



# Westlands Water District

3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

## LAND/WATER ACQUISITION PROGRAM REVERSE AUCTION

### NOTICE INVITING BIDS

Bids from landowners willing to sell land and/or the land's appurtenant water entitlement to Westlands Water District, in connection with the Land/Water Acquisition Program more fully described in the enclosed documents, will be received by the District in the Fresno office located at 3130 N. Fresno Street, P.O. Box 6056, Fresno, California, 93703, until 5:00 p.m. (Pacific Standard Time), November 30, 2010. A bid may not be considered unless it is received in the District's Fresno office prior to the time set forth above.

The District reserves the right after opening bids to: (1) reject any and all bids, (2) reject any bid which is not responsive to or does not comply with the Bid Documents, (3) waive any irregularity in any and all bids, (4) accept bids as to some parcels described therein but reject such bids with respect to other parcels described therein unless the bid specifically provides that it must be accepted or rejected in its entirety, or (5) cancel the auction.

Bids must be submitted in a sealed envelope clearly marked "Land/Water Acquisition Program" on or before the due date specified above and include the name and address of the seller. No bid will be accepted from a seller if it is determined by the District that seller does not meet any required qualifications.

The Bid Documents shall consist of 1) this Notice Inviting Bids, 2) General Information, 3) Terms and Conditions, 4) Bid Instructions, 5) Bid Submittal Form, 6) Real Estate Purchase and Sale Agreement and Escrow Instructions, or Allocation Purchase and Sale Agreement and Escrow Instructions, as applicable, and any addenda that may be issued by the District prior to the time set for receipt of bids. All documents are on file in the District's Fresno Office and are incorporated herein by reference and made a part of this Notice.

Bid Documents may be obtained at the office of Westlands Water District, 3130 N. Fresno Street, Fresno, California 93703.

Dated: October 15, 2010

WESTLANDS WATER DISTRICT

By \_\_\_\_\_  
Dave Ciapponi  
Assistant General Manager

**WESTLANDS WATER DISTRICT  
LAND/WATER ACQUISITION PROGRAM  
REVERSE AUCTION**

**GENERAL INFORMATION**

As part of the ongoing effort to balance demand for irrigation water with supply, Westlands Water District is soliciting offers from District landowners who are willing to sell land and/or the land's appurtenant water entitlement to the District. While all lands and/or water entitlement in the District are eligible to be purchased, lands adversely impacted by poor drainage will be given preference. Landowners are asked to submit sealed proposals to the District indicating their asking price. If accepted, the offers will constitute a contract to sell the specified amount of land and/or water entitlement at the asking price.

The District will employ a reverse auction for this acquisition program. The District in its sole discretion will determine successful bids (Sellers) after evaluating all of the bids received. Generally, the District will consider water supply and price as the principal factors in determining which, if any, bids to accept, but reserves the right to consider other factors unique to each bid. Purchase agreements will be executed, first with the successful Seller with the lowest bid price, then the next lowest price proposed by a successful Seller, and so forth. This process will continue until the District has acquired the needed acreage/water entitlement, or expended the available funds, whichever comes first. If multiple parcels are listed in a bid, the District may accept the bid as to certain parcels and reject it as to others, unless the bid specifically provides that it must be accepted or rejected in its entirety.

**Purchase Agreements and Other Requirements**

Depending upon whether the Seller's bid is for land or just the water entitlement, the District will execute either 1) the Real Estate Purchase and Sale Agreement and Escrow Instructions, or 2) the Allocation Purchase and Sale Agreement and Escrow Instructions, subject to any special conditions that may be agreed upon by both parties. Copies of the agreements are enclosed in this notice and, whichever is applicable, required to be signed and returned with every bid submittal. The agreements provide for cash to sellers at close of escrow, with escrows to close on or before May 31, 2011. The District will determine the escrow/title company.

Other agreements may also need to be executed, depending upon the circumstances of the District's acquisition. For example:

- The District's Land Use Agreement must be executed if the Seller retains possession of the land after close of escrow in order to complete harvesting of crops.
- The District's Agricultural Lease agreement will need to be executed if the Seller is allowed to retain possession of the land and water entitlement in order to farm for an extended period after close of escrow.

