

AGREEMENT FOR DEDICATION OF REAL PROPERTY

THIS AGREEMENT FOR DEDICATION OF REAL PROPERTY (this “Agreement”) is entered into as of _____, 2023 (the “Effective Date”) by and between the Olivehurst Public Utility District, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. (“Grantee”), and the Estom Yumeka Maidu Tribe of the Enterprise Rancheria, a federally recognized Indian tribe listed in the Federal Register as the Enterprise Rancheria of Maidu Indians of California (“Grantor”).

THE PARTIES ENTER INTO THIS AGREEMENT on the basis of the following facts, understandings and intentions:

A. Grantor is the owner of that certain property located in the County of Yuba, State of California, more particularly described on Exhibit “A-1” and depicted on Exhibit “A-2” attached hereto (the “Property”).

B. The Property has not been legally subdivided under California Government Code Section 66410, et seq. (the “Subdivision Map Act”), however under section 66428(a)(2) of the Subdivision Map Act, a parcel map is not required for land conveyed to or from a governmental agency, public entity, public utility or for land conveyed to a subsidiary of a public utility for convenience of that public utility.

C. Grantor desires to dedicate the Property to Grantee, and Grantee desires to accept such dedication of the Property on and subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises of the parties, the parties hereby agree as follows:

1. **AGREEMENT TO DEDICATE.**

Grantor agrees to dedicate the Property to Grantee, and Grantee agrees to accept the dedication of the Property from Grantor, subject to and in accordance with all of the terms, covenants and conditions set forth in this Agreement.

2. **DELIVERY OF DOCUMENTS.**

The transaction contemplated in this Agreement shall be handled through an escrow with _____ (“Escrow Holder” or “Title Company”), _____, California 9_____, Escrow No. _____ (“Escrow”). On or prior to the Closing Date (as defined below) Grantor shall complete, execute, acknowledge (as applicable) and deliver to Escrow Holder: (i) a Grant Deed in substantially the form attached hereto as Exhibit “B” (the “Grant Deed”) properly acknowledged and suitable for recordation, (ii) any other documents reasonably required by Escrow Holder to consummate the transactions contemplated under this Agreement in form reasonably acceptable to the parties hereto, and (iii) all closing costs for the transactions contemplated in this Agreement in immediately available funds. On or before the Closing Date, Grantee shall complete, execute, acknowledge (as applicable) and deliver to Escrow Holder: (i) a Certificate of Acceptance in substantially the form attached to the Grant Deed properly

acknowledged and suitable for recordation, (ii) any other documents reasonably required by Escrow Holder to consummate the transactions contemplated under this Agreement in form reasonably acceptable to the parties hereto.

3. TITLE.

A preliminary title report prepared by the Title Company is attached hereto as Exhibit “C” (the “PTR”) All exceptions to title which have been disclosed in the PTR are hereby approved by Grantee and shall constitute the “Permitted Exceptions.” At the Closing, Grantor shall deliver possession of the Property to Grantee subject only to the Permitted Exceptions, to be evidenced by a CLTA title policy issued by Title Company (which is a condition to Closing as well as a covenant).

4. CLOSING COSTS; PRORATION OF TAXES.

Escrow shall close, and the Grant Deed shall be recorded in the Office of the County Recorder of Yuba County, California (the “Official Records”), within thirty (30) days after the Effective Date (the “Closing Date”), unless extended by mutual agreement of the parties hereto. Real property taxes shall be prorated in accordance with California Revenue and Taxation Code section 5081 et seq., as of the recordation of the Grant Deed. Grantor shall pay all title, escrow, and recording costs, to close the transaction contemplated in this Agreement.

5. GRANTOR WARRANTIES.

Grantor warrants that it has all necessary legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby in the execution, delivery and performance of this Agreement. Furthermore, the execution and delivery of this Agreement has been duly authorized and no other action by Grantor is required in order to make it a valid and binding contractual obligation of Grantor.

Grantor warrants that there are no oral or written leases or other occupancy agreements on any portion of the Property.

Grantor warrants that to the best of its current actual knowledge without any duty of inquiry and except as disclosed in Phase I Environmental Site Assessment for Enterprise Rancheria 43-Acre Property dated May 2021, prepared by Analytical Environmental Services, the Property is not, as of the date of this Agreement, in violation of any federal, state or local law, ordinance or regulation relating to Hazardous Substances (as defined herein), industrial hygiene or the environmental conditions on, under or about the Property including, but not limited to, soil and ground water condition. “Hazardous Substances” means any chemical, substance or material classified or designated as hazardous, toxic or radioactive, or other similar term, regulated under any Environmental Law, including, asbestos, petroleum and hydrocarbon products.

Grantor further agrees to hold harmless and reimburse Grantee for any and all losses or expenses resulting or arising from breach or claim of breach with respect to the foregoing. This obligation shall survive Closing and recording of the Grant Deed.

