



MADERA IRRIGATION DISTRICT BOARD OF DIRECTORS SPECIAL MEETING

AGENDA

Members of the public can participate *in-person* or in the following ways:

1. Zoom Meeting

<https://us02web.zoom.us/j/81960320600?pwd=TTdHSFdEdWNqQnZhUDVpTHg0UmJrUT09>

Meeting ID: 819 6032 0600

Passcode: 819692

2. Conference Call-In: +1 669 900 9128 or +1 346 248 7799

Meeting ID: 819 6032 0600

Passcode: 819692

3. Email: You may submit comments on a specific agenda item via email to asandoval@madera-id.org. We request emails be sent at least two hours prior to the start of the meeting.

If Members of the public have any problems accessing the meeting, please contact the District office at 559-673-3514. For a copy of the Board Packet, please contact Board Secretary Andrea Sandoval at asandoval@madera-id.org.

AGENDA

MISSION STATEMENT

To obtain and manage affordable surface water and groundwater supplies in a manner which will ensure the long-term viability of irrigated agriculture in the District.

Meeting Date:
Wednesday, September 20, 2023
10:00 a.m.

Madera Irrigation District
12152 Road 28 ¼
Madera, California 93637

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at 559-673-3514, ext. 215. Notification in advance of the meeting will enable MID to make reasonable arrangements to ensure accessibility to this meeting.

In compliance with the California Government Code, members of the public may inspect the agenda and any associated writings, including documents delivered after the 24-hour advance posting of the agenda during regular business hours at the Madera Irrigation District Office, located at 12152 Road 28 1/4, Madera, California 93637.

10:00 a.m. CALL TO ORDER / ROLL CALL

APPROVAL OF AGENDA

PUBLIC COMMENT: Closed Session

The first fifteen minutes of this portion of the meeting are reserved for members of the public to address the Board of Directors on Closed Session items listed on the Agenda. Speakers seeking to comment on other items are requested to make those comments during the Public Comment portion of Regular Session. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. The Board is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Board does not respond to public comment at this time.

POTENTIAL CONFLICTS OF INTEREST: Closed Session

Any Board Member who has a potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter. (*Govt. Code, § 87105.*)

1. CLOSED SESSION

1a. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Section 54956.8**

Property: 044-011-003, 044-012-001, 044-021-003, 044-022-001
044-031-001, 044-061-001, 044-062-001, 044-071-001
044-072-001, 044-081-001, 044-111-001, 044-112-001
044-121-002, 044-122-001, 044-131-007, 044-182-001
044-192-009, 044-252-001, and 044-261-001

Agency Negotiator: Thomas Greci

Negotiating Party: Trust for Public Lands

10:30 a.m. CALL TO ORDER REGULAR SESSION/ PLEDGE OF ALLEGIANCE

REPORT ON CLOSED SESSION

POTENTIAL CONFLICTS OF INTEREST

Any Board Member who has a potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter. (*Govt. Code, § 87105.*)

PUBLIC COMMENT: Regular Session

The first fifteen minutes of the meeting are reserved for members of the public to address the MID Board on items which are within the subject matter jurisdiction of the Board. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the President of the Board has the option of asking the speaker to hold the comment until that item is called. The Board is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Board does not respond to public comment at this time.

2. NEW BUSINESS

- 2a. Discussion / possible direction on Option Agreement between Madera Irrigation District and Trust For Public Land for 044-011-003, 044-012-001, 044-021-003, 044-022-001, 044-031-001, 044-061-001, 044-062-001, 044-071-001, 044-072-001, 044-081-001, 044-111-001, 044-112-001, 044-121-002, 044-122-001, 044-131-007, 044-182-001, 044-192-009, 044-252-001, and 044-261-001
- 2b. Discussion / possible direction on Agreement Concerning Receipt of Consideration by Trust for Public Land

3. ADJOURNMENT

AGENDA ITEM 2a.

OPTION AGREEMENT

This Option Agreement, dated for reference purposes only as of _____, 2023, (the “**Agreement**”), is made by and between **MADERA IRRIGATION DISTRICT**, a California public agency (“**Seller**”), and **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation (“**Buyer**”). Seller and Buyer hereby agree as follows:

RECITALS

A. The addresses and telephone numbers of the parties are:

SELLER:

Madera Irrigation District
12152 Road 28 1/4
Madera, CA 93637
Tel: (559) 673-3514
Attn: Thomas Greci, General Manager
Email: tgreci@madera-id.org

Copies of any notice to Seller should also be sent to:

Wanger Jones Helsley PC
265 E. River Park Cir., Suite 310
Fresno, CA 93720
Tel: (559) 233-4800
Attn: John P. Kinsey
Email: jkinsey@wjhattorneys.com

BUYER:

The Trust for Public Land
23 Geary Street, Suite 1000
San Francisco, CA 94108
Tel: (415) 495-4014
Attn: Gilman Miller, Senior Counsel
Email: gilman.miller@tpl.org

Copies of any notice to Buyer should also be sent to:

The Trust for Public Land
23 Geary Street, Suite 1000
San Francisco, CA 94108
Tel: (727) 492-7058
Attn: Alex Size, Conservation Director,
Southern California
Email: alex.size@tpl.org

B. Seller owns approximately 10,940 acres of real property in Madera County, California described in Exhibit A attached to this Agreement. That real property, together with all tenements, hereditaments, and appurtenances, including leases, improvements, fixtures, timber, water, crops, oil, gas and minerals located in, under, and on it, and all rights appurtenant to it, including, but not limited to, timber rights, water rights, grazing rights, access rights and oil, gas and mineral rights, development rights, air rights, and all other rights, privileges, licenses, and permits, to the extent owned by Seller and in any way related to or accruing to the use and benefit of that real property will be referred to in this Agreement as the “**Property.**”

C. The parties intend that the Property be preserved and used eventually for open space, habitat restoration and passive recreational purposes through Buyer’s conveyance of the Property to an appropriate public agency or an appropriate environmental steward (“**Public Agency**”). Buyer makes no representation that its efforts to secure eventual acquisition of the Property by a Public Agency will succeed. Seller acknowledges that upon acquisition of the Property, Buyer will be free to use and dispose of the Property consistent with the terms of this Agreement and may sell the Property for any price, to any subsequent buyer, provided that the proceeds of any sale are used for Buyer's charitable purposes.

D. Buyer is a conservation organization having among its purposes the acquisition, for the benefit of the public, of open space, scenic, and recreational lands. Buyer is exempt from

taxation under Section 501(c)(3) of the Internal Revenue Code and is listed as an organization eligible to receive tax-deductible contributions by the Internal Revenue Service. Buyer is not a private foundation within the meaning of Section 509(a) of the Internal Revenue Code.

E. Seller acknowledges that Buyer is entering into this Agreement in its own right and that Buyer is not an agent of any Public Agency.

THE PARTIES AGREE AS FOLLOWS:

1. **Option.** In consideration of the payment by Buyer to Seller of the Option Consideration, as defined below, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Seller hereby grants to Buyer an exclusive and irrevocable option to purchase the Property on the terms stated in this Agreement (the "**Option**").

1.1. **Option Term.** This Agreement shall be effective as of the date this Agreement is fully signed and delivered by both parties (the "**Effective Date**"). The Option shall commence on the Effective Date and terminate at 5:00 P.M. California time on that date that is two years after the Effective Date ("**Option Term**") unless the option term is extended as set forth below in Section 1.5.

1.2. **Exercise.** If Buyer chooses to exercise the Option, Buyer will do so by notifying Seller in writing before the expiration of the Option Term. If Buyer does not exercise the Option as provided in this Section 1.2, the Option shall automatically expire and terminate, the Option Consideration shall be applied as provided herein, and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive.

1.3. **Purchase Price.** If Buyer exercises the Option, Seller shall sell the Property to Buyer and Buyer shall buy the Property from Seller for a purchase price of Fifty-Eight Million and 00/100 dollars (\$58,000,000.00) payable in cash at closing ("**Purchase Price**").

1.4. **Option Consideration.**

(a) **Payment of Option Consideration.** Within ten (10) calendar days after the Effective Date, Buyer shall deposit as consideration for the Option Ten Thousand and 00/100 Dollars (\$10,000.00) with Escrow Holder (as defined in Section 4.1 below). The total sum deposited with the Escrow Holder, including all interest accrued thereon, shall be referred to as the "**Option Consideration**."