**WESTLANDS WATER DISTRICT  
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**GENERAL INFORMATION**

- If the purchase of the land is subject to an existing lease and the tenant wants to retain possession of the land, the tenant must agree to terminate the existing lease and execute the District's Land Use Agreement and, if applicable, the Agricultural Lease agreement.

These agreements are available for review upon request.

Contact Tom Glover at (559) 241-6215 if additional information is needed.

**WESTLANDS WATER DISTRICT  
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**TERMS AND CONDITIONS**

Westlands Water District is seeking to purchase land and/or the appurtenant water entitlement from within the District utilizing a Reverse Auction. The Reverse Auction will be in accordance with the Notice Inviting Bids and will be conducted according to the following terms and conditions.

**Commitment to Sell** – All bids submitted during the Reverse Auction are a binding, irrevocable commitment on behalf of the bidder to sell at the bid price in accordance with the information contained in the Notice Inviting Bids. All bids submitted during the Reverse Auction shall be considered a bona fide offer to sell. All bids shall be submitted only by a landowner or an authorized agent. All bids will be valid for a period of sixty (60) days from the closing date of the Reverse Auction.

**Multiple Bids** – A bidder may submit multiple bids for each parcel of land. However, a bidder may only submit a new bid that is lower than the previous bid. The lowest bid received from a bidder closest to the date and time of bid closing will be the bid considered for award. All higher bids submitted by a bidder will be considered null and void.

**Submission of Bids** – Bids shall be submitted in a sealed envelope addressed to Westlands Water District, Attention: Purchasing Agent, 3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703. The outside of the bid package must be plainly marked in the upper left-hand corner with the name and address of the bidder and the name of the project. No facsimile or electronically transmitted copies of a proposal will be considered. The District will not be responsible for submittals that are delinquent, lost, marked incorrectly, or sent to an address other than that indicated herein.

**Withdrawal of Bids** – Bids may be withdrawn, only in total, prior to the date and time set for the bid closing and only by written request to the District's Purchasing Agent.

**Basis for Award** – The District reserves the right to (1) accept or reject any or all of the bids placed in connection with the Reverse Auction, or (2) award items separately or in aggregate, whichever is in the best interest of the District. If multiple parcels are listed in a bid, the District may accept the bid as to certain parcels and reject it as to others, unless the bid specifies that it must be accepted or rejected as to all parcels listed. The District in its sole discretion will determine successful bids; a low bid will not automatically be selected by the District to participate. The District will consider all factors it considers to be relevant when it evaluates bids.

**Postponement of Deadline for Submission of Bids** – The District reserves the right to postpone the date for submission of bids and will provide notice of any such postponement.

**WESTLANDS WATER DISTRICT  
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**TERMS AND CONDITIONS**

**Addenda or Bulletins of Instructions** – Any Addenda or Bulletins of Instructions supplementing the Bid Documents and issued prior to the time and date set for the deadline for submission of bids shall form a part of the documents furnished the seller for the preparation of his bid. These documents shall accompany the bid and shall be made a part of the Contract.

**Changes in Agreements** – The parties acknowledge that any additions, deletions, and modifications made under the Real Estate Purchase and Sale Agreement and Escrow Instructions or the Allocation Purchase and Sale Agreement and Escrow Instructions shall not be binding unless made in writing and mutually agreed by both parties. Revisions will generally only be considered by the District to address unique circumstances.

**Interest in Agreements** – No officer, employee or agent of the District who exercises any functions or responsibilities in connection with the approval of bids shall have any personal interest, direct or indirect, in the bids or associated agreements. However, the District reserves the right to engage and compensate third parties to assist in the auction and/or the acquisition of land subject to successful bids.

**Non-Affiliation** – Bidder affirms that no affiliation exists between owners, officers, administrators, and employees of the bidder and the District which could be construed as a conflict of interest.

