

**PURCHASE AND SALE AGREEMENT BETWEEN
CONTRA COSTA COUNTY
AND
CONTRA COSTA WATER DISTRICT**

This Agreement is entered into by and between Contra Costa County, a Political Subdivision of the State of California (hereinafter "County") and Contra Costa Water District a local agency of the State of California (hereinafter "Grantor").

RECITALS

Grantor is the owner of approximately 658 acres of real property located in Contra Costa County, California and described on Exhibit "A" attached hereto and incorporated herein by reference. The real property, including improvements thereon, if any, are collectively referred to herein as the "Property".

AGREEMENT

NOW THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Effective Date.** It is understood that this Agreement is subject to approval by the County's Governing Board. This Agreement is effective on the date approved by the County's Governing Board ("Effective Date"). This Agreement will be submitted to the Grantor first for approval, and thereafter to the County.
2. **Purchase and Sale.** Subject to the terms and conditions in this Agreement, Grantor agrees to sell and County agrees to purchase the Property.
3. **Purchase Price.** The purchase price for the Property shall be One Hundred Four Thousand Two -Hundred & 00/100 Dollars (\$104,200.00) ("Purchase Price").
 - 3.1. All ad valorem real property taxes and any penalties and costs thereon, and all installments of any bond or assessment that constitutes a lien on the Property shall be cleared and paid by Grantor as of the date title shall vest in County by the recordation of the deed herein pursuant to Sections 4986, 5082, and 5086 of the Revenue and Taxation Code of the State of California, if unpaid as of the date title vests.
4. **Conditions to County's Performance.** The County's obligation to perform under this Agreement is subject to the following conditions:
 - 4.1. Grantor's representations and warranties in this Agreement being correct as of the date of this Agreement and as of the Close of Escrow.
 - 4.2. Grantor's performance of all obligations under this Agreement.
 - 4.3. The vesting of title to the Property in the County by grant deed in fee simple absolute, free and clear of all liens, encumbrances, assessments, leases (recorded and/or unrecorded), and taxes except the following "Approved Exceptions" as outlined in the Preliminary Report dated December 9, 2011, issued by Fidelity National Title Company:

- A. Covenants, conditions, restrictions and reservations of record, listed as exceptions: None.
 - B. Easements or rights of way of record over said property, listed as exceptions: 4, 5, 6, 7, 8, and 10.
 - C. Other Approved Exceptions: None.
- 4.4. The Fidelity National Title Company's being prepared to issue a CLTA title insurance policy in the full amount of the purchase price, subject only to the Approved Exceptions ("Title Policy").

If County determines that any of these conditions have not been met, County shall have the right to terminate this Agreement by delivering written notice to Grantor and, if applicable, the Escrow agent.

5. **Escrow.** By this Agreement, County and Grantor establish an escrow ("Escrow") with Fidelity National Title Company, 501 Sycamore Valley Road, West, Danville, California, their Escrow No. 11-336317-DH ("Title Company"). If, for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, the County's Real Property Agent assigned to oversee this Property acquisition will select an alternate title company to handle the transaction, and notify Grantor in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the "Title Company" for purposes of this Agreement. Grantor hereby authorizes County to prepare escrow instructions and file escrow instructions with said Title Company, on behalf of Grantor, in accordance with this Agreement. This includes authorization of the Title Company to withhold pro rata taxes, liens, and assessments on the Property conveyed.

5.1. Fees and Title Insurance. The County shall pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the County, the premium charged therefor.

5.2. Grantor's Deposit into Escrow. On or before the Close of Escrow Grantor will deliver into Escrow with the Title Company the following documents:

- A. A grant deed, in recordable form and properly executed on behalf of Grantor, in a form approved by County ("Grant Deed") conveying to County the Property in fee simple absolute, subject only to the Approved Exceptions.
- B. Copies of any effective leases, rental agreements or any other agreements, if any, which the County has agreed in writing are to remain in effect after County takes title.
- C. Grantor's affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended [26 USCA §1445] ("FIRPTA Affidavit"); and
- D. Grantor's affidavit as contemplated by the Revenue and Taxation Code § 18662 ("Withholding Affidavit").

