

SMUD SO: 30167633
RED File No: GD #38564 (No COP File)
OWNER: Sunrise Recreation & Park District
APN: 230-0032-003 (Portion)
Project: SRPD-SMUD Electrical Easement Eugene H.
Ahner Park

SALES AND PURCHASE AGREEMENT

This Sales and Purchase Agreement, (hereinafter referred to as “**Agreement**”), dated as of _____, (hereinafter referred to as “**Agreement Date**”), is made by and between the **SUNRISE RECREATION AND PARK DISTRICT**, a park district existing under authority of Public Resources Code § 5780 et seq. (hereinafter referred to as “**SRPD**”), and the **SACRAMENTO MUNICIPAL UTILITY DISTRICT**, a municipal utility district, (hereinafter referred to as “**SMUD**”), in consideration of the mutual covenants and agreements herein contained, and is subject to the conditions set forth below, and is made with reference to the following facts:

RECITALS

- A. SRPD is the owner of fee title to that certain real property commonly known as Eugene H. Ahner Park located at 5517 Manzanita Avenue, Sacramento, California 95841, also known as Assessor’s Parcel Number (APN) 230-0032-003, consisting of approximately 7.02 acres of land, together with all improvements, fixtures and personal property thereon, and all rights, hereditaments, easements, appurtenances thereto belonging or otherwise appertaining (hereinafter referred to as the “**Property**”); and
- B. SMUD desires to purchase from SRPD and SRPD desires to sell to SMUD, pursuant to the provisions of this Agreement, an **Easement for Electrical Facilities** on a portion of the Property, consisting of approximately 686 square feet, which is more particularly described and depicted in **Exhibits “A”** and “**B**” attached hereto and incorporated herein by reference, (hereinafter referred to as the “**Easement**”); and
- C. The Easement is necessary for SMUD’s construction of electrical facilities to install new conduit-encased line located at Eugene H. Ahner Park (hereinafter referred to as “**Project**”).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS.

The foregoing recitals are true and correct and are hereby incorporated by reference.

2. PURCHASE AND SALE.

SRPD hereby agrees to sell and convey, and SMUD hereby agrees to purchase and accept, for the purchase price and upon the terms and conditions herein stated, the Easement described above.

3. CONSIDERATION.

The purchase price for the Easement shall be ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) (hereinafter referred to as the “**Purchase Price**”). SMUD shall remit payment of the Purchase Price to SRPD within thirty (30) calendar days of the date this Agreement is fully executed. SMUD shall make all payments to the Sunrise Recreation and Park District at 7801 Auburn Blvd, Citrus Heights, California, 95610.

The parties acknowledge that SMUD has paid to the County of Sacramento (hereinafter referred to as “**COUNTY**”), and the COUNTY has deposited, Check No. 1047443 in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$7,500.00), as a non-refundable administrative cost for COUNTY staff time to facilitate this real estate transaction on behalf of the SRPD.

4. EASEMENT DEED.

SRPD shall execute and record the Easement deed in the form set forth in **Exhibit “C”**, attached hereto and incorporated herein by reference, conveying title to the Easement to SMUD. Prior to recording, SMUD shall provide SRPD with an executed acceptance document evidencing the SMUD’s acceptance of the Easement deed.

5. TITLE AND ENCUMBRANCES.

SRPD is the fee owner of the Property. SMUD shall take title to the Easement subject to any and all encumbrances.

6. AS-IS TRANSFER.

SMUD acknowledges that, except as expressly contained in this Agreement, neither SRPD nor anyone acting for or on behalf of the SRPD has made any representation, warranty or promise to SMUD concerning the physical aspects or condition of the Easement area; the feasibility or desirability of the Easement area for any particular use; the conditions of soils, sub-soils, groundwater and surface waters; or the presence or absence of any other physical aspect of the Easement area; and that in entering into the Agreement, SMUD has not relied on any representation, statement or warranty of SRPD or anyone acting for or on behalf of SRPD, other than as may be expressly contained in this Agreement, and that all matters concerning the Easement area shall be independently verified by SMUD and that SMUD shall purchase the Easement on SMUD's own examination thereof; and that if SMUD elects to acquire the Easement, is purchasing the Easement in its “as-is” condition and its “as-is” state of repair.