**Legal Address of Bidder** – Bidders must give full name and address. The address provided on the Bid Submittal Form is hereby designated as the place to which all notices, letters, and other communications to bidder shall be mailed or delivered. Such address may be changed at any time by written notice signed by bidder and delivered to the District.

**Hold Harmless** – To the fullest extent permitted by law, bidder agrees to release, indemnify, and hold harmless the District, its Board of Directors, officers, employees, and agents from and against all claims, suits, or causes of action of any kind, known or unknown, disclosed and undisclosed, arising out of the participation in the Reverse Auction or in connection with any occupant or labor relocation activities.

**Cancellation of Solicitation** – The District reserves the right to suspend in whole or in part, or terminate, this solicitation when deemed to be in the best interest of the District.

**BIDS RECEIVED AFTER THE SPECIFIED DATE AND TIME INDICATED ON THE  
NOTICE INVITING BIDS MAY BE REJECTED.**

**WESTLANDS WATER DISTRICT  
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**BID INSTRUCTIONS**

**Bid Submittal**

All bids **MUST** be signed by hand and submitted on the forms provided by the District, which are: 1) the Bid Submittal Form, 2) the Real Estate Purchase and Sale Agreement and Escrow Instructions, and/or 3) the Allocation Purchase and Sale Agreement and Escrow Instructions. **The Bid Submittal Form must be accompanied by a signed copy, or both if applicable, of the agreement(s).** The use of other bidding forms or attachments may invalidate the bid.

**Bid Submittal Form**

- The Bid Submittal Form must be fully completed by the Bidder.
- Bidders Name – Insert the legal owner(s) of the lands listed on the form. Bids may be deemed invalid if all legal owners do not sign the bid. For example, if the land is owned by a tenancy in common, the bid must be executed by all co-tenants. Similarly, the bids must be signed by the legal owner(s) exactly as their names appear on the record title.
- APN/Legal Description – List the Assessors Parcel Numbers and legal description for the lands and/or the lands' water entitlement being bid.
- Water Only – Place a check-mark or "X" in this column to denote that only the water entitlement for the listed land is being bid.
- Irrigable Acreage – List the irrigable acreage for the land and/or water being bid. The irrigable acreage for each APN may be obtained from the District if not known by the bidder.
- Bid Price Per Acre - Bid prices must be stated in amounts per acre. Any deviation from this requirement may result in bid rejection.
- Total Bid Price – Show the total bid price for each parcel (Irrigable Acreage multiplied by the Bid Price Per Acre).
- District/Buyer Accepts – DISTRICT USE ONLY (no entry required by Bidder).
- Special Conditions – List any conditions to the bid submittal (i.e., requested amendments to the purchase agreements).
- Bidder Information – Bidder must give full name, address, telephone number and tax payer identification. The address provided on the Bid Submittal Form is designated as the place to which all notices, letters, and other communications to bidder shall be mailed or delivered.
- Authorized Signature – Landowner(s)' or authorized agent's hand signature(s) required. As noted above, bids may be deemed invalid if all legal owners do not sign the bid, and bids must be signed by the legal owner(s) exactly as their names appear on record title.

**WESTLANDS WATER DISTRICT  
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**BID INSTRUCTIONS**

**Real Estate Purchase and Sale Agreement and Escrow Instructions (if applicable)**

Landowner(s)' or authorized agent's hand signature(s) required. As noted above, bids may be deemed invalid if all legal owners do not sign the bid, and bids must be signed by the legal owner(s) exactly as their names appear on record title.

**Allocation Purchase and Sale Agreement and Escrow Instructions (if applicable)**

Landowner(s)' or authorized agent's hand signature(s) required. As noted above, bids may be deemed invalid if all legal owners do not sign the bid, and bids must be signed by the legal owner(s) exactly as their names appear on record title.

