

# Contract Summary Form:

Contract Number: BC 13-105

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (> \$25,000) or Purchasing (≤\$25,000). See also "Contracts for Services" policy. Form not applicable to revenue contracts.

D1. Fiscal Year .....: FY2012-2013  
D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) .....: 054  
D3. Requisition Number .....: 08  
D4. Department Name .....: Flood Control/South Coast Flood Zone  
D5. Contact Person .....: Jon Frye  
D6. Phone .....: (805) 568-3444

K1. Contract Type (check one): [ ] Personal Service [ X ] Capital Project (Real Property Purchase)  
K2. Brief Summary of Contract Description/Purpose .....: Acquisition of Real Property at 118 Chapala St., S.B.  
K3. Original Contract Amount .....: ~~\$2,500.00~~ \$5,000.00  
K4. Contract Begin Date .....: Upon execution by the Board of Directors  
K5. Original Contract End Date .....:  
K6. Amendment History (leave blank if no prior amendments):  
K7. Department Project Number .....: SC8042

B1. Is this a Board Contract? (Yes/No) .....: Yes  
B2. Number of Workers Displaced (if any) .....: n/a  
B3. Number of Competitive Bids (if any) .....: n/a  
B4. Lowest Bid Amount (if bid) .....: n/a  
B5. If Board waived bids, show Agenda Date .....: n/a  
B6. ... and Agenda Item Number .....: #  
B7. Boilerplate Contract Text Unaffected? (Yes / or cite Paragraph) ..: n/a

F1. Encumbrance Transaction Code .....:  
F2. Current Year Encumbrance Amount .....: \$  
F3. Fund Number .....: 2610  
F4. Department Number .....: 054  
F5. Division Number (if applicable) .....: 04  
F6. Account Number .....: 8700  
F7. Cost Center number (if applicable) .....:  
F8. Payment Terms .....: Net 30

V1. Vendor Numbers (A=Auditor; P=Purchasing) .....:  
V2. Payee/Contractor Name .....: Donald A. Campbell & Joy D. Kelly  
V3. Mailing Address .....: 118 Chapala St.  
V4. City State (two-letter) Zip (include + 4 if known) .....: Santa Barbara, CA 93101  
V5. Telephone Number .....: 805-963-2075  
V7. Contact Person .....: "Sandy" Campbell  
V8. Workers Comp Insurance Expiration Date .....: n/a  
V9. Liability Insurance Expiration Date[s] (G=Genl; P=Prof) .....: n/a  
V10. Professional License Number .....: n/a  
V11. Verified by (name of County staff) .....:  
V12. Company Type (Check one): [ X ] Individual [ ] Sole Proprietorship [ ] Partnership [ ] Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature.....

Project: Lower Mission Creek  
A.P.N.: 033-074-011  
Address: 118 Chapala Street  
Folio: R-390

## **REAL PROPERTY PURCHASE CONTRACT AND ESCROW INSTRUCTIONS**

**THIS REAL PROPERTY PURCHASE CONTRACT AND ESCROW INSTRUCTIONS** ("Contract") is made and entered into by and between DONALD ALEXANDER CAMPBELL and JOY D. KELLY, husband and wife as community property with right of survivorship ("OWNERS"), and the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district of the County of Santa Barbara a political subdivision of the State of California, its successors or assigns ("DISTRICT"), with reference to the following:

**WHEREAS**, OWNERS are the fee simple owners of a parcel of land in the City of Santa Barbara, County of Santa Barbara, State of California, commonly identified as 118 Chapala Street, and more particularly described as Santa Barbara County Assessor's Parcel Number 033-074-011 (herein the "Property"); and

**WHEREAS**, the DISTRICT has designed the plans and specifications for the repair, replacement, realignment, installation, landscaping and maintenance of a portion of the Lower Mission Creek Flood Control project (County Project #SC8042- herein the "Project"); and

**WHEREAS**, a portion of the Project is located on the Property and the DISTRICT desires to purchase a permanent easement for the present and future construction, reconstruction, operation, repair, maintenance, use of improvements and flowage as required for DISTRICT'S Project operations thereon (the permanent easement area shall herein be referred to as the "Easement Area"); and

**WHEREAS**, the DISTRICT recognizes the value of the above easement (including the loss, replacement, and moving of any improvements within the easement) and desires to compensate OWNERS for same.