7. INDEMNIFICATION.

SMUD shall defend, indemnify and hold harmless SRPD, its respective Board Members and Directors, officers, agents, employees, authorized volunteers, and contractors from and against all demands, claims, actions, liabilities, losses, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of SMUD, its officers, directors, agents, employees, or contractors.

SRPD shall defend, indemnify, and hold harmless SMUD, its respective Board of Directors, officers, agents, employees, authorized volunteers, and contractors from and against all demands,

claims, actions, liabilities, losses, damages and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of SRPD, its respective Board Members and Directors, officers, agents, employees, authorized volunteers, and contractors.

It is the intention of SRPD and SMUD that the provisions of this paragraph be interpreted to impose on each party responsibility to the other for the acts and omissions of their respective Boards, officers, directors, agents, employees, authorized volunteers, and contractors. It is also the intention of SRPD and SMUD that, where fault is determined to have been contributory, principles of comparative fault will be followed and each party shall bear the proportionate cost of any damage attributable to the fault of that party, its officers, directors, agents, employees, authorized volunteers, and contractors.

This indemnity shall survive the expiration or termination of the Agreement.

8. INSURANCE OR SELF-INSURANCE.

Each party, at its sole cost and expense, shall carry insurance - or self-insure – its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, property, professional liability, pollution liability, and business automobile liability adequate to cover its potential liabilities hereunder. Each party agrees to provide the other thirty (30) days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverages. Failure to maintain insurance as required in this Agreement is a material breach of contract and may be grounds for termination of the Agreement. In addition, SMUD must require in all contracts with contractors and subcontractors to name SRPD, its governing Board, officers, directors, agents, employees, and volunteers as an additional insured on all policies where applicable. This provision shall survive the recordation of the Easement and shall not merge with title.

9. POSSESSION.

It is agreed and confirmed between the parties notwithstanding other provisions in this Agreement, the right of possession and use of the Easement area by SMUD, including the right to remove and dispose of improvements and the right to install improvements related to the Project, shall commence on the date of recordation of the Easement.

10. RE-CONSTRUCTION OF SRPD'S REMAINDER PROPERTY.

SMUD and its authorized agents and contractors are hereby granted permission to enter onto SRPD's remainder Property to reconstruct SRPD's appurtenant areas as necessary to conform to Project improvements. The cost of such re-construction on the SRPD's remainder Property shall be borne by SMUD, and includes the reconstruction of all paved and landscaped areas damaged as a result of the SMUD's Project, including, but not limited to, re-grading and replanting any affected lawn, landscaped areas, and any trees that may be damaged or removed, and repair and/or replacement of irrigation systems, curb and sidewalk areas. This provision shall survive the recordation of the Easement and shall not merge with title.

11. CONTINGENCY.

It is understood and agreed between the parties that the completion of this transaction is contingent

upon the specific approval and authorization by the SRPD's Board of Directors of this Agreement and the Easement deed and written acceptance of the Easement by SMUD's Board of Directors.

12. NOTICE.

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by electronic facsimile and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if mailed, on the date of posting by the United States Post Office, or (iii) if given by electronic facsimile, when received by the other party.

TO SRPD: Sunrise Recreation & Park District
7801 Auburn Blvd
Citrus Heights, CA 95610
Telephone: 916-725-1585
Fax: 916-725-7321

with a copy to:
County of Sacramento
Real Estate Division
Attn: Asset Management Section
3711 Branch Center Road
Sacramento, CA 95827
Telephone: 916-876-6200

TO SMUD: Sacramento Municipal Utility District
Attn: Real Estate Services, B 209
P.O. Box 15830
Sacramento, CA 95852
Telephone: 916-732-5016
Fax: 916-732-6008

Notice of change of address shall be given by written notice in the manner described in this Paragraph.