**WESTLANDS WATER DISTRICT  
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**BID SUBMITTAL FORM AND  
COVER SHEET FOR PURCHASE AND SALE AGREEMENT  
AND ESCROW INSTRUCTIONS**

Name of Bidder/Seller (as shown on record title to Property): \_\_\_\_\_

**PROJECT:** Land/Water Acquisition Program

<u>APN and Legal Description</u> (Attach additional page(s) if necessary)	<u>Water Only</u>	<u>Irrigable Acreage</u>	<u>Bid Price Per Acre</u>	<u>Total Bid Price</u>	<u>District/Buyer Accepts</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Special Conditions (attach additional page(s) if necessary)

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

**By executing this Form, Bidder hereby acknowledges and agrees that this submittal constitutes a binding, irrevocable commitment to sell at the bid price(s) listed pursuant to and in accordance with the Bid Documents for the Westlands Water District Land/Water Acquisition Program Reverse Auction. If the above bid is accepted by the Westlands Water District as to any parcels listed above, this Form will be attached to the Terms and Conditions for the applicable form of Purchase and Sale Agreement and Escrow Instructions as the Cover Sheet and those documents will together create a valid and binding agreement as to those parcels or the water allocation appurtenant thereto (as applicable).**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Authorized Signature(s)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Phone Number

\_\_\_\_\_

\_\_\_\_\_  
Tax Payer I.D.



**STANDARD TERMS AND CONDITIONS FOR  
REAL ESTATE PURCHASE AND SALE AGREEMENT  
AND ESCROW INSTRUCTIONS**

These Terms and Conditions, together with the attached and fully executed Cover Sheet, shall constitute a Real Estate Purchase and Sale Agreement and Escrow Instructions ("Agreement") and is entered into the date set forth on the attached Cover Sheet by and between the party identified as "Bidder/Seller" on the attached Cover Sheet ("Seller") and Westlands Water District, a public agency, ("Buyer"). The Seller and Buyer agree as follows:

1. Purchase and Sale. Buyer agrees to purchase and Seller agrees to sell the real property described on the attached Cover Sheet ("Property"), pursuant to the terms and conditions of this Agreement.
2. Property. The Property subject to this Agreement is described on that attached Cover Sheet. Buyer shall obtain and verify the legal descriptions for the Property and cause them to be attached hereto as Exhibit A.
3. Purchase Price. The purchase price for the Property is set forth on the attached Cover Sheet. All of Seller's right, title and interest in and to (1) all water rights of every kind and nature and (2) U.S. Department of Agriculture Farm Service Agency farm crop bases and payment yields accruing to the Property are included in the purchase price. No financial consideration shall be paid for any improvements located on the Property at close of escrow. Seller has the right to remove improvements prior to the close of escrow. Any improvements remaining on the Property at close of escrow are included in the purchase price and will become the property of Buyer at close of escrow.
4. Escrow. Upon execution of this Agreement by both Buyer and Seller, Buyer shall establish an escrow by depositing an executed duplicate original of this Agreement with a reputable title company in Fresno County, California selected by Buyer ("Title Company"). Escrow shall close on or before May 31, 2011, unless extended by Buyer and Seller in writing to Title Company. The close of escrow shall be the date on which the Grant Deed from Seller to Buyer is recorded in the Official Records of the County where the Property is located. This Agreement shall, to the extent feasible, constitute escrow instructions of Buyer and Seller.
5. Title and Vesting.
  - a. Upon opening of escrow, Title Company shall promptly furnish to Buyer a preliminary title report covering the Property, together with copies of all recorded documents referred to therein. Buyer shall, within 10 days of receipt thereof, provide written notice to Seller and Title Company of any items contained therein to which Buyer reasonably disapproves. Upon Buyer's giving written notice of items reasonably disapproved, Seller shall have 10 days within which to notify Buyer and Title Company, in writing, as to any items which Seller cannot or will not, in its sole discretion, remove at or before

