



Solano Transportation Authority

SOLANO TRANSPORTATION AUTHORITY

Member Agencies:

Benicia ♦ Dixon ♦ Fairfield ♦ Rio Vista ♦ Suisun City ♦ Vacaville ♦ Vallejo ♦ Solano County

... working for you!

One Harbor Center, Suite 130, Suisun City, CA 94585-2473 ♦ Telephone (707) 424-6075 / Facsimile (707) 424-6074
Email: staplan@sta-snci.com ♦ Website: solanolinks.com

May 20, 2013

To: **Mitigation Providers**

RE: Request for Proposals (RFP # 2013-05) to Provide California Red-Legged Frog, Callippe Silverspot Butterfly, and Oak Woodland/Riparian Habitat for the I-80/I-680/State Route (SR) 12 Interchange – Phase 1 Project

Dear Provider:

The Solano Transportation Authority (STA) invites Mitigation Providers to submit a proposal to provide environmental mitigation for the I-80/I-680/SR12 Interchange – Phase 1 Project in Solano County, specifically for the California Red-Legged Frog, Callippe Silverspot Butterfly, and Oak Woodland/Riparian Habitat. To obtain an additional copy of the RFP or for more information on the overall Project, please contact STA at (707) 424-6075 or download the RFP from the STA website: <http://www.sta.ca.gov>.

The attached Request for Proposals (RFP) describes the project, summarizes its current status, presents the requirements of the proposal, and outlines the criteria that will be used to evaluate the proposals.

Interested organizations are invited to submit six (6) hard copies and one (1) electronic copy (CD or Flash Drive) of your Proposal and a description of how they would fulfill the requirements of the RFP. Responses are to be addressed to Janet Adams, Director of Projects, Solano Transportation Authority, One Harbor Center, Suite 130, Suisun City, CA 94585 no later than 3:00 p.m., **Friday, June 7, 2013.**

We look forward to receiving a proposal from your firm/team. If you have any questions regarding this project, please contact Dale Dennis, STA Project Manager at (925) 595-4587, or Janet Adams, Deputy Executive Director/Director of Projects, at (707) 424-6010.

Sincerely

Daryl K. Halls
Executive Director

Attachment



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REQUEST FOR PROPOSALS (RFP #2013-05)

to

**Provide California Red-Legged Frog,
Callippe Silverspot Butterfly, and
Oak Woodland/Riparian Habitat
for**

the I-80/I-680/SR12 Interchange – Phase 1 Project

PROPOSALS DUE:

3:00 PM, FRIDAY, June 7, 2013

Solano Transportation Authority
One Harbor Center, Suite 130
Suisun City, CA 94585-2473



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TABLE OF CONTENTS

- 1.0 Introduction
- 2.0 RFP Schedule
- 3.0 Scope of Services
- 4.0 Proposal Requirements
- 5.0 Proposal Evaluation and Selection
- 6.0 Attachments

DISCLOSURE: The master copy of each response to this RFP shall be retained for official files and will become a public record after the award of a contract unless the qualifications or specific parts of the qualifications can be shown to be exempt by law (Government Code section 6250 et seq.). Each Mitigation Provider may clearly label part of a submittal as "CONFIDENTIAL" if the Mitigation Provider agrees to indemnify and defend the STA for honoring such a designation. The failure to so label any information that is released by the STA shall constitute a complete waiver of all claims for damages caused by any release of the information. If a public records request for labeled information is received by the STA, the STA will notify the Mitigation Provider of the request and delay access to the material until seven calendar days after notification to the Mitigation Provider. Within that time delay, it will be the duty of the Mitigation Provider to act in protection of its labeled information. Failure to so act shall constitute a complete waiver.

1.0 INTRODUCTION

The Solano Transportation Authority (STA) is a Joint Powers Authority with members including the cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo, and the County of Solano. The STA serves as the Congestion Management Agency for Solano County and is responsible for countywide transportation planning and programming of State and Federal funding for transportation projects within the county. The STA is working in partnership with Caltrans to deliver the I-80/I-680/SR12 Interchange – Phase 1 Project and will be taking the lead in securing California Red-Legged Frog, Callippe Silverspot Butterfly, and Oak Woodland/Riparian environmental mitigation requirements as described further in this RFP for this critical transportation project.

Background

I-80 is a major transcontinental highway route, typically six to eight lanes. The corridor within Solano County functions as an essential commuter route within the San Francisco Bay Area, connecting workers in Solano County with jobs in neighboring Contra Costa, Alameda, and San Francisco Counties. Its regional significance is demonstrated by its high percentage of inter-county travel. In addition to its function as a commuter corridor, this route provides an important connection between the Bay Area and Sacramento, the Sierra Nevada and Lake Tahoe regions. Finally, the route is also a primary truck route connecting the Port of Oakland to points east and north, contributing significantly to the economic health of the State of California by facilitating goods distribution throughout the western U.S.

The existing I-80/I-680/SR 12 interchange complex was constructed approximately 40 years ago, and current traffic demands have resulted in extreme congestion, delays, substantial traffic diversion, and unacceptable levels of service (LOS). The proposed improvements are designed to reduce congestion, accommodate anticipated increases in traffic, and address safety concerns.

Caltrans, in cooperation with the STA and the Federal Highway Administration (FHWA) proposes to improve the interchanges between I-80, I-680 and SR12 in the vicinity of City of Fairfield, Solano County, California. The proposed improvements are designed to reduce congestion, accommodate anticipated increases in traffic demand, and address safety concerns, while at the same time preserving the existing network of interchanges serving the local land uses.

