PLEASE NOTE: The following Property Assessment and Warranty is provided as a standard template document. Any modifications to the boilerplate language shall be identified and explained in an attached addendum.

This Property Assessment and Warranty (“Property Assessment”) is made as of this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by [**insert name(s) of** vested owner(s) (this may include one individual or multiple individuals and/or business entity(ies)] (individually or collectively the “Property Owner”), for the benefit of the following agencies:

[delete any of the following agency(ies) not a party to the BEI/CBEI]

* District of the U.S. Army Corps of Engineers;
* Region IX of the U.S. Environmental Protection Agency;
* Field Office of the U.S. Fish and Wildlife Service;
* California Department of Fish and Wildlife,
* National Oceanic and Atmospheric Administration’s National Marine Fisheries Service;
* State Water Resources Control Board; and
* California Regional Water Quality Control Board, Region Choose an item.

The above-listed agencies are jointly referred to in this Property Assessment as [**Choose one consistent with BEI/CBEI terminology: Signatory Agencies, CBRT, or IRT**]. Property Owner acknowledges that this Property Assessment and the statements in it may be conclusively relied upon by the [**Choose one: Signatory Agencies, CBRT, or IRT**] when entering into the **[**Choose one: **Bank Enabling Instrument (“BEI”)** or**Conservation Bank Enabling Instrument (“CBEI”)] for the [**insert Bank name**]**.

The following are attached to this Property Assessment and incorporated herein by this reference:

Attachment 1 – Preliminary Title Report dated [**enter date**] prepared by [**enter Title Company name**].

Attachment 2 – Encumbrance Documents.

Attachment 3 – Explanation of all recorded or unrecorded lien or encumbrance on, or possessory or non-possessory interest in, the Property.

Attachment 4 – Boundaries/ Improvements/Encumbrances Map.

Attachment 5 – Legal Description(s) [Choose an item.]

[**Option 1: If the Bank will cover the entire Property**]

Legal Description of Property (defined below)

[**Option 2: If the Bank will cover only a portion of the Property**]

Legal Description of the Property (defined below); and,

Draft Legal Description of the Bank Property (defined below)

**Covenant, Representation and Warranty**

Property Owner (defined above) covenants, represents, and warrants to [**Choose one**: Signatory Agencies, CBRT or IRT] as follows **[Choose the appropriate statement for #1**]:

1. TITLE TO PROPERTY. Property Owner is the sole owner in fee simple of that certain real property containing approximately \_\_\_\_\_\_\_\_\_\_acres located in the county of [insert county name], state of California, designated as Assessor’s Parcel Number(s) [insert parcel number(s)](the “Bank Property”), as legally described in **Attachment 5** and the Preliminary Title Report (**Attachment 1).**

[**OR if the Bank Property is a portion of the real Property owned by Property Owner use this paragraph:**]

TITLE TO PROPERTY. Property Owner is the sole owner in fee simple of certain real property containing approximately \_\_\_\_\_\_\_\_\_\_acres located in the county of [insert county name], state of California, designated as Assessor’s Parcel Number(s) [insert parcel number(s)] (the “Property”), as legally described in **Attachment 5** and the Preliminary Title Report (**Attachment 1).**

A conservation easement will restrict a \_\_\_\_\_\_-acre portion of the Property (the “Bank Property”) as described in **Attachment 5**.]

