

# **PUNCHBOWL RESERVOIR PROPERTY SALE (BY OFFER AND ACCEPTANCE)**

## **OFFER INSTRUCTIONS**

Offers may be sent by mail or delivered in person to the address below. Offers must be:

- **Written on the District Property Purchase Agreement and Joint Escrow Instructions (PPA-JEI)**
- **Purchase Deposit must be by Certified Check, Cashier's Check or Money Order (No Personal Checks)**
- **Purchase Deposit and PPA-JEI must be received by Seller no later than 4:30 p.m. on Wednesday April 17<sup>th</sup>, 2019.**

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

**Seller will acknowledge offer on the day it is received. If you do not receive confirmation of your offer please contact the Seller directly at 510-287-1246.**

## **ACCEPTANCE CRITERIA**

The District will evaluate offers based on the following criteria:

- **Highest offer price** (net of commissions - Buyer to pay any and all commissions)
- **Capability to pay** (cash offers preferred to financed offers - Buyer to provide evidence of capability to pay)
- **Closing timeline** (quick close preferred)

**If there are multiple offers, seller may choose to give selected offers a chance to submit their highest and best offer.**

**Any acceptance of an offer by the person conducting the sale shall be subject to the acceptance and approval of the District Board of Directors. The offer will be presented to the District Board of Directors at the next available Board Meeting date.**

## **DEPOSIT**

Within three (3) days of acceptance of offer by the person conducting the sale, Buyer must deposit to the escrow holder identified in the Property Purchase Agreement and Joint Escrow Instructions (PPA-JEI), a nonrefundable \$10,000 deposit.

## **OFFER REJECTIONS**

The District reserves the right to reject any and all offers, waive any informality or irregularity in any offer or to accept any offer deemed in the best interests of the District at any stage of the sale process

(including before, during or after the highest and best final round). The District also reserves the right to withdraw the property from sale; in this event, any deposits will be refunded to the Buyer.

### **CLOSE OF ESCROW**

The successful bidder will have **thirty (30) days after the District Board of Directors approves and accepts the offer to complete the transaction** under the Terms of the PPA-JEI attached hereto.

In the event any term or condition in the Agreement conflicts with or violates any statutory requirements in the sale of surplus public real property, only that part or portion of this Agreement so conflicting shall be amended to conform with any applicable legal requirements at the time.

All District employees may bid to acquire surplus District property, except employees who have direct access to information not generally available to the public or who influence the purchase or sale of right-of-ways or other real property.

### **BUYER DEFAULT**

In the event that the highest net offer fails to close the transaction within the scheduled close of escrow or defaults in completion of the sale, the District may, at its discretion, offer the Property to the second highest net bidder under the same terms stated in this notice of sale and PPA-JEI.

PROPERTY LOCATION	Redwood Road, Oakland, CA 94608
COUNTY	Alameda County
APN	037A-3178-001-00
TITLE COMPANY & REPORT NO.	Old Republic - 1117014573
PROJECT	Punchbowl Reservoir Sale 1301

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

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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” attached hereto and made part hereof.
3. Purchase Price. The total purchase price, payable through escrow, shall be the sum of:

**Amount written out in full:** \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Deposit:** **Ten-Thousand Dollars** (\$ **10,000.00** )

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

**Balance of Down Payment or 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. Items numbered 1 through 10, of the Preliminary Title Report numbered 1117014573-JS, issued by Old Republic Title Company, dated December 27, 2018 at 7:30 A.M.
5. Escrow. District has opened escrow in accordance with this Agreement at:

Old Republic Title  
555 12<sup>th</sup> St Ste 2000  
Oakland, CA 94607

Escrow #: 1117014573  
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 provide the nonrefundable \$10,000 deposit received in the initial offer round to the escrow holder for deposit. District will execute and deliver the Deed, concurrently with this Agreement, to the Escrow Officer.

The offer will be presented to the District Board of Directors at the next available Board Meeting date. 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.

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 for this transaction and effective beginning \_\_\_\_\_, 2019, 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.

**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, along with the attached Grant Deed, 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,**  
a public corporation

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

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

**DISTRICT**

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

**MAILING ADDRESS OF BUYER:**      **BUYER:**

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

By: \_\_\_\_\_  
Name  
Title

**BUYER**

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