(b) **Application of the Option Consideration.** The Option Consideration shall be placed by Escrow Holder in an interest bearing account satisfactory to Buyer, and all interest accrued shall be payable to Buyer. If the Property is sold by Seller to Buyer as provided herein, the Option Consideration shall be credited to Buyer, meaning that it will be returned to Buyer or, at Buyer's discretion, may be applied towards Buyer's closing costs or the Purchase Price. If the Property is not sold by Seller to Buyer as provided herein, the Option Consideration shall be applied as provided in this Agreement.

1.5. **Extended Option Term.** Buyer may elect to extend the Option Term for an additional three (3) months by giving written notice thereof to Seller and depositing an additional Ten Thousand and 00/100 Dollars (\$10,000.00) ("**Option Extension Consideration**") with the Escrow Holder prior to the expiration of the original Option Term. If Buyer extends the Option Term, the Option Term shall expire twenty-seven months from the Effective Date. Upon deposit of the Option Extension Consideration with Escrow Holder, all references to "Option

Consideration” in this Agreement shall mean and include the Option Extension Consideration, and all references to the “Option Term” will mean and include the extension period.

1.6. Memorandum of Option. Concurrently with its execution and delivery of this Agreement, Seller shall execute (with notarized signatures) and deliver to Buyer an original Memorandum of Option in the form of Exhibit B, attached hereto. Buyer may record the Memorandum of Option in the Official Records of Madera County, California. If Buyer does not exercise the Option for any reason other than Seller’s Default (as defined below), Buyer shall deliver a quitclaim deed or other documentation in a form suitable for recording so as to eliminate any cloud on Seller’s title to the Property related to the Memorandum of Option and this Agreement.

1.7. Termination of Option. Either party may terminate this Agreement, regardless of whether Buyer has exercised the Option, as follows:

(a) This Agreement contemplates that the parties will meet and confer in good faith regarding potential restrictive covenants or other binding assurances to facilitate the long-term use of the Property in a manner consistent with the parties’ mutual intent as stated in the Recitals. To the extent the parties are unable to reach agreement regarding such restrictive covenants or other assurances, either party may terminate this Agreement by giving Notice to the other party no later than (i) 120-days after the Effective Date or (ii) thirty days after the exercise of the Option under Section 1.2 above, whichever occurs first.

(b) If either party exercises their right to terminate this Agreement under this Section 1.7, the parties shall have no further rights or obligations to each other under the Agreement, except as follows:

(i) If Seller terminates the Agreement under this Section 1.7, the Option Consideration shall be returned to Buyer from Escrow. Seller shall also reimburse Buyer for its reasonable costs incurred in connection with its compliance with this Agreement and/or any due diligence activities incurred from the Effective Date until the date of any such notice of termination.

(ii) If Buyer terminates the Agreement under this Section 1.7, the Option Consideration shall be released to Seller.

2. Purchase Price.

2.1. Appraisal. An appraisal will need to be performed during the Option Term to confirm the Purchase Price is supported. Accordingly, Buyer shall select a private state-licensed appraiser who is acceptable to Seller and Buyer. The Dore Group is approved in advance by Seller if Buyer elects to hire The Dore Group. Buyer shall hire, instruct, and pay the appraiser to prepare a full narrative report appraisal (“**Appraisal**”) setting forth the appraiser’s conclusions with respect to the Property’s market value. Buyer shall provide Seller with a copy of the Appraisal.

2.2. Seller’s Approval. If the appraised value set forth in the Appraisal supports the Property’s Purchase Price meaning it is equal to or greater than the Purchase Price set forth in Section 1.3, then that Purchase Price shall be unchanged. However, if the appraised value set forth in the Appraisal is found to be below the Property’s Purchase Price, then within forty (40) days after Seller’s receipt of the Appraisal, Seller may elect to terminate this Agreement by

written notice thereof to Buyer of Seller's objection to the valuation of the Property set forth in the Appraisal and this will not be considered a default of the Seller.

If (1) Seller approves the Appraisal; or (2) Seller fails to notify Buyer of its objection to the valuation set forth in the Appraisal within that forty (40) day period, then Seller will be deemed to have approved the Appraisal, and the valuation of the Property in the Appraisal shall establish the new Purchase Price (replacing the Purchase Price set forth in Section 1.3).

2.3. Alternatively, if Seller rejects the Appraisal within that forty (40) day period, then this Agreement shall be deemed to be terminated, in which case Seller agrees to reimburse Buyer for the cost of the Appraisal and TPL's out-of-pocket expenses related to this transaction within thirty (30) days of TPL's request therefor (such request accompanied by a copy of the invoice for the Appraisal and such expenses), the Option Consideration shall be returned to Buyer, and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive.

2.4. Public Agency Approval. Buyer may elect to terminate this Agreement if the Appraisal and any updates thereto are not approved by the Public Agency or by any third-party providing funding to Buyer ("**Funding Parties**") or the Public Agency to purchase the Property. In this situation, the Option Consideration shall be released to Buyer by the Escrow Holder, and the Parties shall have no further obligation to each other under this Agreement except those expressly stated to survive.

2.5. Updates. If, after the Appraisal is prepared, the Funding Parties require a new or updated appraisal of the Property during the Option Term, the procedures and provisions in Sections 2.1, 2.3, and 2.3 shall be repeated at Buyer's election.

3. Inspections.

3.1. Title. Buyer shall obtain a Preliminary Title Report ("**PTR**") for the Property from a Title Company ("**Title Company**")

3.2. The Property and Property Information. Buyer may investigate any matters that may directly or indirectly affect the Property and/or the present or future value, use, control, operation, or ownership of the Property.

(a) Access. Commencing on the Effective Date, Seller shall provide Buyer, the Public Agency, Funding Parties and their respective representatives, employees, and agents full access to enter upon the Property to conduct such inspections, tests, surveys, and investigations as they deem appropriate, including, without limitation, making an environmental assessment of the soils, waters, and any improvements on the Property. It is Buyer's responsibility to ensure all laws are followed in accordance with these inspections. Buyer shall indemnify, defend, and hold Seller harmless for and on account of any damage or injury to any person, personal property, or environmental resource arising from Buyer's access to the Property. Buyer is also responsible for ensuring anyone entering the site has completed all required waivers, including the Seller's standard waiver for Madera Ranch, a copy of which is attached as Exhibit F.

(b) Property Information. Within thirty (30) days after the Effective Date, Seller shall provide to Buyer a complete and accurate copy of any and all non-privileged information or agreements known by Seller to be in its possession, custody, or control concerning the Property that may affect the value, use, control, operation, or ownership

of the Property, now or in the future, whether or not of public record, and whether oral or in writing (“**Property Information**”). The Property Information shall include, but is not limited to, any and all permits, entitlements, approvals, leases, licenses, easements, deed restrictions, side letters, correspondence, service agreements, contracts, property tax bills, maps, surveys, records, and reports (including without limitation, environmental assessments, notices from governmental entities, feasibility or engineering studies, biological or botanical reports). If Seller does not provide Buyer with any Property Information within thirty (30) days after the Effective Date, Seller shall be deemed to have represented and warranted that Seller has no Property Information in its possession, custody, or control.

(c) No Waiver. Buyer does not waive any of its rights or remedies contained within this Agreement, including, without limitation, Buyer’s right to rely on the representations and warranties made by Seller herein. Buyer may choose whether or not to exercise its right to inspect the Property and Property Information, and that choice shall not be interpreted as a waiver of any of Buyer’s rights or remedies contained in this Agreement.

3.3. Objection, Cure and Waiver.

(a) Buyer’s Review. Ninety (90) days before the Close of Escrow, Buyer may notify Seller of (1) the exceptions to title and/or issues related to the legal description of the Property shown on the PTR to which Buyer objects, or (2) other matters related to the Property to which Buyer objects, including the environmental condition of the Property in Buyer’s sole and absolute discretion (“**Buyer’s Objections**”). Matters set forth in the PTR to which Buyer does not so object shall be deemed “**Permitted Exceptions**.”