1. AUTHORITY. Property Owner has, and upon the recordation of the required conservation easement will have, good, marketable and indefeasible fee simple title to the Bank Property, subject only to any exceptions approved in advance of recordation, in writing, by the **[**Choose one: Signatory Agencies, CBRT, or IRT**]**.
2. NO CONFLICTING RIGHTS. The Bank Property may be encumbered and restricted by the conservation easement as required by the [**Choose one: BEI or CBEI**], and no recorded or unrecorded lien, encumbrance, or possessory or non-possessory interest in, affecting and/or impacting the Bank Property contains terms (e.g., rights, permitted or prohibited activities) that might interfere or conflict with the terms of the conservation easement, including without limitation the conservation purposes identified in the conservation easement.
3. LEGAL ACCESS. There is, or will be prior to recordation of the conservation easement, legal access to the Bank Property, including without limitation legal access to and from [insert name of public street or road] as shown and described in **Attachment 4**.
4. SENIOR RIGHTS. A true, accurate and complete listing and explanation of each recorded or unrecorded lien, encumbrance, or other exception to, or possessory or non-possessory interest in, the Property is set forth in **Attachments 2 and 3.**
5. MINERAL, WATER, AND AIR RIGHTS. Except as stated herein, no mineral, air, or water right or any water associated with the Choose an item.] has been granted, transferred, abandoned or relinquished. [**If any mineral, air, or water right or any water associated with the Bank Property or Property has been granted, transferred, abandoned or relinquished, discuss the impact on the Property and Bank Property.**]
6. NO OTHER INTERESTS. Except as disclosed in **Attachments 2 and 3** there are no outstanding mortgages, liens, encumbrances or other interests in the Property (including, without limitation, mineral rights or interests).
7. CERTIFICATION. Prior to recordation of the conservation easement, Property Owner shall certify to the [**Choose one: Signatory Agencies, CBRT, orIRT**] in writing that this Property Assessment remains true, accurate and complete in all respects.
8. RESTRICTIONS. Property Owner has no knowledge or notice of any restrictions upon the use of the Bank Property for conservation purposes, or affecting the Bank Property’s conservation values, as described in the conservation easement, or any other matter that may adversely affect title to the Property or interfere with the establishment of a [Choose one: mitigation or conservation] bank thereon.
9. NO OPTIONS. Property Owner has not granted any options or committed or agreed to sell, subdivide, or obtain a lot line adjustment of the Property or any portion thereof, except as disclosed in writing to and agreed upon in writing by the [**choose one: Signatory Agencies, CBRT, or IRT**]. [**OR if Bank Property is a portion of the real property owned by Property Owner use this paragraph**: Property Owner has not granted any options, or committed or agreed to sell, subdivide, or obtain a lot line adjustment of the Property, or any portion thereof, including without limitation the Bank Property except as disclosed in writing to and agreed upon in writing by the [**choose one: Signatory Agencies, CBRT, or IRT**.]

A true, accurate and complete listing and explanation of each recorded or unrecorded lien or encumbrance on, or possessory or non-possessory interest in, the Property is set forth in **Attachment 3** attached to and incorporated by reference in this Property Assessment.

I hereby certify that the above information is true and correct.

PROPERTY OWNER

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Date

## ADDENDUM

## [Choose the appropriate statement:]

## Option 1: Property Owner represents and warrants that this Property Assessment and Warranty remains true and correct in all respects.

## OR

## Option 2: The encumbrances affecting the Property have changed and Property Owner has attached an updated Attachment 2 and Attachment 3. Property Owner represents and warrants that this Property Assessment and Warranty as updated with new Attachment 2 and Attachment 3 is true and correct.

PROPERTY OWNER

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Print Name: Date

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| --- | --- |
| Agency Tracking No. |  |
| Conservation Goals: |  |
| County(ies): |  |
| APN(s): |  |
| Title Company: |  |
| Order No. |  |
| Report Date: |  |
| Amended Date: |  |
| Vested Owner: |  |
|  | **Important:** Please note that the Preliminary Report should be referenced on the Boundaries/Improvements/Encumbrances (BIE) Map (Attachment 4 of the Property Assessment and Warranty); and, all exceptions shown on the BIE Map should be described by the recorded document number as well as the referenced Preliminary Report exception number consistent with this Explanation of Title Exceptions document. Please also describe any Unrecorded Encumbrances at the end of the list of recorded encumbrances.  \*Please state the intended disposition of each encumbrance, e.g., will the encumbrance remain (ACCEPT), remove the encumbrance (REMOVE), subordinate to a conservation easement (SUBORDINATE), remove from the legal description of the protected land (EXCLUDE), or expand the coverage of the title policy against loss or damage to the protected property (ENDORSE). |

EXPLANATION OF TITLE EXCEPTIONS

SCHEDULE B

| *(Note: Standardized title exceptions are exempt from explanations.)* Exception # | Book #  Page #  or  Instrument # | Description of Recorded Document  (Easement, Deed of Trust, Notice, Leases, etc.) | Enumerate and describe all rights and obligations in the encumbrance document and whether the rights and obligations will conflict with the conservation values of the conservation easement [link to referenced document]. | Explain Disposition of Rights (encumbrances)\*:  ACCEPT (no credit), ACCEPT (credit), REMOVE, SUBORDINATE, EXCLUDE (from easement area), ENDORSE (Additional Title Insurance) or Other |
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|  |  |  | EXPLANATION OF UNRECORDED ENCUMBRANCES |  |
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