- closing. If Seller's response indicates that Seller is unwilling or unable to remove or correct any items reasonably disapproved by Buyer, or if Seller does not respond within said time period, Buyer shall have 10 days thereafter to cancel this Agreement in writing to Title Company, in which case, the escrow shall terminate and Title Company shall return any deposits or documents to the party submitting the same into escrow; or Buyer may, at Buyer's sole option, elect to accept any items which Seller is unwilling or unable to remove or correct by advising Title Company, in writing of such acceptance, within such 10-day period.
- b. At close of escrow, title to the Property shall vest in Buyer and shall be conveyed by Grant Deed. Title shall be free of all liens at close of escrow.
  - c. Buyer shall be provided a California Land Title Association ("CLTA") Standard Coverage Owners Policy of Title Insurance issued by Title Company as of close of escrow.
6. Payment of Purchase Price. Buyer will deposit the purchase price and its share of pro-rations and Charges into escrow not less than 24 hours prior to close of escrow. Deposits shall be paid in cash, wired funds, or Buyer's check. Title Company is hereby authorized to deduct Seller's portion of the pro-rations and Charges from Seller's proceeds at close of escrow.
7. Pro-rations and Charges. Seller shall pay for the CLTA Owner's policy of title insurance, any documentary transfer taxes, fee for drawing deed, all costs in connection with clearing title, property taxes and assessments, and Buyer's assessments and land-based charges (collectively, "Charges"). Provided Seller makes available to Buyer all of Seller's 2011-12 Central Valley Project water allocation, Buyer will refund to Seller all 2011-12 land-based charges paid by Seller. Additionally, if the sale of the Property is subject to a lease of the Property, cash rents payable under such leases shall be prorated to close of escrow. The Buyer and Seller shall share equally in the cost of any environmental report prepared pursuant to this Agreement. Escrow costs shall be paid in the manner that is customary in the county in which the Property is located, as determined by Title Company.
8. California Withholding. Title Company will notify the parties hereto of their withholding obligations under the California real estate withholding law (California Law Rev & Tax Code Sections 18662 and 18668) and will furnish them with the applicable Franchise Tax Board (FTB) forms. If Seller has not provided to Title Company, prior to closing, a completed Form 593-C (for individuals) stating that Seller is exempt from California withholding, then Buyer and Seller direct Title Company to withhold from Seller's proceeds an amount equal to 3 1/3% of the gross sales price at close of escrow and remit such funds to the FTB along with a completed Form 593-B pursuant to California Law.
9. Water Allocation. Unless the Property is subject to a Land Use Agreement, as provided for in Paragraph 11, Seller agrees to make available to Buyer Seller's 2011-12 Central Valley Project water allocation at delivery of possession.

10. Possession. Possession shall be delivered to the Buyer at close of escrow, unless the Property is being farmed by Seller or is purchased subject to any existing lease, in which event possession shall be delivered upon the harvest of the then growing crop or upon expiration of the lease, but in no event later than December 31, 2011; provided:

- a. Seller executes Buyer's Land Use Agreement, provides a Certificate of Insurance, and performance bond or refundable \$25.00 per irrigable acre deposit in accordance with Paragraph 5 of the Land Use Agreement; or
- b. Seller obtains an executed Lease Termination Agreement; Buyer's Land Use Agreement, Certificate of Insurance, and performance bond or refundable \$25.00 per irrigable acre deposit in accordance with Paragraph 5 of the Land Use Agreement.
- c. Seller deposits said document(s) and/or funds with Title Company on or before close of escrow.

11. Groundwater Wells. Any groundwater wells existing on the property shall be capped in a manner acceptable to the Buyer prior to close of escrow, unless possession of the property is to be retained by Seller or Lessee and Lessee has the right to use such groundwater wells in accordance with an existing lease, in which case arrangements for the capping of existing wells shall be governed by the Land Use Agreement.

12. Land Condition. If the possession is delivered to Buyer at the close of escrow, the land shall be clean and free of weeds and comply with any applicable county regulations required for pest control. If the land is being retained, the land shall be maintained in accordance with Buyer's Land Use Agreement.

13. Environmental Report and Termination. Before the close of escrow, Buyer shall obtain a Phase I Environmental Report on the Property. The closing of this escrow is contingent upon Buyer's approval of such Report.

14. 1033 Replacement.

