

AGREEMENT
FOR MEASURE R ENVIRONMENTAL MITIGATION BANKING PROGRAM
BETWEEN
SEQUOIA RIVERLANDS TRUST AND TULARE COUNTY TRANSPORTATION
AUTHORITY

THIS AGREEMENT FOR MEASURE R ENVIRONMENTAL MITIGATION BANKING PROGRAM (“Agreement”) is entered into by and between the Tulare County Association of Governments, a local government agency with its office at 961 South Mooney Blvd., Visalia, CA 93277 (“ASSOCIATION”), and Sequoia Riverlands Trust, a non-profit land trust organized under the laws of the State of California, with its principal place of business at 427 S. Garden Street, Visalia, California 93277 (“CONTRACTOR”), effective as of July ____, 2014 (“Effective Date”).

RECITALS

- A. WHEREAS, ASSOCIATION seeks mitigation services from CONTRACTOR for conversion of state and/or federally threatened and/or endangered species habitat as a result of the construction of Measure R transportation projects (the “Projects”).
- B. WHEREAS, CONTRACTOR is the fee title owner of 6 preserves in Tulare County – the 322-acre Kaweah Oaks Preserve (KOP), the 1,819-acre Homer Ranch Preserve, the 152-acre Dry Creek Preserve, the 110-acre Lewis Hill Preserve, the 725-acre James Herbert Wetland Preserve, and the 1,147-acre Blue Oak Preserve.
- C. WHEREAS, Mitigation Sites are available on any one of CONTRACTOR’s preserves and CONTRACTOR is willing to reserve 10 to 15 acres of mitigation land indefinitely on any of its preserves for ASSOCIATION’s member agencies to offset a projects impacts to listed species.
- D. WHEREAS, the reservation of the Mitigation Site is the only service CONTRACTOR shall provide as contemplated by this Agreement. Additional services requested of CONTRACTOR by ASSOCIATION (e.g., site restoration, planning and design, planting): 1) may require additional payment(s); and 2) shall be addressed in subsequent agreements.
- E. CONTRACTOR shall reserve the Mitigation Site indefinitely until such time that ASSOCIATION’s member agency (or member agencies) requires governmental approvals and is required to provide compensatory mitigation for the project(s).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree that for compensation in the amount of \$10,000 per acre, CONTRACTOR will provide ASSOCIATION with the following:

- CONTRACTOR shall reserve a minimum of 10 acres and a maximum of 15 acres at any one of CONTRACTOR'S 6 preserves in Tulare County for ASSOCIATION for future state and/or federal mitigation obligations. Land will be chosen based on mitigation needs of ASSOCIATION, as dictated by requirements laid out by the California Department of Fish and Wildlife

Once it has been determined that ASSOCIATION needs to invoke its right to set aside land, it will promptly notify via mail CONTRACTOR of 1) required acreage and 2) protected species needed to be accounted for in the mitigation land. CONTRACTOR will respond by letter confirming that such acreage has been set aside at the request of ASSOCIATION.

The total acreage requested by ASSOCIATION, to be reserved by CONTRACTOR, will be indicated by resolution of ASSOCIATION's board, attached as Exhibit A to this Agreement. The total Reservation shall be no less than 10 acres and no greater than 15 acres.

CONTRACTOR shall invoice ASSOCIATION promptly upon execution of this Agreement in the amount of \$10,000 per acre in the Reservation.

CONTRACTOR shall receive payment within 30 days of the date the invoice is received by ASSOCIATION.

CONTRACTOR and ASSOCIATION both agree to fully cooperate with respect to any actions required to effectuate this Agreement, including, but not limited to, any governmentally required submissions necessary to accomplish the intent of this Agreement.

This Agreement may not be modified or amended except by a writing executed by all parties. The parties agree to execute such other documents and perform such other acts as may be necessary to carry out the purposes of this Agreement. If any term, covenant or condition of the Agreement or its application to any person or circumstances shall be held to be invalid or unenforceable, the remainder of the Agreement and the application of such term or provision to other persons or circumstances shall not be affected, and each term hereof shall be valid and enforceable to the fullest extent permitted by law. This Agreement may be executed in any number of original counterparts, all of which evidence only one agreement. This Agreement shall be effective upon execution and delivery by the parties hereto and such delivery may be effectuated by facsimile transmission or by transmission by executed PDF copy via email. The Agreement shall be governed by the laws of California. Time is of the essence for the payment and performance of all obligations under the Agreement. Each of the individuals executing the Agreement on behalf of a party individually represents and warrants that he or she has been authorized to do so and has the power to bind the party for whom they are signing. Each party shall comply with all applicable laws, rules, regulations, orders, consents and permits in the performance of all of their obligations under this Agreement.

Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

TCAG:

With A Copy To:

Phone No.:

Fax No.:

CONTRACTOR:

Phone No.:

Fax No.:

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONTRACTOR:

SEQUOIA RIVERLANDS TRUST,
a California nonprofit corporation

ASSOCIATION:

TULARE COUNTY ASSOCIATION OF
GOVERNMENTS

By:	By:_____
Name: <u>Sopac McCarthy Mulholland</u>	Name: _____
Its: <u>Executive Director</u>	Its: _____
Date:	Date:

Exhibit A: Mitigation Site