6. **AS-IS DEDICATION.**

Grantee acknowledges that it has or will conduct its own due diligence and investigations regarding the Property and Grantee's intended uses thereof. Grantee further acknowledges that this Agreement provides Grantee with sufficient time and opportunity to conduct any related due diligence of the Property which Grantee or its consultants and agents deem necessary and appropriate for Grantee to fully and completely evaluate the state of title, the physical, environmental and economic condition of the Property and the Property's suitability for Grantee's intended use. Grantee is accepting the dedication of the Property solely in reliance upon Grantee's own due diligence and investigation of the Property and fully and completely understands that, except for Grantor's representations and warranties expressly set forth in this Agreement, no representations or warranties of any kind or nature whatsoever, oral or written, express or implied, have been made by Grantor. Grantee further acknowledges that the Property shall be dedicated by Grantor and accepted by Grantee on and as of the Closing Date "AS IS, WHERE IS, WITH ALL FAULTS", without any representation or warranty of any kind or nature whatsoever, either express or implied, except as expressly set forth in this Agreement. Except as otherwise expressly set forth in this Agreement, Grantee, for itself, and its successors and assigns, hereby waives, releases, remises, acquits and forever discharges the Grantor, of and from any claims, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation whatsoever, whether direct or indirect (collectively, the "Claims"), which Grantee now has or which Grantee may have in the future on account of or in any way arising out of or in connection with its use and ownership of the Property, whether caused by Grantor or any other party and whether or not known to Grantee at or before the close of escrow (collectively, the "Released Matters"). Grantee hereby assumes full responsibility for any injuries, damages, losses or liabilities that may hereafter occur with respect to the Released Matters, whether known or unknown. With respect to the Released Matters, Grantee further acknowledges it has had full advice of legal counsel of Grantee's choice and has read and considered the provisions of California Civil Code Section 1542, which reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

Grantee hereby expressly waives and relinquishes any right or benefit which Grantee has or may have under California Civil Code Section 1542 as it relates to the Released Matters, and in this connection Grantee acknowledges and hereby expressly agrees this Agreement shall extend to all unknown, unsuspected and unanticipated claims or damages, as well as those which are now disclosed, with respect to the Released Matters.

The terms of this Section 6 shall not be merged into any documents to be delivered at the close of escrow, but shall survive the close of escrow.

7. **SEVERABILITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being impaired or invalidated in any way.

8. **GOVERNING LAW.**

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9. **AUTHORITY AND EXECUTION.**

Each person executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

10. **ENTIRE AGREEMENT.**

This Agreement represents the full and complete understanding of the parties with respect to the subject matter hereof. Any prior or contemporaneous oral or written agreements by and between the parties or their agents and representatives with respect to the subject matter hereof are revoked and extinguished by this Agreement.

11. **NOTICES.**

All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement may be (a) personally served, (b) served by registered or certified mail (postage pre-paid), (c) sent by email transmission (provided that the original notice or demand is delivered by next day overnight delivery service), or (d) sent by next day overnight delivery service. Any such notice or demand shall be addressed to the parties as listed in this Section 10. Service of any such notice or demand shall be deemed complete upon receipt in the event of personal service, on the third business day after deposit in the U.S. mail if sent via registered or certified mail, upon transmission without notation error in the event sent via email transmission, and on the next business day if sent via an overnight delivery service with a delivery confirmation, if sent to each party at the address set forth below with the required proper postage:

To Grantor:

Estom Yumeka Maidu Tribe of the Enterprise Rancheria
2133 Monte Vista Ave.
Oroville, CA 95966
Attn: Chairperson

With a copy to:

Maier Pfeffer Kim Geary & Cohen, LLP
1970 Broadway, Suite 825
Oakland, CA 94612
Attn: John Maier

To Grantee:

Olivehurst Public Utility District
P.O. Box 670
Olivehurst, California 95961
Attn: General Manager

With a copy to:

Burke, Williams & Sorensen, LLP
1 California Street, Suite 3050
San Francisco, CA 94111-5432
Attn: Deirdre Joan Cox

Any party, by written notice to the others in the manner herein provided, may designate an address different from that set forth above. Notices required pursuant to the terms of this Agreement shall be delivered prior to 5 p.m. (Pacific Time) on the date such notice is due. Any notice which is received or deemed received on a weekend or holiday shall be deemed to have been received on the first business day thereafter. Notices delivered by counsel for a party on behalf of such party shall be deemed delivered by such party.

12. **TIME OF THE ESSENCE.**

Time is of the essence of each and every provision herein contained.

13. **PREVAILING PARTY ATTORNEYS' FEES.**

In the event of any controversy, claim, dispute, arbitration, or litigation between the parties hereto to enforce or interpret any of the provisions of this Agreement or any right of either party hereto, the non-prevailing party to such controversy, claim, dispute, arbitration or litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees and costs, court or dispute resolution costs, arbitrator's, mediator's, consultant's and expert witness' fees and costs incurred by the prevailing party, including, without limitation, fees incurred during trial or resolution of any action or dispute and any fees incurred as a result of an appeal from a judgment entered in any such matter. A prevailing party shall include without limitation (a) a party who dismisses an action in exchange for sums due, (b) the party who receives performance from the other party of an alleged breach of covenant or a desired remedy where such performance is substantially equal to the relief sought in an action, or (c) the party determined to be the prevailing party by a court of law. The terms of this Section 13 shall survive the close of escrow or termination of this Agreement.