13. MISCELLANEOUS.

- a. **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, or is found to be prohibited by law, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable or prohibited, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- b. **Waivers.** No waiver of any breach of any covenant or provision hereof shall be deemed a waiver of any preceding or succeeding breach hereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal

to the period of delay.

- c. **Entire Agreement.** This Agreement (including all exhibits attached hereto) is the final expression of, and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understanding with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and lawful assignees.
- d. **Authority of Signatories.** Each party to this Agreement warrants to the other that it is duly organized and existing and each signatory hereto represents to the other party that it has full right and authority to enter into and consummate this Agreement and all related documents.
- e. **Survival of Representations.** Notwithstanding any provisions of this Agreement, the covenants, representations, warranties, hold harmless and indemnification obligations made by each party herein shall survive (1) the recordation of the Easement and shall not merge with title, and (2) the termination and/or cancellation of this Agreement.
- f. **Attorney's Fees.** Any party may bring a suit or proceeding to enforce or require performance of the terms of this Agreement, and each party shall be responsible for its own attorney's fees and costs.
- g. **Commission.** There is no real estate, finders or other commission due or payable by reason of this transaction. Each party shall indemnify the other for any actions which may cause the other party to be liable for a real estate brokerage or sales commission arising here from.
- h. **Governing Law.** This Agreement shall be governed by the laws of the State of California.
- i. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.
- j. **Time of Essence.** SRPD and SMUD hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.
- k. **Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the parties to create the relationship of principal and agent, a partnership, joint venture or any other association between SRPD and SMUD.
- l. **Construction of Agreement.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. It is agreed and acknowledged by the parties hereto that the provisions of this Agreement have been

arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

- m. **Duplicate Counterparts.** This Agreement may be executed in several counterparts, and shall be deemed one and the same agreement. Electronic and scanned signatures shall be deemed original signatures for all purposes, including proof of terms herein, and shall be binding on each party.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, the parties have executed the Agreement the day and year first above written as follows:

SMUD:

Sacramento Municipal Utility District, a municipal utility district

By: _____
Blandon Granger, Supervisor
Real Estate Services

Date: _____

SRPD:

Sunrise Recreation and Park District, a park district existing under authority of the Public Resources Code § 5780 et seq.

Date: _____

By: _____
Dave Mitchell
District Administrator
Sunrise Recreation & Park District
BOD Resolution No.: 2017-0010
Dated: January 10, 2017;
Advisory Board Resolution No.: _____
Dated: _____

**REVIEWED AND APPROVED BY
DISTRICT COUNSEL:**

By: _____
Deon C. Merene
Counsel for SRPD

EXHIBIT "A" to Agreement

Legal Description

All that real property situated in the County of Sacramento, State of California, being a portion of the parcel of land described in that certain *Grant Deed* recorded on May 7, 1974 in Book 740507, at Page 97, Official Records of Sacramento County, and more particularly described in the following two (2) routes:

1. Within a strip of land 5 feet in width, the centerline of which is described as follows: Commencing at the intersection of centerlines of Palm Avenue and Manzanita Avenue as shown on that certain *Plat of Palm Avenue Estates* filed for record on March 9, 1976 in Book 102 of Maps, at Page 11, Sacramento County Records; thence, along the centerline of said Manzanita Avenue, South 00°46'30" East a distance of 411.53 feet; thence, leaving said centerline at a right angle, South 89°13'30" West a distance of 40.00 feet to a point in the east line of said deeded parcel and the west line of Manzanita Avenue as described in that certain *Right of Way Deed* recorded on March 10, 1965 in Book 5196, at Page 544, Official Records of Sacramento County; said point being the Point of Beginning;

Thence, North 58°59'41" West a distance of 25.43 feet;

Thence, South 88°49'56" West a distance of 77.84 feet;

Thence, North 01°27'22" West a distance of 13.85 feet to a point hereinafter referred to as Point "A".
2. Within a strip of land 10 feet in width, the centerline of which is described as follows: Beginning at said Point "A"; thence, North 01°27'22" West a distance of 10.00 feet.