(b) Seller’s Cure. Seller shall use best efforts to remove and/or remedy any of Buyer’s Objections by the Close of Escrow. If Seller is unable to remove and/or remedy any Buyer’s Objections by the Close of Escrow to Buyer’s satisfaction, as determined by Buyer in Buyer’s sole and absolute discretion, before the scheduled Close of Escrow, such inability shall not be construed as a default by Seller. In such event, however, Buyer may by written notice thereof to Seller:

(1) terminate this Agreement, in which case the Option Consideration shall be returned to Buyer, and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive;

(2) defer the Close of Escrow until the Buyer’s Objections are removed and/or remedied, as determined by Buyer in Buyer’s sole and absolute discretion, which in any event shall not extend past ninety (90) days absent written agreement by the Parties; or

(3) proceed with the purchase of the Property.

(c) In any event and notwithstanding anything to the contrary herein, Seller shall pay in full and remove all monetary liens and encumbrances (except any statutory liens for non-delinquent real property taxes), judgments or court actions affecting the Property on or before the Close of Escrow (“**Liens**”).

3.4. Change in Condition. All risk of loss related to the Property shall remain with Seller until Close of Escrow.

(a) Seller's Notice. Seller shall immediately notify Buyer of and provide Buyer with all information related to: (1) any damage or destruction to the Property or any portion thereof that occurs after the Effective Date, (2) any receipt after the Effective Date of notice of any potential eminent domain proceedings affecting all or a portion of the Property, the commencement of such proceedings after the Effective Date, or a taking after the Effective Date of all or a portion of the Property by eminent domain, (3) any supplement to the PTR issued for any reason whatsoever or any matter that affects title not reflected in the PTR ("**PTR Supplement**"), (4) receipt of any documents or information related to the Property's use, value, or control that it did not have in its custody or possession as of the Effective Date, (5) any other event that occurs after the Effective Date or information received or discovered by Seller after the Effective Date that could affect the value or use of the Property (each a "**Change in Condition**").

(b) Buyer's Election to Terminate.

(1) If a Change in Condition occurs, without limiting any of Buyer's other rights hereunder if the Change in Condition is due to or results in Seller's Default, Buyer shall have the right, at its election (even if Buyer has already exercised the Option), to terminate this Agreement by written notice to Seller, in which case this Agreement shall expire and terminate, the Option Consideration shall be returned to Buyer, and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive.

(2) If Buyer does not terminate this Agreement and agrees to accept the Property in its then condition, without limiting any of Buyer's other rights hereunder, (i) in the case of an insured casualty, all proceeds of any insurance payable to Seller by reason of such Change in Condition shall be paid or assigned to Buyer, (ii) in the case of a condemnation/eminent domain proceeding, the Purchase Price shall be reduced by the total of any awards or other proceeds received or to be received by Seller as a result of such proceedings or Buyer may elect to proceed to close with an assignment by Seller of all Seller's right, title and interest in and to all such awards and proceeds, and (iii) in the case of a PTR Supplement, such matters set forth therein shall be deemed to also be Permitted Exceptions.

4. Closing.

4.1. Escrow Holder. Within fifteen (15) calendar days after the Effective Date, Buyer shall open an escrow with Title Company (the "**Escrow Holder**") for the purpose of consummating the purchase and sale of the Property in accordance with the terms hereof. Escrow shall close on the date that is sixty (60) days after the date on which Buyer exercises the Option (the "**Close of Escrow**"). However, the Close of Escrow may be extended by Buyer for up to an additional thirty (30) calendar days as necessary to provide for execution of back-to-back transactions between Seller and Buyer, and between Buyer and the Public Agency or Buyer's nominee or assignee. If the Close of Escrow falls on a Monday, Buyer may elect that the Close of Escrow occurs on the Tuesday following such date. If Buyer exercises the Option, the closing of the transaction shall be carried out pursuant to this Section 4.

4.2. Documents.

(a) Seller's Documents. At least one (1) business day before the Close of Escrow, Seller shall deposit with Escrow Holder:

(1) one (1) original duly executed, acknowledged and dated grant deed in a form suitable for recordation, conveying to Buyer and/or Buyer's nominee marketable, record, fee simple title to the Property ("**Grant Deed**") in substantially the form of Exhibit C attached hereto (or in such other form as required by the Public Agency or Buyer's nominee), which Grant Deed shall be recorded in the Official Records of Madera County, California at the Close of Escrow;

(2) one (1) original duly executed and dated affidavit from Seller that satisfies the requirements of Section 1445 of the Internal Revenue Code, as amended, substantially in the form attached hereto as Exhibit D. Seller acknowledges that if Seller is unable to certify that Seller is not a "foreign person," and is not otherwise exempt from such section's withholding requirements, Buyer or Escrow Holder may be required to withhold a portion of the Purchase Price at the Close of Escrow according to applicable law;

(3) one (1) original duly executed and dated Owner's Title Affidavit, substantially in the form of Exhibit E attached hereto;

(4) one (1) original duly executed and dated joint escrow instructions that shall instruct Escrow Holder in its closing of this transaction pursuant to the terms herein, the provisions of which shall not conflict the provisions of this Agreement ("**Joint Escrow Instructions**");

(5) one (1) original duly executed resolutions of Seller authorizing the transaction and the execution of the documents required of Seller herein;

(6) such other instruments and documents as may be reasonably required by Escrow Holder and/or Title Company to transfer the Property to Buyer and/or to Buyer's nominee and issue the Title Policy (as defined below).

(b) Buyer's Documents. At least one (1) business day before the Close of Escrow, Buyer shall deposit with Escrow Holder:

(1) one (1) original duly executed and dated counterpart of the Joint Escrow Instructions;

(2) one (1) original duly executed and dated counterpart of the Assignment of Leases; if applicable, and

(3) such other instruments and documents as may be reasonably required by Escrow Holder and/or Title Company to transfer the Property to Buyer and/or to Buyer's nominee.

4.3. Funds. At least one (1) business day before the Close of Escrow, Buyer shall deposit (or cause to be deposited) with the Escrow Holder the Purchase Price (plus or minus additional sums as may be credited/debited to Buyer hereunder). Buyer will only deposit these

funds once Escrow Holder has notified Buyer that Seller has delivered all of the documents described in Section 4.2(a) above and is prepared to proceed to close the transaction in accordance with the terms of the Joint Escrow Instructions. These funds shall be transferred to Seller by Escrow Holder only after all of Seller's obligations in this Section 4 have been met, the Grant Deed has been recorded, and the Escrow Holder is otherwise in a position to comply with all aspects of the Joint Escrow Instructions.

(a) Prorations.

(1) Seller is responsible, without proration, for ensuring the termination and/or continued of payment of taxes, fees, and charges to Madera County as may be required under the January 26, 2016, Property Tax Exchange Agreement Pursuant to Revenue and Taxation Code Section 99 Between the County of Madera and the Madera Irrigation District, and the December 15, 2020, Property Tax Exchange Agreement Pursuant to Revenue and Taxation Code Section 99 Between the County of Madera and the Madera Irrigation District (collectively, the "**Tax Sharing Agreements**") for the remainder of the ten (10) year period contemplated in the agreements.

(2) Except as provided in Section 4.3(a)(1) above, all real and personal property taxes based on the most recent property tax bills available, rents, issues, expenses, and profits from the Property shall be prorated as of the Close of Escrow. Any tax bills received by Buyer after the Close of Escrow relating to a period before the Close of Escrow shall be prorated between the parties as if the tax bills had been available as of the Close of Escrow. The provisions of this Section shall survive the Close of Escrow.

(3) All past due rent, if any, (including operating expense pass throughs) shall for purposes of proration be deemed received by Seller; provided, however, Buyer agrees to use its good faith efforts (without litigation) to obtain and promptly deliver to Seller all past due rents accrued before the Close of Escrow. All security and other deposits and unused portions of advance rentals, if any, paid by any tenant under any of the leases shall be transferred to Buyer upon Close of Escrow.

(b) Closing Costs.

(1) Seller shall pay the following closing costs: (i) one-half (1/2) the escrow fee; (ii) all documentary tax, sales tax, or real property transfer tax; (iii) any additional taxes, penalties, and interest, including compensatory or roll back taxes on the Property due and payable as a result of the conveyance; and (iv) the premium for the Title Policy allocable to Seller pursuant to Section 4.5 below.

(2) Buyer shall pay the following closing costs: (i) one-half (1/2) the escrow fee; (ii) recording fees for the Grant Deed; and (iii) the premium for the Title Policy allocable to Buyer pursuant to Section 4.5 below.

(3) Other fees and charges, if any, will be allocated according to custom of the county in which the Property is located. Each party shall pay its own attorneys' fees and other expenses incurred by it in connection herewith.