**NOW THEREFORE**, in light of the foregoing and in consideration of the premises, agreements, releases, representations, and the mutual covenants and conditions contained herein, DISTRICT and OWNERS agree as follows:

1. **SALE AND PURCHASE PRICE**: DISTRICT hereby agrees to purchase and OWNERS hereby agree to sell to DISTRICT a permanent nonexclusive easement for flood control and construction purposes which includes all of the Project improvements in, on, over, under, along, and across a portion of the Property. The Grant of Permanent Nonexclusive Easement (hereinafter the "Deed") to be executed by OWNERS is attached hereto as "Exhibit A" and is incorporated herein by reference. The Easement Area is described and shown on the exhibits attached to the Deed.

OWNERS hereby grant to DISTRICT, its authorized agents, contractors, and employees a temporary Right of Entry and immediate use of the Easement Area upon execution of this Contract. This Right of Entry includes the right to enter upon and move workers, equipment, and materials in, on, over, under, along, and across the Easement Area including the Right of Entry onto the Property to reconnect, remove, or relocate DISTRICT's improvements and public and private utilities serving the Property which may be necessary because of said Project. The purpose of this temporary Right of Entry is to facilitate the construction of the Project and shall commence on the date construction of the Project actually begins on the Easement Area.

As consideration for the granting of rights stated in the Deed, and for the loss, replacement, and moving of any and all improvements located within the Easement Area, DISTRICT shall pay OWNERS FIVE THOUSAND and 00/100 Dollars (\$5,000.00). The sum paid shall be OWNERS' sole remedy hereunder. Restoration shall be made only as expressly provided herein and the consideration includes all losses associated with improvements and/or vegetation, natural or cultivated.

2. **CONDITIONS PRECEDENT:** In addition to other conditions included herein, the approval of funding and the appropriation by the Santa Barbara County Flood Control and Water Conservation District Board of Directors is an express condition precedent to DISTRICT'S duty to purchase. Notwithstanding any other provision in this Contract, DISTRICT at DISTRICT'S option may extend escrow up to sixty (60) days to permit the funding approval and appropriation by DISTRICT. In the event DISTRICT should decide to exercise this option, DISTRICT shall do so in writing with copies to the escrow officer and to the OWNERS.

In the event the above condition has been met or satisfied to DISTRICT'S satisfaction, then the Chair of the Board of Directors of District is authorized to accept the above-referenced Deed on behalf of the DISTRICT. In the event this condition is not satisfied, DISTRICT may terminate this Contract with no further liability.

3. **ESCROW AND OTHER FEES:** Escrow shall be opened at First American Title Company, 3780 State Street, Santa Barbara, California, 93105 with escrow instructions to be based upon the terms and conditions set forth herein. This Contract shall become a part of the escrow and shall constitute the basic instructions of DISTRICT and OWNERS to the escrow officer. However, DISTRICT and OWNERS agree to execute such additional instructions and documents as are reasonably required to complete the closing of the transaction contemplated herein in accordance with the terms and conditions of this Contract. On behalf of the DISTRICT, the Director of Public Works, or designee, shall execute the necessary escrow instructions and/or additional instructions which may be required to complete the closing of this real property transaction. In case of conflict between this Contract and any of said escrow documents, the terms of this Contract shall govern.

