2009, the District and the USFWS entered into the 30 year Agreement referenced above, for protection of the California tiger salamander (CTS) (*Ambystoma californiense*), California red-legged frog (CRLF) (*Rana draytonii*), and valley elderberry longhorn beetle (VELB) (*Desmocerus californicus dimorphus*). This Agreement provides the District with protection from federal repercussions in the event of an unintentional take of the three previously listed species of special concern, during the course of normal District maintenance activities; in exchange the District agrees to enhance and maintain the established baseline habitat on the enrolled property as defined in the Agreement.

The terrestrial habitat on this parcel is classified as annual grassland and blue oak woodland. These two habitat types are typical of upland estivation habitat associated with CTS. There are known CTS occurrences in the California Natural Diversity Database (CNDDB) within one mile of parcel APN 048-001-003 (Figure 2). A known CTS breeding pond is located on District property approximately 0.53 miles west of the property (Figure 2). The acreage in this parcel is currently part of the established SHA and considered baseline habitat for CTS.

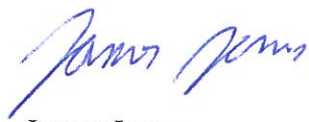


There is no known habitat associated with CRLF on the land included in parcel APN 048-001-003.

There are no known elderberry bushes (Figure 2) on the land included in parcel APN 048-001-003 that is part of the established baseline in the Agreement. There are several known elderberry bushes on adjacent District lands and a CNDDDB occurrence of VELB 0.3 miles west of the parcel (Figure 2).

As set forth in the Agreement, these habitats and known species of special concern have been reported to the USFWS and the California Department of Fish and Wildlife (CDFW). The USFWS SHA coordinator, Mr. Rick Kuyper, has asked that we provide the USFWS with documented proof that all parties of the land transfer transaction have been made aware of the known or potential occurrences of any of the sensitive species covered under SHA # 81420-2009-F-0106. The sale of this property will remove the landowner protection offered under the Safe Harbor Program.

Regards,



James Jones  
Wildlife Biologist II  
East Bay Municipal Utility District  
(209) 263-6365  
[james.jones@ebmud.com](mailto:james.jones@ebmud.com)

CC: Jose Setka, EBMUD  
Michelle Workman, EBMUD  
Kent Lambert, EBMUD  
Chris Swann, EBMUD  
Rick Kuyper, USFWS  
Sandra Jacks, CDFW

Enclosure: Figures 1 & 2.



Figure 1. Location of proposed District sale of property enrolled in the USFWS Safe Harbor Agreement # 81420-2009-F-0106), Calaveras County, California.

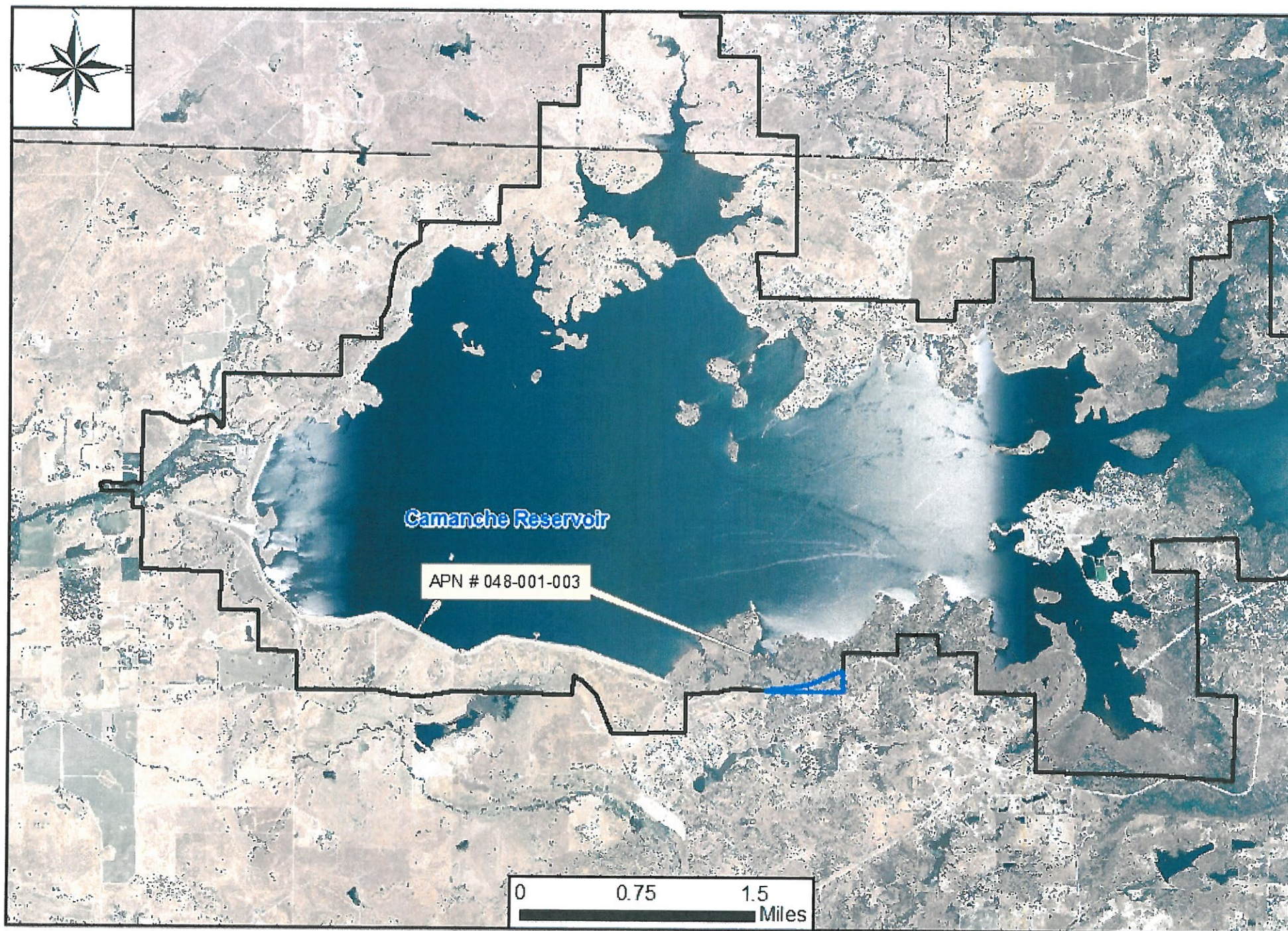




Figure 2. Location of potential and known sensitive species on District lands enrolled in the USFWS Safe Harbor Agreement # 81420-2009-F-0106), Calaveras County, California.