- a. The District is a California Water District organized under the California Water District Law, Water Code Section 34000, et seq. Among other things, the District is authorized by law to exercise the power of eminent domain to acquire private property for public use pursuant to the provisions of Water Code section 35600, et seq., and the provisions of the Eminent Domain Law comprising Title 7, Part 3 of the Code of Civil Procedure (commencing at section 1230.010).
- b. Because District may exercise the power of eminent domain to acquire and could compel the Sellers to sell; and because District requires the Property for a public purpose, the acquisition of the Property could be an involuntary conversion of the Property from private to public use. Both District and Sellers recognize the expense, time, effort, and risk to both District and Sellers in resolving a dispute over compensation for the Property by eminent

domain litigation, and the compensation set forth herein is in compromise and settlement, in lieu of such litigation.

15. Approval. Buyer's final deposit of funds into escrow shall constitute its approval of the acceptance of the capping of groundwater wells, the condition of the land, and the Phase I Environmental Report on the Property.

16. Notices. All notices under this Agreement shall be effective upon personal delivery to Buyer, Seller or Title Company, as the case may be, or three (3) business days after deposit in the United States mail, regular mail, postage fully prepaid and addressed to the respective parties at the addresses set forth below, or at such other addresses as the parties may from time to time designate in writing.

17. Amendments. No provisions of this Agreement may be amended or modified in any manner whatsoever except by an agreement in writing signed by Buyer and Seller.

18. Successors. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

19. Counterparts. This agreement and any amendments hereto may be signed by the parties in different counterparts and the signature pages combined to create a document binding on all Parties as though all had signed one and the same document.

Buyer:

Seller:

Westlands Water District, a  
Public agency

\_\_\_\_\_

By: \_\_\_\_\_  
Dave Ciapponi  
Assistant General Manager

\_\_\_\_\_

Contact Information:

Tom Glover  
c/o Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703-6056

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State                      Zip Code

(559) 241-6215    (559) 241-6277  
Telephone                      Fax

\_\_\_\_\_  
Telephone

Exhibit A

**STANDARD TERMS AND CONDITIONS FOR  
ALLOCATION PURCHASE AND SALE AGREEMENT  
AND ESCROW INSTRUCTIONS**

These Terms and Conditions, together with the attached and fully executed Cover Sheet, shall constitute an Allocation Purchase and Sale Agreement and Escrow Instructions ("Agreement") and is entered into as of the date set forth on the attached Cover Sheet by and between the party identified as "Bidder/Seller" on the attached Cover Sheet ("Seller") and Westlands Water District, a public agency, ("Buyer"). The Seller and Buyer agree as follows:

1. Purchase and Sale. Buyer agrees to purchase and Seller agrees to sell all surface water rights ("Allocation") appurtenant to the real property described on the attached Cover Sheet ("Property"), including, but not limited to, the right to apply for and receive from Westlands Water District or its successor, a ratable allocation of water pursuant to the terms and conditions of this Agreement.

2. Property. The Property subject to this Agreement is described on the attached Cover Sheet. Buyer shall obtain and verify the legal descriptions for the Property and cause them to be attached hereto as Exhibit A.

3. Purchase Price. The purchase price for the Allocation is set forth on the attached Cover Sheet.

4. Escrow. Upon execution of this Agreement by both Buyer and Seller, Buyer shall establish an escrow by depositing an executed duplicate original of this Agreement with a reputable title company in Fresno County, California selected by Buyer ("Title Company"). Escrow shall close on or before May 31, 2011, unless extended by Buyer and Seller in writing to Title Company. The close of escrow shall be the date on which the Grant Deed from Seller to Buyer, or other appropriate conveyance instruments acceptable to Buyer, is recorded in the Official Records of the County where the Property is located. This Agreement shall, to the extent feasible, constitute escrow instructions of Buyer and Seller.