DISTRICT shall open escrow and deliver this fully-executed Contract to the escrow officer within ten (10) working days of execution hereof by DISTRICT. Unless extended as allowed herein, the date of the close of escrow shall be on or before sixty (60) calendar days from the date of opening escrow, or on such other date as the parties hereto shall mutually agree in writing. The "close of escrow" is defined as the satisfaction of all conditions herein stated and the recordation of the Deed which vests rights or title to the Easement Area in DISTRICT or its assignee. At least one (1) day prior to the close of escrow, DISTRICT shall deposit with the

escrow officer the purchase price for the Deed, plus DISTRICT'S share of prorations, fees, and expenses pursuant to this Contract.

OWNERS shall execute the Deed in escrow or deliver to the escrow officer no later than five (5) calendar days following the opening of escrow.

Escrow, title and other fees shall be paid as follows:

1. DISTRICT shall pay all escrow and recording fees as well as the documentary stamp tax, if any, incurred in the conveyance of the Easement to DISTRICT pursuant to the execution of this Contract. If a policy of title insurance is desired by DISTRICT, the premium charged therefore shall be paid by DISTRICT. Said escrow and recording charges shall include any partial reconveyance and subordination fees as may be required, but not any principal paydown on a loan.
2. DISTRICT shall pay all escrow fees in the event that this escrow is cancelled by DISTRICT prior to the conveyance to DISTRICT.
3. OWNERS shall pay all escrow fees in the event that this escrow is cancelled by OWNERS prior to the conveyance to DISTRICT.

The escrow officer shall be obligated as follows:

- a. To provide a current preliminary title report covering the Property; and
- b. To obtain subordination agreements for the Deed contemplated herein from any holders of liens against the Property; and
- c. To release a copy of the OWNERS' executed Deed to DISTRICT within two (2) working days of the receipt thereof from OWNERS so that DISTRICT may present the Deed to its Board of Directors to facilitate execution of a Certificate of Acceptance for same. Upon such acceptance, DISTRICT shall deliver the original Certificate of Acceptance to the escrow officer for recordation with the Deed at the close of escrow; and
- d. To record the executed Deed with the Santa Barbara County Recorder's Office and deliver it to DISTRICT upon close of escrow; and
- e. To issue or have issued to DISTRICT the standard California policy of title insurance required herein; and
- f. To deliver the purchase money to OWNERS, or OWNERS' lender at the close of escrow; and
- g. Following recording of Deed from OWNERS, provide DISTRICT with a CLTA Standard Coverage Policy of Title Insurance in the amount of \$5,000.00 issued by First American Title Company, showing that title to the herein referenced Deed is vested in DISTRICT, subject only to the following exceptions, and the printed exceptions and stipulations in said policy:
  - a. Real Property Taxes for the fiscal year in which escrow closes;
  - b. Public utility easements and public rights of way;

c. Other items that may be approved by DISTRICT in writing in advance of the close of escrow

4. **COMMISSION:** The parties acknowledge that no real estate commissions shall be paid by either party hereto, and that DISTRICT and OWNERS shall represent their respective interests in this transaction.

5. **GOOD FAITH DISCLOSURE BY OWNERS:** OWNERS shall make a good faith disclosure to DISTRICT of any and all facts, findings, or information on the Easement Area known to the OWNERS including without limitation those relating to: historical uses; prior permitted uses; current uses including, but not limited to, express or implied contracts, leases and/or permits; geological conditions; biological conditions; archaeological sites; flood hazard area(s); special studies zones; zoning reports; environmentally hazardous material such as asbestos, dioxins, oils, PCB's, solvents, waste disposal, gasoline tank leakage, pesticide use and spills, herbicide use or spills or any other substances and/or products of environmental contamination. Any and all facts or information known by OWNERS concerning the condition of the Easement Area shall be delivered to DISTRICT no later than twenty (20) calendar days following DISTRICT'S execution of this Contract.