4.4. Delivery of Possession. Seller shall deliver possession of the Property to Buyer at Close of Escrow, free and clear of anyone in possession or occupancy except as provided in the Leases. Aside from reasonable wear and tear, the Property shall be in the same order and condition as on the Effective Date, except as otherwise specifically provided for in this Agreement.

4.5. Title Insurance.

(a) At the Close of Escrow, Seller shall cause Title Company to provide Buyer with an ALTA standard coverage owner's policy of title insurance with regional exceptions in the full amount of the Purchase Price insuring that title to the Property is vested in Buyer and/or Buyer's nominee upon Close of Escrow without any Liens and subject only to the Permitted Exceptions ("**Title Policy**"), unless Buyer elects, pursuant to the terms of the following paragraph, to obtain an ALTA extended form policy of title insurance.

(b) Seller shall pay the premium on the ALTA standard owner's title policy with regional exceptions. If Buyer elects to obtain an ALTA extended owner's policy, then Buyer shall pay any additional premium for an ALTA extended owner's policy, together with the cost of any survey that may be required in order for Title Company to issue an ALTA extended policy of title insurance to Buyer.

4.6. Conditions to Close.

(a) Buyer's Conditions. Escrow shall not close unless and until the following conditions precedent and contingencies have been satisfied or waived in writing by Buyer. If any condition precedent set forth in this Section 4.6(a) is not satisfied or waived by Buyer, in addition to any other rights and remedies of Buyer set forth herein, Buyer may terminate this Agreement by written notice to Seller and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive.

(1) All documents and instruments described in Section 4.2(a) have been delivered to the Escrow Holder;

(2) On the Close of Escrow, Seller shall not be in material default in the performance of any covenant or agreement to be performed by Seller under this Agreement;

(3) On the Close of Escrow, all representations and warranties made by Seller herein shall be materially true and correct as if made on and as of the Close of Escrow;

(4) On the Close of Escrow, Title Company shall be in a position to issue the Title Policy;

(5) Before Buyer exercises the Option, the Board of Directors of Buyer shall have authorized and approved, in the sole and absolute discretion of such Board of Directors, the exercise of the Option and consummation of the transaction contemplated by this Agreement;

(6) On or before the Close of Escrow, Funding Parties shall have deposited with Escrow Holder funds for Buyer's use in amount sufficient for Buyer to acquire the Property pursuant to the terms herein; and

(7) On the Close of Escrow, the Property shall be in the condition required by Section 4.4 above.

(b) Seller's Conditions. Escrow shall not close unless and until the following conditions precedent and contingencies have been satisfied or waived in writing by Seller. If any condition precedent set forth in this Section 4.6(b) is not satisfied or waived by Seller, in addition to any rights and remedies of Seller set forth herein, Seller may terminate this Agreement by written notice to Buyer, and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive.

(1) All documents and instruments described in Section 4.2(b) have been delivered to the Escrow Holder;

(2) All funds described in Section 4.3 have been delivered to the Escrow Holder;

(3) On the Close of Escrow, Buyer shall not be in material default in the performance of any covenant or agreement to be performed by Buyer under this Agreement; and

(4) On the Close of Escrow, all representations and warranties made by Buyer herein shall be materially true and correct as if made on and as of the Close of Escrow.

(c) Subdivision Map Act Compliance. The obligation of each party to close the sale of the Property is conditioned on compliance with the California Subdivision Map Act (California Government Code Section 66410 et seq.) ("**Map Act**") or a determination that conveyance of the Property to Buyer as contemplated in this Agreement is exempt from the Map Act. Notwithstanding anything to the contrary contained in this Agreement, this condition may not be waived by either party. If Seller notifies Buyer that the conveyance of the Property to Buyer as contemplated in this Agreement is not in compliance with or is not exempt from the Map Act, then this Agreement and the Escrow shall terminate as of the date of the notice and the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive the termination of this Agreement, and Escrow Holder shall return the Option Consideration to Buyer.

5. Seller's Covenants.

5.1. Maintenance/Condition.

(a) Buyer acknowledges that ongoing grazing activities are occurring on the property pursuant to the October 6, 2017, Madera Ranch Grazing Lease Agreement, the January 16, 2018, Addendum to Madera Ranch Grazing Lease Agreement, and the June 2, 2022, Extension of Lease – Five Years (collectively, the "Grazing Lease Agreements"). No less than ninety (90) days after the Effective Date, Buyer shall inform Seller whether Buyer seeks to assume or terminate the Grazing Lease Agreements. If Buyer directs Seller to terminate the Grazing Lease Agreements, Seller shall cause the

termination of the Grazing Lease Agreements on or before the Close of Escrow. If Buyer requests to assume the Grazing Lease Agreements and tenant agrees, Seller shall reasonably cooperate with Buyer and the tenant to assign all of Seller's rights, duties, and obligations to Buyer.

(b) From the Effective Date to the Close of Escrow, Seller shall not:

(1) remove or harvest, or permit the removal or harvest, of any vegetation, crops, trees, soil, or minerals from the Property or disturb or permit the disturbance of the existing contours and/or other natural features of the Property, with the exception of ongoing grazing activities by Seller's lessee; or

(2) cause or permit any dumping or depositing of any materials on the Property, including, without limitation, garbage, Hazardous Substances (as defined below), construction debris, or solid or liquid wastes of any kind; or

(3) use, produce, process, manufacture, generate, treat, handle, store, or dispose of any Hazardous Substances in, on or under the Property, or use the Property for any such purposes, or release any Hazardous Substances into any air, soil, surface water, or groundwater comprising the Property, or permit any person using or occupying the Property or any part thereof to do any of the foregoing; or

(4) take any action or permit any action that could reduce the value of the Property.

(c) Seller shall continue to operate and maintain the Property in the manner in which the Property is currently operated and maintained, including the performance of routine repairs and maintenance in accordance with normal schedules and sound property management practice. Seller shall maintain adequate and commercially reasonable insurance coverage for all improvements, if any, that are part of the Property. Seller shall comply, and shall cause all persons using or occupying the Property or any part thereof to comply, with all Environmental Laws (as defined in Section 6.12 below) applicable to the Property, or the use or occupancy thereof, or any operations or activities therein or thereon.

5.2. Removal of Personal Property.

(a) Before Close of Escrow, Seller shall remove from the Property at Seller's expense all personal property and/or trash or any other unsightly or offensive materials, including, but not limited to, any above ground and underground tanks, barrels, equipment, pipelines, or other containers on the Property, unless otherwise agreed to in writing by Buyer.

(b) Following Buyer's exercise of the Option, and not less than thirty (30) days before the Close of Escrow, Seller and Buyer shall meet on the Property before the Close of Escrow and Buyer shall develop an inventory of the personal property and/or trash or other unsightly or offensive materials to be removed from the Property by Seller. If, on or before the Close of Escrow, Seller has not removed the items as required pursuant to this Section 5.2, in addition to any remedies that Buyer has hereunder for Seller's Default, Buyer may choose to either: (1) defer the Close of Escrow until Seller has satisfied the terms of this Section 5.2 for a period not to exceed ninety (90) days; or

(2) remove or cause to be removed the personal property and/or trash, or other materials as described above, in which case Buyer will be credited at Close of Escrow with the actual amount spent by Buyer to do so.

5.3. No Encumbrance. From the Effective Date until the Close of Escrow, Seller shall not:

(a) make or permit to be made, extend or permit to be extended, amend or permit to be amended any leases, contracts, options, or agreements affecting the Property unless agreed to by Buyer;

(b) cause, permit or suffer to exist any lien, encumbrance, mortgage, deed of trust, right, restriction, or easement to be created, placed upon, or claimed upon with respect to the Property;

(c) cause or permit any mortgage, deed of trust, or other lien to be foreclosed upon due to Seller's actions or omissions, including failure to make a required payment or failure to obtain any required consent; or

(d) sell, convey, assign, transfer, encumber, or otherwise dispose of the Property, or any part thereof or interest therein.

5.4. No Action. Seller shall not commence any lawsuit concerning the Property, without first obtaining the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

5.5. Remediation of Environmental Issues. If Buyer determines, in its sole discretion, based on its environmental consultant's investigation of the Property, that one or more of the environmental conditions on the Property are unacceptable (each an "**Environmental Problem**"), then Buyer shall immediately notify Seller of the Environmental Problem.