The sidelines of said strips shall be lengthened or shortened to meet at angle points and to terminate in the west line of said Manzanita Avenue.

Containing 686 square feet, more or less.

A plat entitled "Exhibit B" is attached hereto and by this document made a part hereof.




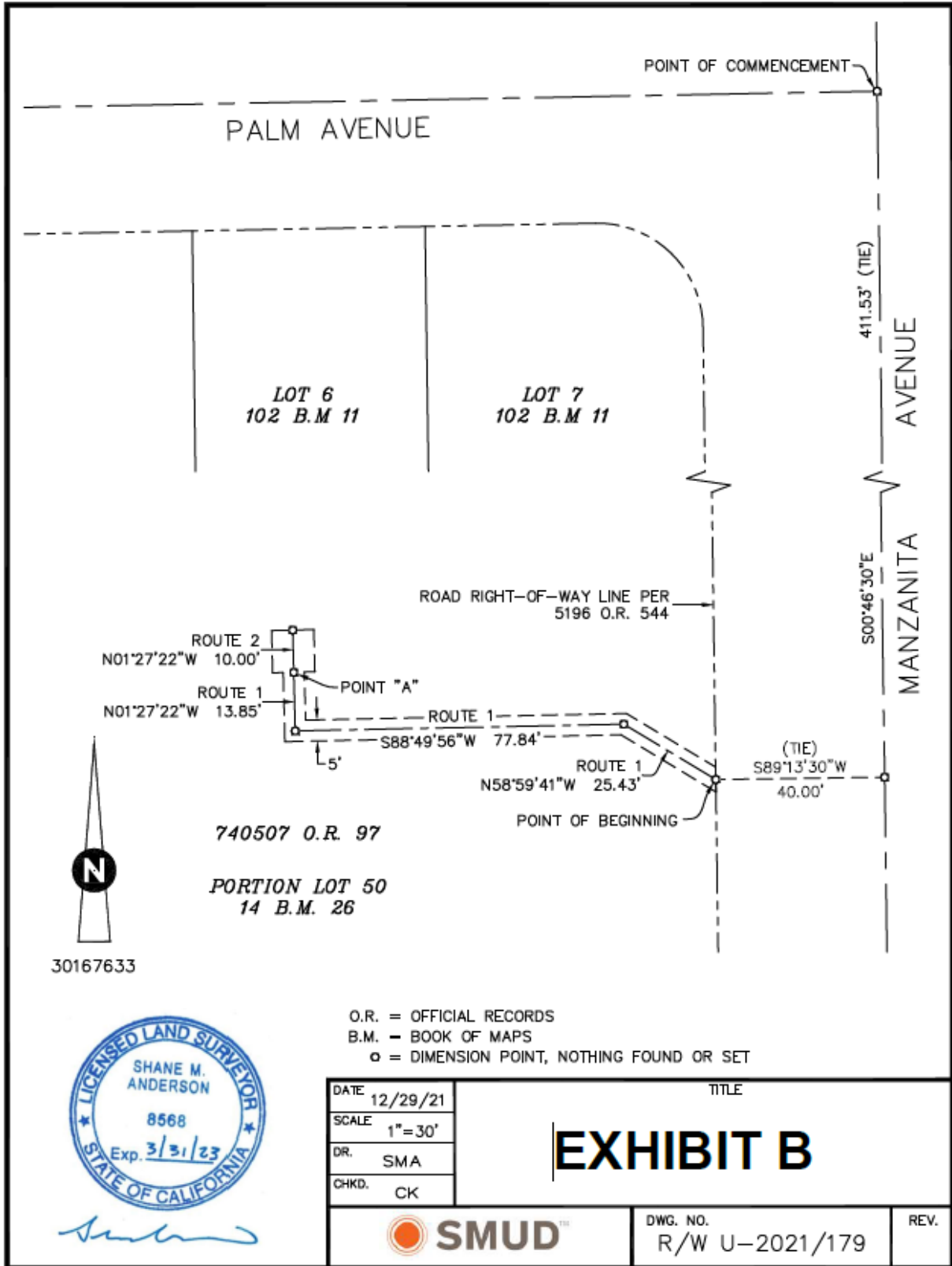

Shane Anderson, LS 8568
Date: December 29, 2021

EXHIBIT "B" to Agreement

Plat Map



Z:\Project_Unclassified\30167633 - Manzanita Park\Dwg\30167633 - POINTS.dwg Dec 30, 2021 - 9:16am

EXHIBIT "C" to Agreement

Easement Deed

RECORD AT REQUEST OF AND RETURN TO:
Sacramento Municipal Utility District
Attention: Real Estate Services – B 209
P. O. Box 15830
Sacramento, CA 95852-1830

No Fee Document – Per Govt. Code Sec. 6103
No County Transfer Tax Per R & T Code 11922

SMUD BY: _____ RVD _____ ARWS _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

APN: 230-0032-003

R/W U-2021/179

SO 30167633

EASEMENT FOR ELECTRICAL FACILITIES

SUNRISE RECREATION AND PARK DISTRICT, a park district existing under authority of Public Resources Code § 5780 et seq., (hereinafter referred to as "Grantor"), does hereby grant to **SACRAMENTO MUNICIPAL UTILITY DISTRICT**, a municipal utility district, (hereinafter referred to as "Grantee"), and its successors and assigns, an Easement For Electrical Facilities ("Easement") to construct, place, inspect, remove, replace, maintain and use electrical and communication facilities consisting of underground conduits, wires and cables, with associated, above-ground or below-ground transformers, transformer pads, pedestals, service equipment, terminals, splicing, switching and pull boxes, switch and fuse cubicles, cubicle pads, and all other necessary fixtures and appurtenances, over all that real property situated in the unincorporated area of Sacramento County, State of California, described as follows:

See Exhibits "A" and "B" attached hereto and made a part hereof;