If such facts or information provided by OWNERS disclose conditions that adversely affect the continued or contemplated use of the Easement Area or any structures thereon, and that DISTRICT reasonably deems unacceptable, or if DISTRICT otherwise discovers such facts or information through tests and/or surveys which disclose such conditions, and OWNERS are unwilling or unable to correct such conditions to the reasonable satisfaction of DISTRICT or any governmental body having jurisdiction there over, then DISTRICT may, at its sole option, terminate this Contract. Within ten (10) business days of actual receipt of said disclosure information, DISTRICT shall notify OWNERS of the conditions it deems unacceptable (if any) and the corrections desired and request OWNERS, at OWNERS' expense, to correct the condition(s) affected thereby to the reasonable satisfaction of DISTRICT and any governmental agency asserting jurisdiction and issuing a directive to remediate polluted areas. Failure to so correct shall be grounds for termination of this Contract.

Prior to the close of escrow, copies of any and all documents and/or information relating to the Easement Area, to the extent they exist and are in OWNERS' custody, shall be delivered by OWNERS to DISTRICT.

OWNERS shall hold DISTRICT harmless and reimburse DISTRICT for any and all of DISTRICT'S losses and expenses occasioned by reason of any easements, contracts, leases, or permits encumbering the Easement Area of which OWNERS had personal knowledge, which have not been disclosed to DISTRICT.

6. **DISTRICT OBLIGATIONS:** The DISTRICT shall be obligated as follows:

A. To relocate and reconnect any public utilities serving OWNERS' remaining Property if said relocation becomes necessary because of the Project;

B. To repair any damage done by DISTRICT to OWNERS' improvements or other property during the Project outside of the Easement Area.

7. **OWNERS' OBLIGATIONS:** In addition to any other conditions included herein, OWNERS shall be obligated to remove any and all personal property from the Easement Area by the close of escrow. OWNERS shall also be obligated to clear any and all tenant or lessee interests in the Easement Area whether the interest is recorded or unrecorded.

8. **ENVIRONMENTAL SITE ASSESSMENT:** The DISTRICT shall have the right to enter the Easement Area to conduct an Environmental Site Assessment (hereinafter "ESA") and related testing of the Easement Area upon execution of this Contract by both parties. In the event the DISTRICT elects to conduct such testing, approval of the ESA by the County of Santa Barbara Director of Public Works, or designee, is an express condition precedent to DISTRICT'S duty to purchase the Easement. For purposes of this Contract, the ESA shall be deemed to include the information disclosed by OWNERS pursuant to Section 5, hereinabove. If the ESA is not completed and approved within forty-five (45) days of the opening of escrow, then DISTRICT shall have the right to extend the escrow period until such completion. In the event the ESA identifies a potential liability, OWNERS and DISTRICT agree that the escrow process shall be extended at least sixty (60) days in order for OWNERS to resolve the potential liability. In the event that such potential liability is not cured by OWNERS within such sixty (60) day period, DISTRICT may terminate this Contract with no further liability.

9. **TITLE AND DEED:** Title to the Easement Area is to be free of liens, encumbrances, restrictions, conditions, rights to possession or claims thereto (recorded and/or unrecorded) known to OWNERS, except:

A. Covenants, conditions, restrictions, and reservations of record approved by DISTRICT;

B. Easements or rights-of-way over the Property for public or quasi-public utility or public street purposes, if any, approved by DISTRICT;

C. Exception Nos. 1 through 8 (inclusive) contained in Preliminary Title Report No. 4201-4007395 dated 4-3-2012, issued by First American Title Company.

D. Property taxes for the fiscal year in which this escrow closes shall be satisfied in a manner consistent with California Revenue and Taxation Code Section 4986.(a)(6). The escrow officer is authorized to pay all delinquent taxes from the amount shown in Section 1, **SALE AND PURCHASE PRICE** above. OWNERS understand that pursuant to Section 4986.(a)(6), OWNERS may receive after the close of escrow, either, 1) an unsecured property tax bill from the Santa Barbara County Treasurer-Tax Collector for real property taxes that may be due; or 2) a warrant from the Santa Barbara County Auditor-Controller to reimburse OWNERS for any prepaid property taxes that may be canceled.