(a) If Buyer's environmental consultant determines (i) the Environmental Problem is capable of being resolved prior to the date that would be the end of the Extended Option Term, and (ii) the estimated cost of remediating the Environmental Problem, including soft costs, is less than two hundred thousand dollars (\$200,000), then Buyer at its sole and absolute discretion may hire a licensed contractor to remedy all Environmental Problems by Close of Escrow to Buyer's reasonable satisfaction, in which case Seller shall reimburse Buyer in an amount of up to up to two hundred thousand dollars (\$200,000) toward the actual cost of remediating the Environmental Problem, which shall be paid as a reimbursement to Buyer at the Close of Escrow. Buyer is responsible for ensuring all applicable laws are followed.

(i) If the Environmental Problems are not resolved to Buyer's reasonable satisfaction prior to the end of such extended date for the Close of Escrow, Buyer at its sole and absolute discretion may elect to decline to proceed with the purchase of the Property, in which case (a) Seller shall within thirty (30) days after such election reimburse Buyer for its cost of remediating the Environmental Problem, in an amount of up to two hundred thousand dollars (\$200,000), (b) Seller may elect to have the environmental consultant continue the remediation work for Seller, and (c) the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive, and the Option Consideration shall be returned to Buyer.

(b) If Buyer's environmental consultant determines (i) the Environmental Problem is not capable of being resolved prior to the date that, but for the exercise of the option, would have been the end of the Extended Option Term, or (ii) the estimated cost of remediating the Environmental Problem, including soft costs, is greater than two hundred thousand dollars (\$200,000), then either party may elect to terminate the Agreement, in which case the parties shall have no further obligation to each other under this Agreement except those expressly stated to survive, and the Option Consideration shall be returned to Buyer.

6. **Seller's Representations and Warranties.** Seller hereby covenants that the following representations and warranties of Seller are true as of the Effective Date and shall be true and correct to Seller's actual knowledge as of the Close of Escrow and shall survive the Close of Escrow. "Seller's actual knowledge" means the specific knowledge of the District's General Manager, Assistant General Manager, and the District's Board of Directors as of the Effective Date, without duty of investigation. Subject to those qualifiers, Seller represents and warrants the following:

6.1. **Power and Authority.** Seller is a public agency duly formed and existing under the laws of the State of California and duly qualified to conduct business activities in the State of California. Seller has full power and authority to enter into this Agreement and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement and to sell, transfer, and convey all right, title, and interest in and to the Property in accordance with this Agreement. All proceedings required to be taken by or on behalf of Seller to authorize it to make, deliver, and carry out the terms of this Agreement have been duly and properly taken. No further consent of any person or entity is required in connection with the execution and delivery of, or performance by Seller of its obligations under this Agreement, including, without limitation, the consent, or approval of any bankruptcy or other court having jurisdiction over Seller or the Property. Neither the grant of the Option herein nor performance by Seller of Seller's obligations hereunder will violate or constitute an event of default under the terms and provisions of any material agreement, document, or instrument to which Seller is a party or by which Seller is bound and/or to which the Property is subject, including any deed of trust or mortgage.

6.2. **Validity of Agreement.** This Agreement is a valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

6.3. **Insolvency.** Seller is not insolvent and has no intention of filing for protection under the bankruptcy laws of the United States. This Agreement is the product of an arms-length transaction and the Purchase Price represents the fair value of the Property. Seller has not taken any action relating to the Property that would invalidate this transaction or the transfer of the Property to Buyer. Seller has not taken any action that may subject Seller to applicable bankruptcy or similar laws affecting the rights of creditors generally.

6.4. **Litigation.** There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending or threatened against the Property, or pending or threatened against Seller that could affect Seller's title to the Property, authority to convey the Property, affect the value of the Property, or subject an owner of the Property to liability. To the best of Seller's knowledge, no events have occurred that might give rise to such claims, actions, or proceedings.

6.5. Tenants, Occupants and Use. Besides the grazing lease (“**Grazing Lease**”) and the uses reflected in the encumbrances recorded against the Property, there is no other tenant, occupant, or any other party (other than Seller) in possession of or using any part of the Property or entitled to possession or use of any part of the Property. Seller has not entered into any other leases, licenses, or other agreements affecting the possession or use of the Property.

6.6. Leases and Rent Roll. The copies of the leases, if any, delivered to Buyer pursuant to this Agreement are true and correct copies thereof. Those leases are in full force and effect. Those leases are the only leases affecting the Property, and the tenants under those leases are the only tenants thereof. There are no other agreements, written or oral, with respect to the tenancies, or the Property. There are no material defaults under any of those leases nor have events occurred that with notice or passage of time, or both, would constitute a material event of default thereunder. Seller has not assigned, transferred, or disposed of all or any part of its interest in any of the leases, and there are no encumbrances covering the leases that will survive the Close of Escrow. The information contained in the rent roll is true, complete, and correct as of the date the rent roll was delivered to Buyer and shall be true, complete, and correct as of the Close of Escrow. The rent roll shall specify the amount of the Property’s operating expenses that are passed through to the Property’s tenant(s) in accordance with income tax accounting or generally accepted accounting principles consistently applied.

6.7. Encumbrances and Liens. Except as stated in the PTR, there are no encumbrances or liens against the Property, including, but not limited to, mortgages or deeds of trust. Seller is not in default of any obligation under any mortgage or deed of trust affecting the Property. There are no actual or impending public improvements or private rights or actions that will result in the creation of any liens upon the Property, including public assessments or mechanics liens. There has been no work done, services rendered, or materials furnished in connection with repairs, improvements, or alterations or any similar activity at the Property within 180 days before the Close of Escrow, and there are no outstanding claims or persons entitled to claim for mechanics’ or materialmen’s liens against the Property.

6.8. Other Sales Contracts. Except for that December 6, 2017, Amended and Restated Right of First Refusal Agreement between Seller and Grimmway Enterprises, Inc., Seller has not entered into any other options, rights of first refusal, or contracts for the sale or transfer of the Property that are in force or effect.

6.9. Encroachments. There are no improvements on neighboring properties that encroach on the Property and none of the improvements on the Property encroach upon any neighboring property.

6.10. Violation of Law. The Property is operated in compliance with all federal, state, and local building, zoning, planning, environmental, health, and insurance laws, ordinances, rules, and regulations. No notices of violation of any ordinance, rule, or regulation relating to the Property or Seller have been issued to, served upon, received by, or entered against Seller.

6.11. Taxes. Except for the amounts disclosed by the tax bills delivered to Buyer by Seller and the real property taxes to be assessed due to the change of ownership of the Property, and any amounts imposed under the Tax Sharing Agreements, no other real property taxes, assessments, or other governmental charges or exactions have been or will be assessed against the Property for the current tax year. There has been no transfer of title, construction of improvements, or work done on the Property for which a supplemental property tax assessment has not been levied. Seller has no knowledge and Seller has received no notice of any intended

public improvements that will result in any taxes or assessment being levied against the Property or any portion thereof.

6.12. Hazardous Substances.

(a) Other than those conditions described in the two Phase 1 reports provided by Seller to Buyer dated July 1, 2002, and November 4, 2011, to Seller's knowledge there is no and has been no:

(1) condition at, on, under, or related to the Property presently or potentially posing a significant hazard to human health or the environment, whether or not in compliance with law;

(2) production, use, treatment, storage, transportation, or disposal of any Hazardous Substance on the Property;

(3) release or threatened release of any Hazardous Substance, pollutant, or contaminant into, upon or over the Property or into or upon ground or surface water at the Property or within the immediate vicinity of the Property;

(4) Hazardous Substance, now or ever, stored on the Property in underground tanks, pits, or ponds;

(5) asbestos-containing material incorporated into any buildings or interior improvements or asbestos containing equipment that may be part of the Property to be transferred under this Agreement; or

(6) electrical transformer or other item containing PCB's on the Property or among the assets to be transferred under this Agreement; or

(7) notices or other information giving Seller reason to believe that any conditions existing on the Property or in the vicinity of the Property or in ground or surface waters associated with the Property may have a material effect on the value of the Property or subject the owner of the Property to potential liability under Environmental Laws.

