

Grantor: Contra Costa County Flood Control and Water
Conservation District

Project: Dutch Slough Tidal Marsh Restoration

Parcel No.: CF-07-04

RIGHT OF WAY CONTRACT

Document No. CF-07-04 in the form of a Grant Deed covering that property particularly described in the above instrument was delivered to Delia Grijalva, Associate Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed 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 State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
 - a. State requires Parcel Number CF-07-04 for the construction of the Dutch Slough Tidal Marsh Restoration Project, a public use for which State may exercise the power of eminent domain. Grantor is compelled to sell, and State is compelled to acquire said Parcel.
 - b. Both Grantor and State recognize the expense, time, effort, and risk to both Grantor and State in determining the compensation for said Parcel by eminent domain litigation; and the compensation set forth herein for said Parcel is in compromise and settlement in lieu of such litigation.
2. State shall:
 - a. Pay the sum of \$59,500 for the property described in said document to the following title company: Fidelity National Title Company, 1375 Exposition Blvd. Suite 240, Sacramento, CA 95815, for the account of Grantor, Escrow No. 13-5014418-PA conditioned upon the property vesting in the State of California free and clear of all liens, leases, encumbrances, easements, (recorded and/or unrecorded), assessments, and taxes, except:
 - (1) Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
 - (2) Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
 - (3) Easements or rights of way over said land for public or quasi-public utility or public purposes, if any.
 - b. Pay all expenses incidental to and necessarily incurred for the conveyance of the real property to the State, including but not limited to recording fees, title insurance charges, reconveyance fees, trustee's fees, forwarding fees and prepayment penalties, limited to one percent of the compensation due under this transaction.
 - c. Have the authority to deduct and pay from the amount shown in paragraph 2.a. above, any or all monies payable under this agreement to discharge any obligations which are liens upon the property, including but not limited to those arising from judgments, assessments, delinquent taxes for other than the tax year referred to in paragraph 2.a.(1), or debts secured by deeds of trust or mortgages, except those items listed in paragraph 2.a. hereof, and/or to defray any other incidental costs other than those specified in paragraph 2.b. hereof to be borne by the State.
 - d. Maintain the property pursuant to the provisions of the Lower Marsh Creek Monitoring and Maintenance Plan for the Dutch Slough Tidal Wetland Project, (Monitoring and Maintenance Plan), dated March 22, 2017, which acknowledges Grantor's flowage rights and any amendments or revisions thereto. Any disagreements about the maintenance will be resolved pursuant to the notice and remedy provisions in the Monitoring and Maintenance Plan.

3. Pursuant to Section 1263.025 of the Civil Code of Procedure, you are entitled to obtain an independent appraisal and to be reimbursed for the actual reasonable cost of the appraisal up to \$5,000 if certain conditions are met. For further information on the requirements for reimbursement, contact Delia Grijalva, Associate Right of Way Agent by telephone at 916-657-4400.
4. IMMEDIATE POSSESSION: It is agreed that STATE shall have immediate possession and use of the subject lands effective as of the date this contract is accepted by STATE. The issuance of any escrow instructions shall be the sole responsibility of State.
5. Grantor warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and Grantor further agrees to hold State harmless and reimburse State for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of Grantor for a period exceeding one month, except as may be otherwise provided herein.
6. The undersigned Grantor hereby agrees and consents to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waives any and all claims to any money that may now be on deposit in said action.
7. To the best of Grantor's knowledge and after reasonable inquiry, Grantor represents and warrants the following:
 - a. During the Grantor's ownership of the property, there have been no disposals, releases, or threatened releases of hazardous substances on, from, or under the property. Grantor further represents and warrants that Grantor has no knowledge of disposal, release, or threatened release of hazardous substances on, from, or under the property which may have occurred prior to Grantor taking title to the property.
 - b. There is no pending claim, lawsuit, agency proceeding, or any administrative challenge concerning the presence or use of hazardous substances on the property.
 - c. Grantor has not used the property for any industrial operations that use hazardous substances. Grantor is not aware of any such prior use of the property.
 - d. Grantor has not installed any underground storage tanks, aboveground storage tanks, barrels, sumps, impoundments or other containers used to contain hazardous substances on any part of the property. Grantor is not aware of any such prior installations.
 - e. For the purposes of this paragraph, the term "hazardous substances" shall mean any substance which at any time shall be listed as "hazardous" or "toxic" in the regulations implementing the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC §§6901, et seq.), or other federal or State law, or any other substance, chemical, material or waste product whose presence, nature or quality is potentially injurious to the public health, safety, welfare, the environment or the property. The term "reasonable inquiry" shall mean a thorough examination of the property and all records of the property, and any examination that Grantor was legally obligated to conduct as a result of any judicial or administrative order, or federal or State law.
 - f. "AS-IS" Purchase. State acknowledges and agrees that it is purchasing the property in the "as-is" condition of the property. The parties acknowledge the potential problems identified under the Water Quality section presented in the 2014 EIR Report (SCH#2006042009) prepared for the California Department of Water Resources and the California State Coastal Conservancy. State hereby releases and discharges Grantor and its employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors, and assigns from any and all claims, demands, causes of action, obligations, damages, and liabilities, which State now has or could assert in any manner related to or arising from the condition of the property, the presence of any hazardous substance in or around the property, and the State's present or future use of the property. State knowingly waives the right to make any claim against the Grantor for such damages and expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

8. This contract may be modified, changed, or rescinded only by an instrument in writing executed by the parties hereto.


The foregoing representations and warranties shall survive the close of escrow and shall remain in full force and effect shall accrue for the benefit of State and its successors and assigns.

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN SHALL BE RECOGNIZED.
IN WITNESS WHEREOF, the parties have executed this contract.

Contra Costa County Flood Control and Water Conservation District

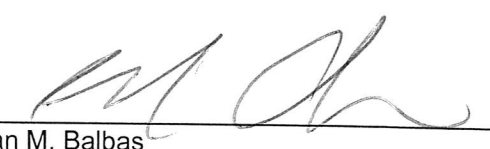
APPROVAL RECOMMENDED:

APPROVED:



Karen A. Laws
Principal Real Property Agent

Date



Brian M. Balbas
Interim Chief Engineer

Date

Department of Water Resources
acting by and through the California Natural Resources Agency
of the State of California

APPROVAL RECOMMENDED:

APPROVED:

Delia Grijalva, Senior Right of Way Agent

Date

Paul Farris, Chief
Real Estate Branch

Date

Linus A. Paulus, Chief
Acquisition and Appraisal Section

Date