10. **TERMINATION:** DISTRICT shall have the right to terminate this Contract at any time prior to the satisfaction of all the conditions precedent as set forth in this Contract. OWNERS shall have the right to terminate this Contract only following DISTRICT'S failure to cure a material breach. In the event OWNERS are unable or unwilling to correct an adverse condition, and DISTRICT is unwilling to proceed with the transaction due to said adverse condition, then either party may terminate this Contract. Any request for termination shall require ten (10) days written notice.

11. **SECURITY INTEREST:** Any and all monies payable under this Contract shall, upon demand, be made payable to the mortgagees and beneficiaries of any notes secured by mortgages

or deeds of trust, up to and including the total amount of unpaid principal and interest together with penalty, if any, for payment in full in advance of maturity. In the event the purchase monies herein are demanded by mortgagee(s) or beneficiary(ies), then the escrow officer shall obtain from said mortgagees or beneficiaries good and sufficient receipt showing said monies credited against the indebtedness secured by said mortgages or deeds of trust. Escrow officer shall obtain any and all executed full reconveyances, partial reconveyances, subordinations and/or releases of liens that may have been given on the Property covered by deeds of trust, and deliver copies of same to the DISTRICT upon close of escrow.

12. **COMPLIANCE WITH THE LAW:** This Contract shall be governed by and be construed according to the laws of the State of California. DISTRICT shall be required to obtain any and all encroachment, building, and land use permits and/or licenses which may be required in connection with the purchase or intended use of the Easement Area.

13. **NOTICES:** All notices, documents, correspondence, and communications concerning this transaction shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be sent through the United States mail duly registered or certified with postage prepaid. Notwithstanding the above, DISTRICT may also provide notices, documents, correspondence or such other communications to OWNERS by personal delivery, or by regular mail and any such notice so given shall be deemed to have been given upon actual receipt.

**IF TO OWNERS:** Donald A. Campbell  
Joy D. Kelly  
118 Chapala  
Santa Barbara, CA 93101

**IF TO DISTRICT:** Santa Barbara County Public Works  
Attn: Jeff Havlik  
123 East Anapamu  
Santa Barbara, CA. 93101

**TO ESCROW HOLDER:** First American Title Company  
3780 State Street  
Santa Barbara, CA 93105  
Attn: Janice Bowie

14. **JUDGMENT IN LIEU OF DEED:** In the event OWNERS are unable to deliver title in a reasonable time under the terms of the Contract, DISTRICT may file an action in eminent domain to pursue the acquisition of the real property interests described in the Deed, and this Contract shall constitute a stipulation which may be filed in said proceedings as final and conclusive evidence of the total amount of damages for the taking, including all of the items listed in Section 1260.230 of the Code of Civil Procedure regarding said property rights.

15. **WAIVER:** No waiver of any of the provisions of this Contract shall be deemed or shall constitute a waiver of any other provisions of this Contract, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

16. **ENTIRE CONTRACT:** This Contract supersedes all prior contracts, understandings, negotiations, and discussions of the parties, whether express or implied, and there are no warranties, representations, covenants, or other contracts between the parties in connection with the subject matter hereof, except as specifically set forth herein. The parties hereto have set forth the whole of their agreement. The performance of this Contract constitutes the entire consideration for the Property and shall relieve DISTRICT of all further obligation or claims on this account. No amendment, supplement, modification, waiver, or termination of this Contract shall be binding unless executed in writing by both parties.

17. **CONSTRUCTION:** The parties have negotiated the terms of this Contract. They have consulted an attorney when they felt the need. The terms of this Contract reflect this negotiation and the intentions of both parties. These terms shall be interpreted with regard to each party equally.

18. **SECTION HEADINGS:** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof.

19. **REAL PROPERTY DOCUMENTS:** Each party agrees to execute and deliver any instrument or to perform any act reasonably necessary to carry out the provisions of this Contract.