14. **NO ASSIGNMENT; SUCCESSOR AND ASSIGNS.**

This Agreement and all the covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The foregoing sentence notwithstanding, Grantee may not assign this Agreement or any of its rights hereunder without the prior written consent of Grantor.

15. **COUNTERPARTS.**

This Agreement may be executed in one or more identical counterparts. All such separate counterparts together shall constitute one and the same instrument. Counterpart signature pages delivered by facsimile or other electronic means shall have the same force and effect as an original.

[remainder of page is intentionally blank, signatures follow on next page]

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

Grantee:

Olivehurst Public Utility District, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq.

By: _____
Name: _____
Title: _____

Grantor:

Estom Yumeka Maidu Tribe of the Enterprise Rancheria, a federally recognized Indian tribe listed in the Federal Register as the Enterprise Rancheria of Maidu Indians of California

By: _____
Name: _____
Title: _____

Exhibit "A-1"

Property Legal Description

Exhibit "A-2"

Depiction of the Property

Exhibit "B"

Recording Requested by:

When recorded, mail to:

APN:

(This space for Recorders use only.)

No recording fee required; this document is exempt from fee pursuant to Sections 6103 and 27383 of the California Government Code. This deed is exempt from tax pursuant to Section 11922 of the California Revenue and Taxation Code.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the Enterprise Rancheria of Maidu Indians of California ("Grantor") hereby grants to the Olivehurst Public Utility District, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. ("Grantee"), the following described real property situated in the County of Yuba, State of California:

SEE EXHIBIT "A"

This conveyance is subject to taxes and assessments and all other covenants, conditions, restrictions, reservations, rights, rights of way, easements, encumbrances, liens and title matters of record or visible from an inspection of the property and all matters which an accurate survey of the property would disclose.

Dated this _____ day of _____, 2023

Enterprise Rancheria of Maidu Indians of California

By: _____

Name: Glenda Nelson

Title: Tribal Chairperson

Certificate of Acceptance

This is to certify that the interest in real property conveyed by the foregoing deed or grant dated _____, 2023, from the Enterprise Rancheria of Maidu Indians of California to the Olivehurst Public Utility District, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq., is hereby accepted by the undersigned _____ on behalf of the Olivehurst Public Utility District, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. pursuant to authority conferred by Resolution No. _____ of the _____ adopted on _____, _____, and the grantee consents to recordation thereof by its duly authorized officer.

Dated this _____ day of _____, 2023

Olivehurst Public Utility District, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq.

By: _____
Name: _____
Title: _____

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 CALIFORNIA)
COUNTY OF YUBA)

On _____, 2023 before me, _____, Notary Public, personally appeared _____, 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: _____

(Seal)

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COUNTY OF YUBA)

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Signature: _____

(Seal)

Exhibit "C"

PTR
(see attached)

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Grantor warrants that there are no oral or written leases or other occupancy agreements on any portion of the Property.

Grantor warrants that to the best of its current actual knowledge without any duty of inquiry and except as disclosed in Phase I Environmental Site Assessment for Enterprise Rancheria 43-Acre Property dated May 2021, prepared by Analytical Environmental Services _____ *[insert any disclosure documents]*, the Property is not, as of the date of this Agreement, in violation of any federal, state or local law, ordinance or regulation relating to Hazardous Substances (as defined herein), industrial hygiene or the environmental conditions on, under or about the Property including, but not limited to, soil and ground water condition. "Hazardous Substances" means any chemical, substance or material classified or designated as hazardous, toxic or radioactive, or other similar term, regulated under any Environmental Law, including, asbestos, petroleum and hydrocarbon products.

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With a copy to:

Maier Pfeffer Kim Geary & Cohen, LLP
1970 Broadway, Suite 825
Oakland, CA 94612
Attn: John Maier

To Grantee:

Olivehurst Public Utility District
P.O. Box 670
Olivehurst, California 95961
Attn: General Manager

With a copy to:

Burke, Williams & Sorensen, LLP
~~1901 Harrison~~ 1 California Street, Suite ~~900~~3050
~~Oakland~~ San Francisco, CA ~~-94612~~94111-5432
Attn: Deirdre Joan Cox

Any party, by written notice to the others in the manner herein provided, may designate an address different from that set forth above. Notices required pursuant to the terms of this Agreement shall be delivered prior to 5 p.m. (Pacific Time) on the date such notice is due. Any notice which is received or deemed received on a weekend or holiday shall be deemed to have been received on the first business day thereafter. Notices delivered by counsel for a party on behalf of such party shall be deemed delivered by such party.

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