

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

(Version Date: July 2009)

**PROPERTY ASSESSMENT and WARRANTY**

for

***[Insert Bank Name]***

This Property Assessment and Warranty (“Property Assessment”) is made as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by ***[insert property owner full legal name(s)]*** (“Property Owner”), for the benefit of ***[delete name(s) of any of the following agencies which is not a party: the\_\_\_\_\_ District of the U.S. Army Corps of Engineers, Region IX of the U.S. Environmental Protection Agency, the \_\_\_\_\_ Field Office of the U.S. Fish and Wildlife Service, and the California Department of Fish and Game, \_\_\_\_\_ Region]***, which agencies are jointly referred to in this Property Assessment as the “Signatory Agencies.” Property Owner acknowledges that this Property Assessment and the statements in it may be conclusively relied upon by the Signatory Agencies in entering into the ***[choose one: Bank Enabling Instrument (“BEI”) or Conservation Bank Enabling Instrument (“CBEI”)]*** for the ***[insert Bank name]***.

This Property Assessment provides a summary and explanation of each recorded or unrecorded lien or encumbrance on, or interest in, the Bank Property (as defined below), including, without limitation, each exception listed in the Preliminary Report issued by ***[insert title company name]***, ***[insert title report date]***, ***[insert title report number]*** (the “Preliminary Report”), covering the Bank Property, as described in **Attachments 1 and 2** attached hereto and incorporated by this reference. Specifically, this Property Assessment includes a narrative explaining each lien, encumbrance or other exception to title and the manner in which it may affect the conservation easement to be recorded against the Bank Property (the “Conservation Easement”) pursuant to the ***[choose one: BEI or CBEI]***.

Property Owner covenants, represents and warrants to each of the Signatory Agencies as follows:

1. Property Owner is the sole owner in fee simple of certain real property containing approximately \_\_\_\_\_ acres located in the City of \_\_\_\_\_ ***[insert city]***

*name*], 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 the Preliminary Report. Property Owner has, and upon the recordation of the Conservation Easement Property Owner shall 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 Signatory Agencies.

2. The Bank Property is available to be burdened by the Conservation Easement for the conservation purposes identified in the Conservation Easement, in accordance with the [BEI *or* CBEI].

3. The Bank Property includes legal access to and from [*insert name of public street or road*]. [*If special access rights are required to reach the Bank Property, those access rights must also be addressed in this Property Assessment.*]

4. 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 Bank Property is set forth in **Attachment 3** attached to and incorporated by reference in this Property Assessment. Except as disclosed in **Attachment 3**, there are no outstanding mortgages, liens, encumbrances or other interests in the Bank Property (including, without limitation, mineral interests). **Attachment 4**, attached hereto and incorporated by reference in this Property Assessment, depicts all relevant and plottable property lines, easements, dedications, etc. on the Bank Property.

5. Prior to recordation of the Conservation Easement, Property Owner shall certify to the Signatory Agencies in writing that this Property Assessment remains true, accurate and complete in all respects.

6. Property Owner has no knowledge or notice of any legal or other restrictions upon the use of the Bank Property for conservation purposes, or affecting its Conservation Values, as described in the Conservation Easement, or any other matters that may adversely affect title to the Bank Property or interfere with the establishment of a [*choose one*: mitigation *or* conservation] bank thereon.

7. Property Owner has not granted any options, or committed or obligated to sell the Bank Property or any portion thereof, except as disclosed in writing to and agreed upon in writing by the Signatory Agencies.

8. The following Appendix and attachments are incorporated by reference in this Property Assessment:

- a) Attachment 1 – Preliminary Report;
- b) Attachment 2 - Encumbrance Documents;
- c) Attachment 3 – Summary and Explanation of Encumbrances; and
- d) Attachment 4 - Map(s).

[**Note: Attachment 2** shall include copies from the Official Records of the county recorder’s office of all recorded exceptions to title (e.g. leases or easements). **Attachment 4** shall include a map(s), preferably in GIS Format, illustrating the area of the Bank Property affected by each exception to title.]

PROPERTY OWNER

\_\_\_\_\_  
*[Insert property owner full legal name(s)]*

\_\_\_\_\_  
Date

### Attachment 3

#### Sample Format for: Summary and Explanation of Encumbrances

##### MONETARY LIENS

Note: Any deeds of trust or other monetary lien(s) must be released or subordinated to the Conservation Easement by a recorded Subordination Agreement approved by the Signatory Agencies.

- Preliminary Report Exception or Exclusion #:
- Amount or Obligation secured:
- Term:
- Date:
- Trustor:
- Trustee:
- Beneficiary:
- Description:

\_\_\_\_ acres of Bank Property subject to lien

\_\_\_\_ acres of Bank Property *not* subject to lien

##### EASEMENTS AND RIGHTS OF WAY

- Preliminary Report Exception or Exclusion #:
- Date:
- Grantor:
- Grantee:
- Holder (if different from Grantee):
- Description:
- Analysis: [*whether and how this exception will affect the Conservation Easement or the Conservation Values of the Bank Property*]

\_\_\_\_ acres of Bank Property subject to easement

\_\_\_\_ acres of Bank Property *not* subject to easement

##### LEASES

- Preliminary Report Exception or Exclusion #:
- Date:
- Landlord/Lessor:
- Tenant/Lessee:
- Premises:
- Term:

- Description:
- Analysis: [*whether and how this exception will affect the Conservation Easement or the Conservation Values of the Bank Property*]  
 \_\_\_\_\_ acres of Bank Property subject to lease  
 \_\_\_\_\_ acres of Bank Property *not* subject to lease

COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS

- Preliminary Report Exception or Exclusion #:
- Dated:
- Grantor or Declarant:
- Grantee (if applicable):
- Description:
- Analysis: [*whether and how this exception will affect the Conservation Easement or the Conservation Values of the Bank Property*]  
 \_\_\_\_\_ acres of Bank Property subject to exception/exclusion  
 \_\_\_\_\_ acres of Bank Property *not* subject to exception/exclusion

OTHER INTERESTS (INCLUDING MINERAL OR OTHER SEVERED INTERESTS)

- Holder
- Description: [*must address whether or not the interest includes any surface rights and, if applicable, a description of those rights*]
- Analysis: [*whether and how this exception will affect the Conservation Easement or the Conservation Values of the Bank Property*]  
 \_\_\_\_\_ acres of Bank Property subject to interest  
 \_\_\_\_\_ acres of Bank Property *not* subject to interest