20. **CONDITIONS ARE COVENANTS:** Each of the conditions to the close of escrow set forth herein shall be deemed to be covenants and the conditions required to be satisfied herein.

21. **SUCCESSORS AND ASSIGNS:** The rights under this Contract shall also extend to and bind the heirs, devisees, executors, administrators, successors, and assigns of the parties.

22. **CERTIFICATION OF SIGNATORY(IES):** Signatories do hereby certify that they are, collectively, the sole owners of the Property; or warrant that they are authorized to sign on behalf of the owners, have communicated the contents, rights and duties of this Contract to all parties having an interest in the Property (if any), and that no additional signatures are required to grant the interest and perform the obligations specified herein.

23. **CONTRACT APPROVAL:** This Contract is subject to the approval of the Santa Barbara County Flood Control and Water Conservation District. Execution of this Contract by the chairperson, or designee, of said District shall evidence said approval.

24. **SURVIVAL OF REPRESENTATIONS:** The representations of each of the parties and their executory covenants shall survive the close of escrow and shall not be merged in the Deed delivered to and accepted by the DISTRICT.

25. **EXECUTION IN COUNTERPARTS:** The Contract may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many or them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.



26. **FACSIMILE SIGNATURES:** In the event that the parties hereto utilize facsimile transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing original signatures are provided within seventy-two (72) hours of transmission of the facsimile signature, except that funds shall not be released upon a facsimile signature nor shall facsimile signed documents be accepted for recordation by the Clerk Recorder of the County of Santa Barbara.

*Signatures appear on next page*

Project: Lower Mission Creek  
A.P.N.: 033-074-011  
Address: 118 Chapala Street  
Folio: R-390  
Agent: JJH

IN WITNESS WHEREOF, DISTRICT and OWNERS have executed this Real Property Purchase Contract and Escrow Instructions by the respective authorized officers as set forth below to be effective as of the date executed by the DISTRICT.

"OWNERS"

By:   
DONALD ALEXANDER CAMPBELL

By:   
JOY D. KELLY

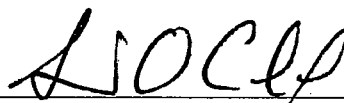
ATTEST:

CHANDRA L. WALLAR  
CLERK OF THE BOARD and  
Ex Officio Clerk of the Board of  
Directors of the Santa Barbara  
County Flood Control and Water  
Conservation District

By:   
Deputy

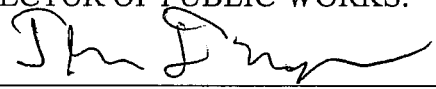
"DISTRICT"

SANTA BARBARA DISTRICT  
FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT

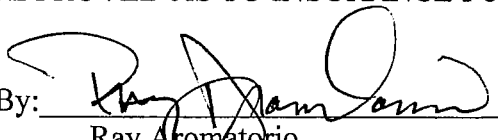
By:   
Salud Carbajal  
Chair, Board of Directors

Date: 6-18-13

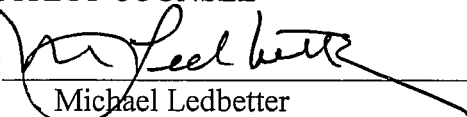
APPROVED, SCOTT D. MCGOLPIN,  
DIRECTOR OF PUBLIC WORKS:

By:   
Thomas D. Fayram;  
Public Works Deputy Director

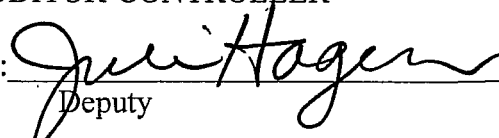
APPROVED AS TO INSURANCE FORM:

By:   
Ray Aromatorio  
Risk Manager

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
DISTRICT COUNSEL

By:   
Michael Ledbetter  
Deputy County Counsel

APPROVED AS TO FORM:  
ROBERT W. GEIS, C.P.A.  
AUDITOR-CONTROLLER

By:   
Deputy