(b) Under California Health & Safety Code Section 25359.7, any owner of nonresidential property who knows, or has reasonable cause to believe, that any release of a "hazardous substance," as defined in that Code section, is located on or beneath the owner's property must disclose this fact in writing to any prospective purchaser before consummating the transaction. To the extent applicable, Seller shall deliver such notice to Buyer. To the best of Seller's knowledge, Seller is in compliance with all laws and regulations in connection with any handling, use, transportation, storage, or disposal of Hazardous Substances, including the maintenance of all required permits and approvals.

(c) The term "**Hazardous Substance(s)**" means any substance that is (1) defined as a hazardous substance, hazardous material, hazardous waste, pollutant, or contaminant under any Environmental Law, (2) a petroleum hydrocarbon, including crude oil or any fraction thereof, (3) hazardous, toxic, corrosive, flammable, explosive, infectious, radioactive, carcinogenic, or reproductive toxicant, (4) regulated pursuant to any Environmental Law(s), or (5) any pesticide regulated under state or federal law.

(d) The term "**Environmental Law(s)**" means each and every federal, state, and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization, or similar requirement of each and every federal, state, and local governmental agency or other governmental authority, pertaining to the protection of human health and safety or the environment.

6.13. Timber/Plant Rights. Seller has not sold, conveyed, transferred, or assigned any rights to the trees and plants located on the Property, including any rights to harvest or cut such trees or plants.

6.14. Development Rights. Seller has not sold, conveyed, transferred, or assigned any rights to develop the Property.

6.15. Subdivision Laws. The conveyance of the Property in accordance with this Agreement will not violate any provision of state or local subdivision laws.

6.16. Public Road. The Property has improved insurable vehicular access to a public road.

6.17. Patriot Act.

(a) Neither Seller, any key personnel of Seller nor any of their underlying beneficial owners have engaged in any dealings or transactions, directly or indirectly, (1) in contravention of any U.S., international or other anti-money laundering regulations or conventions, including without limitation the United States Bank Secrecy Act, the United States Money Laundering Control Act of 1986, the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, the Trading with the Enemy Act (50 U.S.C. § 1 et seq., as amended), any foreign asset control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 and the regulations promulgated thereunder (collectively, the "**Patriot Act**"), or any order issued with respect to anti-money laundering by the U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"), or (2) in contravention of Executive Order No. 13224 issued by the President of the United States on September 24, 2001 (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time to time ("**Executive Order 13224**") or (3) on behalf of terrorists or terrorist organizations, including those persons or entities that are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Organization of Economic Cooperation and Development, OFAC, Financial Action Task Force, U.S. Securities & Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, or any country or organization, all as may be amended from time to time.

(b) Neither Seller, any key personnel of Seller nor any of their underlying beneficial owners is or will be a person or entity (1) that is listed in the Annex to or is otherwise subject to the provisions of Executive Order 13224, (2) whose name appears on OFAC's most current list of "Specifically Designated Nationals and Blocked Persons," (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>), (3) who commits,

threatens to commit or supports “terrorism,” as that term is defined in Executive Order 13224, or (iv) who has been associated with or is otherwise affiliated with any entity or person listed above.

7. **Buyer’s Representations and Warranties.** Buyer hereby covenants that the following representations and warranties of Buyer are true as of the Effective Date and shall be true and correct as of the Close of Escrow and shall survive the Close of Escrow. Buyer represents and warrants the following:

7.1. **Power of Authority of Buyer.** Buyer is a nonprofit public benefit corporation duly organized and existing under the laws of the State of California and duly qualified to conduct business activities in the State of California. Subject to Section 4.6(a)(5), Buyer has the requisite power and authority to enter into and carry out the terms of this Agreement and the execution, performance, and delivery hereof and of all other agreements and instruments referred to herein to be executed, performed, or delivered by Buyer and the performance by Buyer of Buyer’s obligations hereunder will not violate or constitute an event of default under the terms and provisions of any material agreement, document or instrument to which Buyer is a party or by which Buyer is bound. Subject to Section 4.6(a)(5) Board Approval, all proceedings required to be taken by or on behalf of Buyer to authorize it to make, deliver, and carry out the terms of this Agreement have been duly and properly taken. Subject to Section 4.6(a)(5) Board Approval, no further consent of any person or entity is required in connection with the execution and delivery of, or performance by Buyer of its obligations under this Agreement.

7.2. **Validity of Agreement.** This Agreement is a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

8. **Default.**

8.1. **Seller Default.** If Seller defaults in the performance of any of Seller’s obligations, promises, or agreements under this Agreement or if Seller breaches any of its representations or warranties hereunder (“**Seller’s Default**”), the Option Consideration shall be immediately returned to Buyer, and Buyer shall be entitled to exercise any remedy available to Buyer by law or equity, including an action for specific performance and/or an action for damages. In addition, if a Seller’s Default exists as of the Close of Escrow, Buyer may elect to either defer the Close of Escrow until the Seller’s Default has been remedied or proceed to the Close of Escrow. Buyer’s choice in this regard will not constitute a waiver of Buyer’s rights with respect to any loss or liability suffered as a result of Seller’s Default, nor will it constitute a waiver of any other remedies provided in this Agreement or by law or equity. Seller shall indemnify, defend with counsel approved by Buyer, and hold harmless Buyer, its officers, directors, employees, and agents, from all expense, loss, liability, damages, and claims, including Buyer’s attorneys’ fees, if necessary, arising out of any Seller’s Default. All of Seller’s representations, warranties, indemnities, promises, obligations, and agreements contained herein, and Buyer’s rights and remedies with respect thereto, shall survive the Close of Escrow. The provisions of this Section 8.1 shall survive the Close of Escrow or earlier termination of this Agreement.

8.2. **Buyer Default.** SELLER AND BUYER AGREE THEY HAVE MADE GOOD FAITH REASONABLE EFFORTS TO DETERMINE WHAT SELLER’S DAMAGES, INCLUDING ANY ATTORNEYS’ FEES, LOST PROFITS, AND OPPORTUNITY COSTS, WOULD BE IN THE EVENT OF A DEFAULT HEREUNDER BY BUYER. SELLER AND BUYER HAVE BEEN UNABLE TO ARRIVE AT ANY MEANINGFUL FORMULA OR MEASURE OF DAMAGES FOR

BUYER'S DEFAULT AND AGREE THAT SUCH DAMAGES WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO DETERMINE. IN THE EVENT THAT ESCROW FAILS TO CLOSE BECAUSE OF BUYER'S DEFAULT, THE PARTIES AGREE THAT THE OPTION CONSIDERATION IS A REASONABLE ESTIMATE OF SUCH DAMAGES AND SHALL SERVE AS FULL LIQUIDATED DAMAGES. THE OPTION CONSIDERATION SHALL BE SELLER'S SOLE RIGHT TO DAMAGES AND SOLE REMEDY AT LAW OR IN EQUITY FOR BUYER'S DEFAULT HEREUNDER. SELLER AND BUYER FURTHER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THE FOREGOING LIQUIDATED DAMAGES PROVISION AND BY THEIR SIGNATURES IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS. THE PROVISIONS OF THIS SECTION 8.2 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

SELLER:

Madera Irrigation District,
a California public agency

BUYER:

The Trust for Public Land, a California
nonprofit public benefit corporation

By: _____
Name: _____
Title: _____

By: _____
Gilman Miller, Senior Counsel

9. **Miscellaneous Terms.**

9.1. Notices. All notices, demand, request, or other communication required or permitted under this Agreement ("**Notices**") will be in writing and delivered to the Parties by email, facsimile transmission, personally by hand, courier service, Express Mail, or by first class mail, postage prepaid, at the addresses stated in Recital A. All Notices will be considered given: (a) if sent by mail, when deposited in the mail, first class postage prepaid, addressed to the party to be notified; (b) if delivered by hand, courier service or Express Mail, when delivered; (c) if transmitted by email or facsimile, upon transmission, provided that the sender does not receive any indication that the fax or email has not been successfully transmitted (i) upon transmission during normal business hours at the point of receipt (between 9:00 a.m. and 5:00 p.m. on business days) or (ii) the next business day. The parties may, by notice as provided above, designate a different address for Notices. Buyer and Seller agree that Notices may be given by the parties' respective counsel and that, if any communication is to be given by Buyer's and Seller's counsel, then counsel may communicate directly with all principals as required to comply with the provisions of this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the Notice.

9.2. Legal Costs. If either Seller or Buyer bring any legal action that is based upon any matter arising out of or related in any way to this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, court costs, and all expenses of litigation, whether or not authorized by statute as costs, in such amounts as may be allowed by the court.

