

PROPERTY ASSESSMENT and WARRANTY

for

North County Habitat Bank

This Property Assessment and Warranty (Property Assessment) is made as of this 5th day of December, 2006, by Westmark Development Corporation (Property Owner), for the benefit of the United States of America, acting by and through the Mitigation Banking Review Team [U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, California Department of Fish and Game; which agencies are jointly referred to in this Property Assessment as the "Signatory Agencies"], with reference to the following:

This document provides a summary and explanation of each exception to title listed in the Preliminary Title Report (Title Report) issued by Commonwealth Land Title Company, dated May 31, 2006. Specifically, this Property Assessment shall include narratives explaining each exception to title and the manner in which each may impact the Conservation Values of the property as defined and depicted in the Restrictive Covenant (Covenant).

Property Owner is owner of certain real property (Property) located in San Diego County, consisting of County Assessor's Parcel Number(s) 211-040-33-00, as legally described in the Legal Description (**Exhibit E-1**) and depicted on Covenant (**Exhibit E-4**). This Property Assessment warrants that 18.73 acres of property (Conserved Property) is available to be burdened by Restrictive Covenant(s) for conservation purposes in accordance with North County Habitat Bank, Service File # [**File # _____**], and California Civil Code Section 815. The Conserved Property description is incorporated into the Covenant and is legally described in **Exhibit E-1** and depicted on Parcel Maps (**Exhibit E-1**), if the boundaries of the Conserved Property differ from the boundaries of the Property.

The following attachments shall be included with the Property Assessment: **Attachment 1 - Encumbrance Documents** and **Attachment 2 - Map(s)**. Attachment 1 shall include copies from the book of records located at the county recorder's office of all exceptions to title (e.g. leases or Covenants) pertaining either partially or fully to the Conserved Property. Attachment 2 shall include a map(s), preferably in GIS Format, illustrating each exception to title.

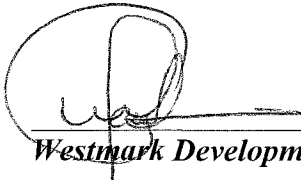
Property Assessment Warranty

By signature below, Westmark Development Corporation hereby certifies and assures that:

1. Property Owner represents and warrants that the foregoing assessment of the exceptions listed on the Preliminary Title Report has been thoroughly evaluated and found to be true, accurate and complete for the Property, including the 18.73 acres preserved under the Covenant for conservation purposes under CA Civil Code Section 815;
2. Prior to recordation of the Covenant, Property Owner shall verify that the exceptions listed in the Preliminary Title Report, and described in this Property Assessment, are fully consistent with all exceptions on the Final Title Insurance Policy issued at recordation. If any exceptions listed in the Preliminary Title Report, and described in this Property Assessment, are inconsistent with the exceptions listed in the Final Title Insurance Policy, Property Owner shall reconcile any discrepancies and obtain approval

of these changes by the Signatory Agencies prior to Bank establishment, any credit sales, or approval of any off-site compensation;

3. Upon the recordation date of the Covenant, Property Owner shall have good, marketable and indefeasible title to the Property subject only to any exceptions approved in advance of recordation, in writing, by the *Signatory Agencies*; and Property Owner is aware of no unrecorded restrictions to the use of the Property for conservation purposes, or affecting its Conservation Values, as described in the Covenant, or any other matters that may adversely affect title;
4. Property Owner has not granted any options, or committed or obligated to sell the Property or any portion thereof, except as agreed upon in writing by the *Signatory Agencies*;
5. Subordination agreements for all monetary liens have been, or will be simultaneously, recorded with the Covenant;
6. Any exceptions to title that will or may potentially adversely affect Conservation Values are not included under the Covenant, or are expressly excepted by written approval of the *Signatory Agencies*; and,
7. Any errors or discrepancies in this Property Assessment discovered subsequent to the signing of this Property Assessment that the Property Owner should have been aware of or made known, but did not, shall be evaluated by the *Signatory Agencies* as to their impacts on the Conservation Values as defined in the Covenant. Any resulting adverse impacts shall be quantified and deducted from the acreage applied to the Conserved Property according to the agency policies in effect at the time of discovery. Property Owner agrees to compensate for any resulting shortages of previously obligated Conserved Property due to this adjustment.



Westmark Development Corporation, Property Owner

12/05/06
Date

Addendum to Property Assessment and Warranty
Description of Title Exceptions
Title Report dated May 31, 2006
File No. 03208018