5. Title and Vesting.

- a. Upon opening of escrow, Title Company shall promptly furnish to Buyer a condition of title report covering the Property, together with copies of all recorded documents referred to therein. Buyer shall, within 10 days of receipt thereof, provide written notice to Seller and Title Company of any items contained therein to which Buyer reasonably disapproves. Upon Buyer's giving written notice of items reasonably disapproved, Seller shall have 10 days within which to notify Buyer and Title Company, in writing, as to any items which Seller cannot or will not, in its sole discretion, remove at or before closing. If Seller's response

indicates that Seller is unwilling or unable to remove or correct any items reasonably disapproved by Buyer, or if Seller does not respond within said time period, Buyer shall have 10 days thereafter to cancel this Agreement in writing to Title Company, in which case, the escrow shall terminate and Title Company shall return any deposits or documents to the party submitting the same into escrow; or Buyer may, at Buyer's sole option, elect to accept any items which Seller is unwilling or unable to remove or correct by advising Title Company, in writing of such acceptance, within such 10-day period.

- b. At close of escrow, title to the Allocation shall vest in Buyer and shall be conveyed by Grant Deed or other appropriate conveyance instruments acceptable to Buyer. Title to the Allocation shall be free of all liens at close of escrow.
- c. The Grant Deed or other conveyance document from Seller to Buyer for the Allocation shall be substantially in the following form:
  - i. For valuable consideration, receipt of which is hereby acknowledged, \_\_\_\_\_ hereby grants to Westlands Water District ("District") all surface water rights appurtenant to the real property in the county of \_\_\_\_\_, State of California, described in Exhibit "A" attached hereto ("Property"), including, but not limited to, the right to apply for and receive from District or its successor, a ratable allocation of water.
  - ii. If there is an existing water well(s) ("Well") located on the Property and the existing Well cease(s) to be capable of water production or Owner chooses to abandon said Well, the Owner has the right to drill, at its cost, new Well and construct, at its cost, related facilities within the Property provided that Owner may not increase Well capacity or other wise mine the groundwater basin.
  - iii. Water produced from any existing Well or replacement Well may only be applied to the Property or lands adjacent to Property owned or operated by Owner.
  - iv. The forgoing provisions shall run with the Property and apply to the heirs and devisees, successors, and assigns of Owner.

6. Payment of Purchase Price. Buyer will deposit the purchase price and its share of pro-rations and charges into escrow not less than 24 hours prior to close of escrow. Deposits shall be paid in cash, wired funds, or cashier's check. Title Company is hereby authorized to deduct Seller's portion of the pro-rations and charges from Seller's proceeds at close of escrow.

7. Pro-rations and Charges. Seller shall pay the fee for drawing the deed, all costs in connection with clearing title, property taxes and assessments, and Westlands Water District's assessments and land-based charges (collectively, "Charges"). Provided

Seller makes available to Buyer all of Seller's 2011-12 Allocation as provided for in Paragraph 8 of this Agreement, Buyer will refund to Seller 2011-12 land-based charges paid by Seller for District Water Supply Debt Service and Long-Term Water Supply Debt Service costs. Escrow costs shall be paid in the manner that is customary in the county in which the Property is located, as determined by Title Company.

8. Water Allocation. Seller agrees to make available to Buyer all of Seller's 2011-12 Allocation at close of escrow.

9. Notices. All notices under this Agreement shall be effective upon personal delivery to Buyer, Seller or Title Company, as the case may be, or three (3) business days after deposit in the United States mail, regular mail, postage fully prepaid and addressed to the respective parties at the addresses set forth below, or at such other addresses as the parties may from time to time designate in writing.

10. Amendments. No provisions of this Agreement may be amended or modified in any manner whatsoever except by an agreement in writing signed by Buyer and Seller.

11. Successors. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

12. Counterparts. This agreement and any amendments hereto may be signed by the parties in different counterparts and the signature pages combined to create a document binding on all Parties as though all had signed one and the same document.

Buyer: Westlands Water District, a Public agency  
Seller: \_\_\_\_\_

By: \_\_\_\_\_  
Dave Ciapponi  
Assistant General Manager

Contact Information:  
Tom Glover  
c/o Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703-6056  
Mailing Address \_\_\_\_\_  
City, State Zip Code \_\_\_\_\_  
(559) 241-6215 (559) 241-6277  
Telephone Fax Telephone \_\_\_\_\_



Exhibit A