9.3. No Broker's Commission. Each party represents to the other that it has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. If any person asserts a claim for a broker's commission or finder's fee against one of the parties, the party on account of whose actions the claim is asserted shall indemnify and hold the other party harmless from and against the claim. The indemnification obligation shall survive the Close of Escrow or earlier termination of this Agreement.

9.4. Time of the Essence; Dates. Time is of the essence of this Agreement. If any date specified in this Agreement falls on Saturday, Sunday, or a public holiday, that date shall be considered to be the succeeding day on which public agencies and major banks are open for business.

9.5. Binding on Successors. This Agreement shall be binding not only on the parties but also on their respective successors and assigns.

9.6. Additional Documents. Seller and Buyer agree to sign and deliver such additional documents, including escrow instructions, as may be reasonable and necessary to carry out the provisions of this Agreement.

9.7. Entire Agreement. This Agreement is intended to be a final expression of the parties' agreement and constitutes the final, complete, and exclusive agreement between the parties about the subject matter of this Agreement. All prior and contemporaneous statements, agreements, representations, and understandings, oral or written, are merged into and superseded by this Agreement. No parol or extrinsic evidence of any kind may be used to vary, contradict, supplement, or add to the terms of this Agreement.

9.8. Interpretation; Understanding of Agreement. The headings of this Agreement are inserted for convenience and identification only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provisions hereof. Each party to this Agreement has substantial experience with the subject matter of this Agreement and has each fully participated in the negotiation and drafting of this Agreement and has been advised by counsel of its choice with respect to the subject matter hereof. Accordingly, this Agreement shall be construed without regard to the rule that ambiguities in a document are to be construed against the drafter. Each party represents and warrants to the other that it has completely read and fully understands the provisions of this Agreement; and in executing this Agreement it has not relied on any promise or representation made by any person other than the promises and representations expressly stated in this Agreement.

9.9. Amendment. No amendment of this Agreement will be binding unless in writing and signed by the parties.

9.10. Waiver. No waiver of any term of this Agreement will be considered a waiver of any other term, whether or not similar, nor will any waiver be considered a continuing waiver. No waiver will be binding unless in writing and signed by the party making the waiver.

9.11. Assignment of Buyer's Interest. Buyer may assign its interest in this Agreement to a Public Agency or an organization or entity that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986 and applicable regulations. If Buyer assigns its interest in this Agreement, Buyer may assign to such assignee any indemnities, representations, or warranties of Seller received by Buyer under the terms of this Agreement, and Seller shall, if requested by Buyer, execute and deliver reasonable

documentation acknowledging its agreement to such assignment of its indemnities, representations, or warranties hereunder.

9.12. Severability. Each term of this Agreement is severable from any and all other terms of this Agreement. Should any term of this Agreement be for any reason unenforceable, the balance will still be of full force and effect.

9.13. No Merger. The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance of title to the Property, placing any deeds of trust on the Property and delivery of money and documents in the escrow), will not merge with transfer of title but will remain in effect until fulfilled.

9.14. Governing Law. This Agreement will be governed by and interpreted in accordance with the laws of the State of California.

9.15. Exhibits. All Exhibits attached to this Agreement are incorporated into this Agreement by this reference.

9.16. Counterparts. This Agreement may be signed in counterparts, each of which will be considered an original and that together will constitute one and the same agreement. Facsimile or scanned signatures are acceptable and will be treated the same as original ink signatures for the purpose of executing and making this Agreement binding and effective.

[Remainder of this Page intentionally Left Blank; Signatures Appear on Following Page]

IN WITNESS of the foregoing provisions the parties have signed this Option Agreement below:

SELLER:

Madera Irrigation District,
a California public agency

By: _____
Name: _____
Title: _____
Date: _____

BUYER:

The Trust for Public Land, a California
nonprofit public benefit corporation

By: _____
Gilman Miller, Senior Counsel
Date: _____

EXHIBIT A

Legal Description of the Real Property

[*to be attached*]

EXHIBIT B

Form of Memorandum of Option

When recorded mail to:

THE TRUST FOR PUBLIC LAND
101 Montgomery Street
Suite 900
San Francisco, CA 94104
Attn: Legal Dept.

Space above this line for Recorder's use only

MEMORANDUM OF OPTION

This Memorandum of Option is dated as of _____, 20__ by _____, a _____ ("**Seller**") and is a memorandum of that certain Option Agreement dated as of _____, 20__ ("**Option Agreement**") between Seller and **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation ("**Buyer**"), all the terms and conditions of which are hereby made a part hereof with the same force and effect as though fully set forth herein. All capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Option Agreement

Pursuant to the Option Agreement, Seller has granted to Buyer an exclusive option to purchase that certain real property located in Madera County, California, and more particularly described in Exhibit A attached hereto, all subject to the terms therein.

The option will expire at 5:00 P.M. California time on the date that is two years after the Effective Date; provided, however, the option may be extended as provided in the Option Agreement.

Nothing herein shall be deemed to amend the terms of the Option Agreement.

Seller:

_____,
a _____

By: Exhibit Only—Do not Sign

Name: _____

Title: _____

[*add notary page*]

Exhibit A to Memorandum of Option

Legal Description

[*to be attached*]

EXHIBIT C

Form of Grant Deed

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

The Trust for Public Land
101 Montgomery Street, Suite 900
San Francisco, CA 94104
Attn: Legal Department

MAIL TAX STATEMENTS TO SAME
ADDRESS AS ABOVE

Space above this line for Recorder's Use Only

APN(s): _____

Documentary transfer tax is \$ _____

- () computed on full value of property conveyed, or
- () computed on full value less value of liens and encumbrances remaining at the time of sale.
- () Unincorporated area () City of _____
- () Realty not sold.

GRANT DEED

For good and valuable consideration, the receipt of which is hereby acknowledged,
_____, a _____ ("**Grantor**"), does hereby grant and convey to
_____, a _____ ("**Grantee**"), all the real property situated in
the County of _____, State of _____, described at Exhibit A attached hereto and
incorporated herein by this reference.

TO HAVE AND TO HOLD, the above granted and described premises, together with all
tenements, hereditaments, and appurtenances, including leases, improvements, fixtures,
timber, water, crops, oil, gas and minerals located in, under, and on it, and all rights appurtenant
to it, including, but not limited to, timber rights, water rights, grazing rights, access rights, and oil,
gas and mineral rights, development rights, air rights, and all other rights, privileges, licenses,
and permits owned by Grantor and in any way related to or accruing to the use and benefit of
that real property, unto Grantee, and its assigns.

IN WITNESS WHEREOF, Grantor has executed this instrument this _____ day of
_____, 202__.

_____,
a _____

By: Exhibit Only—Do not Sign

Name: _____

Title: _____

[*add notary page*]

EXHIBIT A
LEGAL DESCRIPTION

[*to be attached*]

EXHIBIT D

Form of Non-foreign Affidavit

**NON-FOREIGN AFFIDAVIT
(entity)**

Section 1445 of the Internal Revenue Code provides that a transferee (buyer) of a U.S. real property interest must withhold tax if the transferor (seller) is a foreign person or entity. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (that has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ (“**Transferor**”), the undersigned hereby certifies the following, on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations). Transferor is not a non-resident alien for purposes of U.S. income taxation.
2. Transferor is not a disregarded entity as defined in Section 1.1445-2(b)(iii).
3. Transferor’s U.S. employer identification number is _____.
4. Transferor’s office address is:

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete.

TRANSFEROR:

_____,
a _____

By: Exhibit Only—Do not Sign

Name: _____

Title: _____

Date: _____

EXHIBIT E

Form of Owner's Title Affidavit

OWNER'S TITLE AFFIDAVIT

_____, a _____ ("Owner") hereby declares as follows as of _____, 20__:

1. Owner is the owner of real property located in _____ County, _____ (the "Property") more particularly described in **[NAME OF TITLE COMPANY]** PRELIMINARY REPORT dated _____, 20__ bearing Order No. _____ (the "Preliminary Report").

2. Owner has not previously conveyed the Property. Owner's possession of the Property has been peaceful and undisturbed and the title thereto has never been disputed, questioned, or rejected, nor insurance thereof refused. Owner knows of no facts by reason of which Owner's possession or title might be called into question, or by reason of which any part of the Property, or any interest therein adverse to it might be raised.