Said right includes the trimming and removal by Grantee of any trees or foliage along said Easement whenever considered necessary for the complete enjoyment thereof and the right of ingress to and egress from said Easement for the purpose of exercising and performing all rights and privileges granted herein. In addition, the Easement area shall be kept clear of any building or other structure and Grantor will not drill or operate any well within the Easement area.

Dated this _____ day of _____, 20 ____.

SUNRISE RECREATION AND PARK DISTRICT,
a park district existing under authority
of Public Resources Code § 5780 et seq.

By: _____
David Mitchell
District Administrator
Sunrise Recreation & Park District

BOD Resolution No.: 2017-0010

Dated: January 10, 2017;

Advisory Board Resolution No.: 22-_____

Dated: January 20, 2022

SALE LOG NO. C - XXXX

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)

COUNTY OF _____)

On _____ before me, _____,
date name of notary officer
 notary public,

personally appeared _____,
name(s) of signer(s)

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary

-----OPTIONAL SECTION-----

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)

Title(s)

- PARTNER(S) LIMITED
- GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)

- GUARDIAN/CONSERVATOR
- OTHER: _____

**SIGNER IS REPRESENTING:
 Name of Person(s) or entity(ies)**

OPTIONAL SECTION:

**DATA REQUESTED HERE IS
 NOT REQUIRED BY LAW.**

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____ DATE _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

CERTIFICATE OF ACCEPTANCE

This is to certify that SACRAMENTO MUNICIPAL UTILITY DISTRICT, a municipal utility district, hereby accepts for public purposes the interest in real property conveyed by the foregoing deed or grant and consents to the recordation thereof. The undersigned officer is authorized to execute this acceptance and consent pursuant to authority conferred by Resolution No. 89-6-11, adopted by said District's Board of Directors on June 20, 1989.

Blandon Granger, Supervisor
Real Estate Services

Date: _____