

**AGREEMENT FOR SALE OF
CALIFORNIA TIGER SALAMANDER MITIGATION CREDITS AND/OR
PRESERVATION CREDITS (“AGREEMENT”)
SERVICE FILE NO.: 08ESMF00-F-1199
PHASE 1**

This Agreement is entered into this _____ day of _____, 2021 by and between Davis Preserve, LLC, a California limited liability company, (“**Bank Sponsor**”) and the City of Santa Rosa, a California Municipal Corporation, (“**Project Proponent**”), herein collectively referred to as “Parties,” as follows:

RECITALS

- A. Bank Sponsor has developed the Swift/Turner Conservation Bank (“**Bank**”) located in Sonoma County, California;
- B. The Bank was approved by the U.S. Wildlife Fish and Wildlife Service (“**Service**”) and the California Department of Fish and Wildlife, herein referred to as the “**Approving Agencies**” on December 1, 2006;
- C. Bank Sponsor has received approval from the Service and CDFW to offer California tiger salamander mitigation credits (“**CTS Credits**”) for sale as compensation for the loss of California tiger salamander habitat type as specified in the Conservation Bank Agreement (“**CBA**”);
- D. Bank Sponsor has received approval from the Approving Agencies to offer established plant habitat (“**Plant Credits**”) for sale as compensation for the loss of Sebastopol meadowfoam plant habitat type as specified in the CBA;
- E. Project Proponent is seeking to implement the project described in Exhibit “A” attached hereto (“**Project**”), which would unavoidably and adversely impact California tiger salamander habitat and plant habitat, and seeks to compensate for the loss of such habitat by purchasing compensatory CTS Credits from Bank Sponsor’s Bank;
- F. Project Proponent has been authorized by the Service, Service File No.: 08ESMF00-F-1199, to purchase from Bank Sponsor 1.87 acres of CTS Credits; and
- G. Project Proponent desires to purchase from Bank Sponsor and Bank Sponsor desires to sell to Project Proponent 1.87 acres of CTS Credits.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- 1. Bank Sponsor hereby sells to Project Proponent and Project Proponent hereby purchases from Bank Sponsor 1.87 acres of CTS Credits for the purchase price of \$420,750 (Four Hundred Twenty Thousand Seven Hundred and Fifty Dollars). Bank Sponsor will then deliver to Project Proponent an executed “Bill of Sale” in the manner and form as attached hereto and marked Exhibit B. The purchase price for said CTS Credits shall be paid by Project Proponent according to written instructions by Bank Sponsor to Project Proponent.

2. The sale and transfer herein is not intended as a sale or transfer to Project Proponent of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest in the foregoing.
3. Project Proponent shall have no obligation whatsoever by reason of the purchase of the compensatory CTS Credits to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of CTS Credits, or the Bank. Pursuant to the CBA for the Bank, Bank Sponsor shall monitor and make reports to the Approving Agencies on the status of any compensatory CTS Credits sold to Project Proponent. Bank Sponsor shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the compensatory CTS Credits by the Approving Agencies.
4. The compensatory CTS Credits sold and transferred to Project Proponent shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other project or purpose, except as set forth herein.
5. Project Proponent must exercise his/her/its right to purchase within thirty (30) days of the date of this Agreement. After the thirty (30) day period this Agreement will be considered null and void.
6. Upon purchase of 1.87 acres of CTS Credits specified in paragraph F and paragraph G above, Bank Sponsor shall complete the "Payment Receipt" form attached hereto as Exhibit C, and shall submit the completed Payment Receipt to the Approving Agencies.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

BANK SPONSOR:
DAVIS PRESERVE, LLC
A California Limited Liability Company

APPROVED AS TO FORM:

Office of the City Attorney

By: Harvey O. Rich
Its: Managing Member
Date: _____

PROJECT PROPONENT:
CITY OF SANTA ROSA
A California Municipal Corporation

By: Jason Nutt
Its: Director of Transportation & Public Works
Date: _____

APPROVED BY THE SERVICE:

This Agreement fulfills 1.87 acres of CTS Credits to meet the mitigation requirements, as specified under Service File No.: 08ESMF00-2021-F-1199.