3. There are no liens or encumbrances affecting title to the Property, recorded or unrecorded, other than those matters set forth in the Preliminary Report.

4. There are no parties entitled to possession of the Property other than as set forth in the rent roll attached hereto.

5. Except for that December 6, 2017, Amended and Restated Right of First Refusal Agreement between Seller and Grimmway Enterprises, Inc., there are no outstanding options to purchase or rights of first refusal affecting the Property.

6. No proceedings in bankruptcy have ever been instituted by or against Owner in any court of law of before any officer of any court in any state or territory of the United States, nor has Owner made, at any time, an assignment for the benefit of creditors, nor an assignment, now in effect, of the rents of the Property or any part thereof.

7. There has been no work done, services rendered or materials furnished at the behest of Owner in connection with repairs, improvements or alterations or any similar activity at the Property within 180 days before the date hereof, except in connection with tenant improvements. There are no outstanding claims or persons entitled to claim for mechanics' or materialmen's liens against the Property, except as shown on the Preliminary Report.

This affidavit is made for the purpose of inducing **[TITLE COMPANY]** to insure title to the Property and inducing The Trust for Public Land, a California nonprofit public benefit corporation, to acquire the Property.

OWNER:

_____,
a _____

By: Exhibit Only—Do not Sign

Name: _____

Title: _____

EXHIBIT F

Standard Waiver for Madera Ranch

AGENDA ITEM 2b.

AGREEMENT CONCERNING RECEIPT OF CONSIDERATION BY TRUST FOR PUBLIC LAND

This Agreement Concerning Receipt of Consideration by Trust for Public Land (“**Agreement**”) is dated as of September _____, 2023 between **MADERA IRRIGATION DISTRICT**, a California public agency (“**Seller**”), and **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation (“**TPL**”), with reference to the following facts. Seller and TPL are collectively referred to herein as the “Parties” or individually as a “Party.”

RECITALS

A. TPL and Seller have entered into that certain Option Agreement dated on or about the date hereof (the “**Option Agreement**”), whereby Seller has granted to TPL an option to purchase certain real property located in Madera County, California (the “**Property**”), all as more particularly described in the Option Agreement. All capitalized terms used in this Agreement and not otherwise defined have the same meanings given to them in the Option Agreement.

B. The parties intend that the Property be preserved and used eventually for open space, habitat restoration and passive recreational purposes through TPL’s conveyance of the Property to an appropriate public agency or an environmental steward. However, this intention may not be construed as a covenant or condition to this Agreement. TPL makes no representation that its efforts to secure eventual government or private environmental steward acquisition of the Property will succeed. Seller acknowledges that upon acquisition of the Property, TPL will be free to use and dispose of the Property and may sell the Property for any price, to any subsequent buyer, provided that the proceeds of any sale are used for TPL’s charitable purposes and such use, disposition and/or sale is consistent with the terms of the Option Agreement.

C. In exchange for TPL’s acquisition of an interest in the Property for ultimate disposition to a governmental or private environmental steward for open space, habitat restoration and passive recreational purposes, which will result in TPL and its staff incurring various expenses associated with the review of title, contracting for and analysis of environmental studies, negotiating and documenting the transaction, contracting for an appraisal, and any costs associated with ownership of the Property for an undetermined period and ultimately disposing of the Property to a governmental or private environmental steward, Seller agrees to offset TPL’s costs, which the Parties estimate will equal five and one-half percent (5.5%) of the Purchase Price under the Option Agreement in accordance with the terms and conditions herein.

D. Both Seller and TPL acknowledges that TPL is entering into this Agreement in its own right and that TPL is not an agent of any governmental agency or entity.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Payment By Seller to TPL. Seller agrees to offset TPL’s anticipated costs in an amount equal to five and one-half percent (5.5%) of the Purchase Price under the Option Agreement (the “**TPL Payment**”). Seller will pay the TPL Payment to TPL upon (i) the Close of Escrow; or (ii) if the Close of Escrow does not occur due to Seller’s Default under the Option Agreement, on the date the Close of Escrow would have occurred but-for Seller’s Default. If the Close of Escrow does not occur for any other reason, this Agreement will terminate and neither

party will have any further obligations to the other except as specifically provided in this Agreement.

2. Termination. TPL has the right to terminate this Agreement at any time that TPL determines that ultimate disposition to a governmental or private environmental steward for open space, habitat restoration and passive recreational uses is not likely to occur. Unless terminated by TPL under this Section, in which case Seller will have no further obligation to TPL hereunder, including but not limited to the TPL Payment, this Agreement will remain in force until the Close of Escrow of the Property or the termination of the Option Agreement, whichever is the first to occur.

3. Remedies. If Seller breaches this Agreement, then TPL may pursue all rights and remedies available to it, at law or equity, with respect to this Agreement, independent of any recovery to which it may be entitled under the Option Agreement. If any legal action is brought by either party to enforce any provision of this Agreement, the prevailing party will be entitled to recover from the other party reasonable attorneys' fees and court costs in the amounts allowed by the court.

4. Entire Agreement; Waiver. This Agreement constitutes the entire agreement between TPL and Seller pertaining to the TPL Payment and supersedes all prior and contemporaneous agreements, representations, and understandings between TPL and Seller with respect thereto. No supplement, modification or amendment of this Agreement will be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Agreement will be deemed or will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

5. Severability. Each term of this Agreement is severable from any and all other terms of this Agreement. If any term of this Agreement is found to be for any reason unenforceable, then the balance will still be of full force and effect.

6. Governing Law. This Agreement will be governed by and interpreted in accordance with the laws of the State of California.

7. Non-Assignment. This Agreement is personal to each of the respective Parties, and neither Party shall assign, subcontract or delivery its right or obligations under this Agreement to any other person or entity without the prior written consent of the other Party.

8. Counterparts. This Agreement may be signed in counterparts, each of which will be considered an original and that together will constitute one and the same agreement. Facsimile, electronic, or scanned signatures are acceptable and will be treated the same as original ink signatures for the purpose of executing and making this Agreement binding and effective.

9. Escrow Instructions. At least one (1) business day before the Close of Escrow, Seller will deliver to Escrow Holder a fully executed instruction letter substantially in the form of Exhibit A attached hereto and incorporated herein by this reference.

///

///

IN WITNESS of the foregoing provisions, the parties have dated and signed this Agreement Concerning Receipt of Consideration by Trust for Public Land below.

SELLER:

MADERA IRRIGATION DISTRICT,
a California public agency

By: _____
Name: _____
Its: _____
Date: _____

TPL:

THE TRUST FOR PUBLIC LAND,
a California nonprofit public benefit
corporation

By: _____
Gilman Miller, Senior Counsel
Date: _____

EXHIBIT A

Form of Escrow Instructions

[date]

VIA EMAIL (____) ____ - ____

____ Title Company

Attn: _____, Escrow Officer

RE: LETTER INSTRUCTION: DISTRIBUTION OF PROCEEDS
Escrow No. _____

Dear _____:

In connection with the subject escrow, this letter will supplement the Joint Closing Instructions dated _____ delivered to _____ Title Company ("**Escrow Holder**") by The Trust for Public Land ("**TPL**") and _____ ("**Seller**").

These instructions relate to the disbursement of the proceeds due to Seller.

From Seller's proceeds, Escrow Holder is hereby instructed to disburse the sum of _____ (\$_____) (the "**TPL Payment**") to TPL, which sum is payable to TPL pursuant to that certain **AGREEMENT CONCERNING RECEIPT OF CONSIDERATION BY TRUST FOR PUBLIC LAND** executed by Seller dated as of _____.

The TPL Payment is to be wire transferred upon the close of escrow to TPL as follows:

Wells Fargo
420 Montgomery Street, 9th Floor
MAC A0101-096
San Francisco, CA 94104

Bank Representative: Sean C. McClure, sean.c.mcclure@wellsfargo.com
Phone: (415) 396-2961, Wire Room, (888) 384-8400

ABA # 121000248
Account # 4121573406
Account Name: The Trust for Public Land - Depository

Reference: [TPL Project Name and Number]

If you have any questions, please contact Seller at (____) ____ - ____ or _____ at TPL at (415) 495-4014 ext. _____. Thank you.

Very truly yours,

_____,
a _____

By: _____

Name: _____

Title: _____

Date: _____

cc: _____ (via email)