

Agreement for Sale of Conservation Credits

Bank CDFW Tracking No. 1798-2013-08-R4, USFWS File No. 08EVEN-2014-B-0086

This Agreement is entered into this ____ day of _____, 20__, by and between South Bay Conservation Resources, LLC, a California limited liability company (Bank Sponsor) and Santa Clara Valley Water District (Project Applicant), a special district of the State of California, jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Sponsor has developed the Sparling Ranch Conservation Bank (Bank) located in Santa Clara and San Benito Counties, California; and

B. The Bank was approved by the U. S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department) on June 13, 2017, and is currently in good standing with the Service and the Department; and

C. The Bank has received approval from the Service and Department to offer California tiger salamander (*Ambystoma californiense*) credits for sale as compensation for the loss of California tiger salamander habitat through the *Sparling Ranch Conservation Bank Enabling Agreement* (Bank Agreement); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact California tiger salamander Upland Habitat and seeks to compensate for the loss of California tiger salamander Upland Habitat by purchasing Conservation Credits from Bank Sponsor; and

E. Project Applicant has been authorized by the Service, File No. 08ESMFOO-2016-F-0721-1, and the Department, File No. 2081-2016-064-03, to purchase from the Bank Sponsor 29.47 California Tiger Salamander Upland Habitat credits upon confirmation by the Bank Sponsor of credit availability/adequate balance of credits remaining for sale; and

F. Project Applicant desires to purchase from Bank Sponsor, and Bank Sponsor desires to sell to Project Applicant 29.47 California Tiger Salamander Upland Habitat credits;

Now, therefor, the parties agree as follows:

1. Bank Sponsor hereby sells to Project Applicant and Project Applicant hereby purchases from Bank Sponsor 29.47 *California tiger salamander Upland Habitat* credits for the purchase price of \$1,031,450. The Bank Sponsor will then deliver to Project Applicant an executed Bill of Sale in the manner and form as attached hereto and marked Exhibit “B”. The purchase price for said credits shall be paid by check or, at the option of Bank Sponsor, wire transfer of funds according to written instructions by Bank Sponsor to Project Applicant.

2. The sale and transfer herein is not intended as a sale or transfer to Project Applicant of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. Project Applicant shall have no obligation whatsoever by reason of the purchase of the Conservation 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 the credits sold, or the Bank. Pursuant to the Bank Agreement and any amendments thereto, Bank Sponsor shall monitor

and make reports to the Service and Department on the status of any Conservation Credits sold to Project Applicant. Bank Sponsor shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the Conservation Credits by the Service, Department, and other state or federal jurisdictional agencies.

4. The Conservation Credits sold and transferred to Project Applicant 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 Applicant must exercise his/her/its right to purchase the Conservation Credits within 30 days of the date of this Agreement with payment in full to Bank Sponsor. After the 30 day period this Agreement will be considered null and void, if payment in full is not received by Bank Sponsor.

6. Upon purchase of the credits specified in paragraph D above, the Bank Sponsor shall submit to the CBRT Members listed in the Notices section of the Bank Agreement / Bank Enabling Instrument, copies of the: a) Agreement for Sale of Conservation Credits; b) Bill of Sale; c) Payment Receipt; and d) an updated ledger. The updated inventory / ledger must detail: i) Project Applicant; ii) Project Name; iii) Status (sale complete/sale not complete); iv) Credit Sale Date; v) Service and/or Department File Number; vi) U.S. Army Corps of Engineers File Number (if applicable); vii) Total Number of Credits Authorized to Sell; viii) Total Number of Credits Sold to Date (inclusive); and ix) Balance of all Credits Available. The inventory / ledger should include all sales data from bank opening/establishment to the present.

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

BANK SPONSOR:

South Bay Conservation Resources, LLC, a California limited liability company

By: Stonecreek Properties, LLC, a California limited liability company

Its: Manager

By: _____ Date: _____

(Signature)

Name: Michael Anderson, Manager

(Name and Title)

PROJECT APPLICANT:

Santa Clara Valley Water District, a special district of the State of California

By: _____ Date: _____

(Signature)

Name: Norma J. Camacho, CEO

(Name and Title)

Exhibit “A”

Project Description:

The Upper Llagas Creek Project (Project) will provide 1-percent flood exceedance (100-year flood) protection on West Little Llagas Creek through the community of Morgan Hill, assure no induced flooding on Llagas Creek by upstream modifications along the reaches downstream of Morgan Hill, and provide 10-percent flood exceedance (10-year flood) protection on East Little Llagas Creek.

Major elements of the Project include the construction of flood protection and geomorphic features using sinuous low-flow creek channels with floodplain benches at bankfull elevation; construction of access road for maintenance purposes; installation of a permanent 6-foot vinyl chain-link security fencing; invasive vegetation removal; and habitat enhancement, including mitigation plantings.

[UPPER LLAGAS CREEK PROJECT (Service File No. 08ESMF00-2016-F-0421-1/Department File No.2081-2016-064-03),

Santa Clara County, California]

Exhibit "B"

BILL OF SALE

Contract #SRCB-17-18-05

Bank CDFW Tracking No. 1798-2013-08-R4, USFWS File No. 08EVEN-2014-B-0086

Project Applicant Service File No. 08ESMFOO-2016-F-0721-1, and Department No. 2081-2016-064-03

In consideration of \$1,031,450, receipt of which is hereby acknowledged, *South Bay Conservation Resources, LLC*, a California limited liability company (Bank Sponsor) does hereby bargain, sell and transfer to Santa Clara Valley Water District (Project Applicant), 29.47 California Tiger Salamander Upland Habitat credits in the *Sparling Ranch Conservation Bank* in Santa Clara and San Benito Counties, California, developed, and approved by the U. S. Fish and Wildlife Service and California Department of Fish and Wildlife.

Bank Sponsor represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Sponsor covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: _____

South Bay Conservation Resources, LLC, a California limited liability company

By: Stonecreek Properties, LLC, a California limited liability company

Its: Manager

By: _____

(Signature)

Name: Michael Anderson, Manager

(Name and Title)

Exhibit "C"

Sparling Ranch Conservation Bank

CDFW Tracking No. 1798-2013-08-R4, USFWS File No. 08EVEN-2014-B-0086

CALIFORNIA TIGER SALAMANDER CREDITS: PAYMENT RECEIPT

PARTICIPANT INFORMATION

Name: Santa Clara Valley Water District
Address: 5750 Almaden Expressway, San Jose, CA, 95118
Telephone: (408)630-2596
Contact: Melissa Moore

PROJECT INFORMATION

Project Description: Upper Llagas Creek Project
Service/Department File Number: Service File No. 08ESMFOO-2016-F-0721-1, and Department No. 2081-2016-064-03
Other Agency File Number(s): _____
Species/Habitat Affected: California tiger salamander (*Ambystoma californiense*) Upland Habitat
Credits to be Purchased: 29.47 California tiger salamander USFWS & CDFW Upland Habitat Credits
Payment Amount: \$1,031,450.00
Project Location: Southern Santa Clara County, in the communities of Morgan Hill, San Martin, and Gilroy.
County/Address: Santa Clara County

PAYMENT INFORMATION

Payee: South Bay Conservation Resources, LLC, a California limited liability company
Payer: Santa Clara Valley Water District
Amount: \$1,031,450.00
Method of payment: Cash _____ Check No. _____ Money Order No. _____
Received by: _____ Date: _____
(Signature)
Name: _____ Title: _____

THIS PAGE INTENTIONALLY LEFT BLANK