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

By: _____

Title: _____

Dated: _____

Exhibit A

**DESCRIPTION OF PROJECT
TO BE MITIGATED**

[Name of Project (Service File No. _____)], Sonoma County, California

Exhibit B

Davis Preserve, LLC
336 Bon Air Center - Box 232
Greenbrae, CA 94904
(415) 472-1086

BILL OF SALE

Buyer: City of Santa Rosa, a California Municipal Corporation

Type and Amount of Credits: 1.87 acres of California Tiger Salamander Credits

Project Name: Fulton Road Widening Project between Guerneville Road and Piner Road

Project Assessor's Parcel Numbers: Multiple

Contract Date: _____, 2021

Service File Number: 08ESMF00-2021-F-1199

Army Corps Number: SPN-2017-00465

CDFW Number: 2081-2020-050-03 (ITP) & SON – 14105-R3 (LSAA)

RWQCB Number: WDID 1B20197WNSO

In consideration of \$420,750 (Four Hundred Twenty Thousand Seven Hundred Fifty Dollars), receipt of which is hereby acknowledged, Davis Preserve, LLC, a California limited liability company does hereby bargain, sell and transfer to the City of Santa Rosa, a California Municipal Corporation herein referred to as "Buyer," 1.87 acres of California tiger salamander credits ("CTS Credits"), in the Swift/Turner Conservation Bank in Sonoma County, California, developed, and approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Davis Preserve, LLC, a California limited liability company represents and warrants that it has good title to 1.87 acres of CTS Credits, and has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Davis Preserve, LLC, a California limited liability covenants and agrees with the Buyer to warrant and defend the sale of 1.87 acres of CTS Credits, herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED:

Davis Preserve, LLC
A California Limited Liability Company

By: Harvey O. Rich
Its: Managing Member

Exhibit C

Davis Preserve, LLC
336 Bon Air Center - Box 232
Greenbrae, CA 94904
(415) 472-1086

PAYMENT RECEIPT

PROJECT: SWIFT/TURNER CONSERVATION BANK

PAYMENT RECEIPT: 1.87 ACRES OF CTS CREDITS

PARTICIPANT INFORMATION:

Name: City of Santa Rosa, CA – Department of Transportation & Public Works
Address: 69 Stony Point Circle, Santa Rosa, CA 95401
Telephone: 707-543-4521
Contact: Chris Catbagan, PE, Civil Associate Engineer

PROJECT INFORMATION:

Project Description: Fulton Rd Widening Project between Guerneville Rd and Piner Rd
Army Corps File Number: SPN-2017-00465
Service Number: 08ESMF00-2021-F-1199
CDFW Number: 2081-2020-050-03 (ITP) & SON-14105-R3 (LSAA)
RWQCB Number: WDID 1B20197WNSO
Species/Habitat Affected: Sebastopol Meadowfoam & CTS
Credits Purchased: 1.87 acres of CTS Credits
Payment Amount: \$420,750 (Four Hundred Twenty Thousand Seven Hundred Fifty Dollars)
Project Location: City of Santa Rosa, CA – Between Fulton Rd & Guerneville Rd
County: Sonoma
Assessor's Parcel Numbers: Multiple
Payee: Davis Preserve, LLC
Payor: City of Santa Rosa, CA, a California Municipal Corporation
Amount: \$420,750 (Four Hundred Twenty Thousand Seven Hundred Fifty Dollars)
Method of Payment: Check in Exchange for Bill of Sale and Payment Receipt

RECEIVED:

Davis Preserve, LLC
A California Limited Liability Company

By: _____
Harvey O. Rich
Its: Managing Member
Date: _____