5.3. Deposit of Purchase Price Into Escrow by County. Prior to the Close of Escrow, County will deposit the Purchase Price into escrow with the Title Company.

5.4. Close of Escrow. Escrow shall close upon the conveyance of the Property to the County ("Close of Escrow). On the closing date, the Title Company shall close Escrow as follows:

- A. Record the Grant Deed, marked for return to the County care of Debra L. Baker, Supervising Real Property Agent for the County (which shall be deemed delivery to the County);
- B. Issue the Title Policy, if requested to do so by the County;
- C. Prorate taxes, assessments, rents and other charges as provided by this Agreement;
- D. Disburse to the Grantor the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Grantor;
- D. Prepare and deliver to the County and to the Grantor one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify the Grantor and the County and retain all funds and documents pending receipt of further instructions from the County.

6. **County's Representations and Warranties.** County warrants that, upon approval of this Agreement by the County's governing body, this Agreement shall constitute a binding obligation of the County.

7. **Hazardous Material.** The Grantor hereby represents and warrants that during the period of Grantor's ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous waste on, from, or under the property. Grantor further represents and warrants that Grantor has no knowledge of any disposal, release, or threatened release of hazardous substance or hazardous waste on, from, or under the property which may have occurred prior to Grantor taking title to the property.

The acquisition price of the property being acquired in this transaction reflects the fair-market value of the property without the presence of contamination. If the property being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, the County may elect to recover its clean-up costs from those who caused or contributed to the contamination, or are otherwise responsible under State and Federal Law.

8. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Agreement shall survive the assignment, expiration or termination of this Agreement and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.

9. **Possession of the Property.** It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the County, including the right to remove and dispose of improvements, shall commence January 15, 2012 and that the amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use, including damages, if any, and interest from said date.

10. **Property Boundary Identification.** Upon request from Grantor, County shall identify the north and south boundary of the Property by survey and stake the location of the new property lines upon fourteen day's written notice to the County.
11. **Assignment and Successors.** This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors, and assigns.
12. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing. The place for delivery of all notices given under this Agreement shall be as follows:

Grantor: Dino Angelosante
 Real Property Agent
 1331 Concord Avenue
 P.O. Box H²O
 Concord, CA 94524
 Telephone: 925-688-8162

County: Real Property Division
 Public Works Department
 255 Glacier Drive
 Martinez, CA 94553
 Telephone: 925-313-2224
 Attn: Debra Baker

or to such other addresses as County and Grantor may respectively designate by written notice to the other.

13. **Entire Agreement.** 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 the County of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement. Grantor has no other right or claim to compensation arising out of or connected with the acquisition of the subject property by the County, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of County's acquisition of the subject property and agrees never to assert such a claim.
14. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are and shall be enforceable as a part of this Agreement.
15. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this

Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.

- 16. **Waiver.** A waiver or breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party
- 17. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.
- 18. **Governing Law.** This Agreement shall be governed and construed in accordance with California law.

CONTRA COSTA COUNTY

GRANTOR

By: _____
Julie R. Bueren
Public Works Director

By: _____
Jerry Brown
General Manager

RECOMMENDED FOR APPROVAL:

By: _____
Conrta Costa Water District
Legal Consel

By: _____
Debra L. Baker
Supervising Real Property Agent

Date _____
(Date Signed by Grantor)

By: _____
Karen Laws
Principal Real Property Agent

APPROVED AS TO FORM:
County Counsel

By _____

Date: _____
(Date of Board Approval)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

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05/17/10 (Escrow Language Changed per Counsel)

(FORM APPROVED BY COUNTY COUNSEL 6/99)