Schedule B Title Exception #	File Number/Date	Grantor / Owner	Grantee / Beneficiary	Description	Analysis
1	NA	NA	NA	Water rights	No impact
2	No. 83959 / May 15, 1961	Paul Ecke and Magdalena Ecke	Carlsbad Municipal Water District	Grant of 20 foot Right of Way	Excluded from Mitigation Sales
3	No. 126861 / July 14, 1964	Paul Ecke and Magdalena Ecke	Buena Sanitation District	Easement and Right of Way	Excluded from Mitigation Sales
4	Intentionally Deleted				
5	No. 672 / Jan. 4, 1965	Superior Court of California	Buena Sanitation District	Sewer Easement Condemnation	Excluded from Mitigation Sales
6	No. 81-361913 / May 6, 1981	NA	NA	Agreement of Public Facilities Fee	No impact
7	No. 84-237476 / June 25, 1984	Carlitas Company	San Marcos County Water District	Grant of Right of Way	Excluded from Mitigation Sales
8	No. 85-404978 / Oct. 29, 1985	Carlitas Company	City of Carlsbad and San Marcos County Water District	Joint use utility Easement	Excluded from Mitigation Sales
9	No. 85-420499 / Nov 8, 1985	Carlitas Company	San Marcos County Water District	10 foot Utility Easement	Excluded from Mitigation Sales
10	No. 88-463308 / Sept. 15, 1988	Carlitas Company	City of Carlsbad	Utility Easement	Excluded from Mitigation Sales
11	Intentionally Deleted				
12	No. 88-463311 / Sept. 15, 1988	Carlitas Company	City of Carlsbad	Open Space Easement	Excluded from Mitigation Sales
13	No. 89-151144 / March 24, 1989	Carlitas Company	Costa Real Municipal Water District	Utility Easement	Excluded from Mitigation Sales

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14	No. 89-208370 / April 21, 1989	Carlta Company	Costa Real Municipal Water District	Utility Easement	Excluded from Mitigation Sales
15	No. 89-363971 / July 11, 1989	Carlta Company	State of California	Deed Restriction	Restricts any development of property without written approval of Coastal Commission
16	No. 89-363972/ July 11, 1989	Carlta Company	State of California	Deed Restriction	Restricts any development of property without written approval of Coastal Commission
17	No. 89-442039 / August 17, 1989	Carlta Company	Vallecitos Water District	Utility Easement	Excluded from Mitigation Sales
18	No. 89-442040 August 17, 1989	Carlta Company	Vallecitos Water District	Utility Easement	Excluded from Mitigation Sales
19	No. 89-635598 / Nov. 22, 1989	The Price Company	Carlbus Associates	Reconveyance Notice	No impact
20	No. 90-174536 / April 2, 1990	The Price Company	City of Carlsbad	Agreement to Pay Public Facilities Fee	No impact
21	No. 90-595511 / Nov. 2, 1990	The Price Company	Buena Sanitation District	Utility Easement	Excluded from Mitigation Sales
22	No. 90-595512 / Nov. 2, 1990	The Price Company	County of San Diego	Utility Easement	Excluded from Mitigation Sales

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23	No. 1991-0530619 / Oct. 14, 1991	The Price Company	City of Carlsbad	Agreement to Pay Drainage Fees	No impact
24	No. 1991-0530620 / Oct. 14, 1991	The Price Company	City of Carlsbad	Hold Harmless Agreement	No impact
25	No. 1991-0627289 / Dec. 5, 1991	Owner	City of Carlsbad	CUP No. 90-3	No impact
26	No. 1992-0090987 / Feb. 20, 1992	The Price Club	San Diego Gas & Electric	Utility Easement / access	Excluded from Mitigation Sales
27	Parcel Map No. 16860 / May 28, 1992	Owner	City of Carlsbad	Recorded Parcel Map	Refer to Parcel Map
28	Parcel Map No. 16860 / May 28, 1992	Owner	City of Carlsbad	Access rights relinquished adjacent to Palomar Airport Road	Refer to Parcel Map
29	Parcel Map No. 16860 / May 28, 1992	Owner	City of Carlsbad	Public Sewer, Traffic Signal and Access	Refer to Parcel Map
30	No. 1995-0273189 / June 29, 1995	Encinitas Ranch Company, LP	Carlsbad Municipal Water District	Utility Easement	Excluded from Mitigation Sales
31	No. 1995-0273190 / June 29, 1995	Encinitas Ranch Company, LP	Carlsbad Municipal Water District	Utility Easement	Excluded from Mitigation Sales
32	Intentionally Deleted				
33	No. 1996-0188376 / April 17, 1996	Encinitas Ranch Company, LP	Carlsbad Municipal Water District	Utility Easement	Excluded from Mitigation Sales
34	No. 1996-0188377/ April 17, 1996	Encinitas Ranch Company, LP	Carlsbad Municipal Water District	Temporary Construction Easement	Easement not in effect; No impact
35	No. 1996-0242703 / May 13, 1996	Encinitas Ranch Company, LP	West Coast Land Fund, LP	Conservation Easement	Excluded from Mitigation Sales
36	No. 1996-0242704/ May 13, 1996	Encinitas Ranch Company, LP	West Coast Land Fund, LP	Conservation Easement	Excluded from Mitigation Sales
37	No. 96-242705 / May 13, 1996	West Coast Land	The Environmental	Conservation Agreement	Excluded from

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		Fund, LP	Trust, Inc.		Mitigation Sales
38	Parcel Map No. 16860 / May 28, 1992	Owner	City of Carlsbad	Public Water Easement	Refer to Parcel Map
39	No. 04-558295 / June 16, 2004	Westmark Development Corporation	Encinitas Ranch Company, LP	Deed of Trust	Removed from Title
40 – 43	Boilerplate Title Exceptions				No impact

EXHIBIT E-1

Legal Description – North Country Habitat Bank

All that certain real property situated in the County of San Diego, State of California, described as follows:

Parcel 4 of Parcel Map No. 16860 in the City of Carlsbad, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, May 28, 1992 as Instrument No. 92-324938 of Official Records.