Construction of the fundable first phase (Phase 1) of the Preferred Alternative is proposed to take place in a series of construction packages beginning in late 2013 or early 2014. As such, STA and Caltrans are moving forward with implementing environmental mitigation for the Phase 1 project.

The Solano Transportation Authority (STA) invites Mitigation Providers to submit a proposal to provide environmental mitigation for the **I-80/I-680/SR12 Interchange – Phase 1 Project** in Solano County.

2.0 RFP SCHEDULE

The following represents the tentative schedule for this RFP selection/contracting process.

Issue Request for Proposals	May 20, 2013
Proposals and Documentation Due	June 7, 2013 - 3 pm
Proposal Evaluation by Review Team	June 14, 2013
Notification of Intent to Award	Week of June 17, 2013
Contract Execution	Upon approval from USFWS and Regional Water Quality Control Board

3.0 SCOPE OF SERVICES

This scope of services is to provide California Red-Legged Frog, Callippe Silverspot Butterfly, and Oak Woodland/Riparian environmental mitigation for the **I-80/I-680/SR12 Interchange – Phase 1 Project** in Solano County.

The minimum environmental compensation being requested under this RFP is shown in the following table. Please indicate in your proposals the amount of compensation you can provide if it is greater than the amounts in the following table to address a situation whereby the final permits require more mitigation than currently estimated:

TABLE 1	
I-680/I-80/SR12 Interchange – Phase 1 Project	
Compensation Requirements	
Habitat Type	Compensation Requirement*
<i>California Red-Legged Frog (CRLF) and Callippe Silverspot Butterfly (CSB) Habitat</i>	282.84 ac of CRLF and CSB habitat, with high conservation values*
<i>Oak Woodland/Riparian Creation</i>	12 acres (of this amount 3.33 acres must be creation of riparian habitat meeting Regional Water Quality Control Board requirements)

* Specific habitat requirements are described in more detail below. If the mitigation areas are within a larger body of land, a separate conservation easement/endowment may be required subject to resource agency approval.

The *mitigation proposal must include the following minimum requirements:*

Mitigation proposal must meet requirements of the USFWS Biological Opinion and Regional Water Quality Control Board permit which can be viewed at

http://www.sta.ca.gov/Content/10078/1801680SR12_Interchange_Project.html.

1. Caltrans is the project permittee with regard to the US Fish and Wildlife Service and Regional Water Quality Control Board. As such all studies, reports, documents and agency coordination will require review and approval by Caltrans.
2. Mitigation Provider will be responsible for coordination with and approvals from STA, Caltrans, USFWS (through Caltrans) and Regional Water Quality Control Board (through Caltrans).
3. CRLF habitat proposals must have high conservation values, consistent with the parameters described in the Draft Solano HCP (SCWA 2009) including but not limited to: 1) the CRLF needs to be found on the proposed compensation area and breeding needs to be within 0.7 miles of unobstructed California red-legged frog breeding habitat and non-breeding habitats; 2) within a California red-legged frog critical habitat unit or within the vicinity of frog critical habitat; and 3) demonstrated ability to obtain approval by the US Fish and Wildlife Service by November 30, 2013.
4. Mitigation Provider should acknowledge that they will need to prepare a submittal for the CRLF mitigation site to obtain USFWS approval. Such submittal shall include, at a minimum, a biological resources assessment and a habitat assessment describing the existing conditions, such as ephemeral and perennial water features on the mitigation site.
5. Callippe Silverspot Butterfly (CSB) habitat must have high conservation values including but not limited to: 1) ridgelines and topographic features associate with CSB breeding behavior and adult and/or larval nectar plants; and 2) demonstrated ability to obtain approval by the US Fish and Wildlife Service by November 30, 2013.
6. Mitigation Provider should acknowledge that they will need to prepare a submittal for the CSB mitigation site to obtain USFWS approval. Such submittal shall include, at a minimum, a biological habitat assessment will need to be completed that establishes the presence of associated topographical features and adequate larval and adult food sources for the CSB.
7. CRLF and CSB compensation requirements can be overlain on common acreage so long as it is appropriate habitat for each species.
8. Proposals for Oak Woodland/Riparian plantings should consist of native species appropriate to the area and identified to be obtained from local sources. Planted species will be based on those removed from the project area and may include valley and interior live oak, as well as suitable native understory species such as blue wildrye, creeping wildrye, and purple needlegrass. 3.33 acres of the planting must meet Regional Water Quality Control Board requirements for riparian creation and therefore be in close proximity to existing drainages and/or water courses. All plantings, must be monitored

annually for ten (10) years, or as required in the project permits. Each proposal shall include this obligation and all costs required to ensure survival criteria is met, i.e., if the survival criteria agreed upon by Caltrans and Regional Water Quality Control Board is not met at the end of the monitoring period, planting and monitoring will be repeated until the survival criterion is met.

9. All mitigation provided under this proposal must be protected in perpetuity via a conservation easement acceptable to the US Fish and Wildlife Service and the Regional Water Quality Control Board.
10. The mitigation being requested under this RFP can be implemented as a “turn-key” operation or as an approved mitigation bank. The mitigation provider will be responsible for obtaining all permits, licenses and approvals necessary for the mitigation lands. This includes all necessary studies, reports, conservation easements, management plans, legal documents, PAR analysis, endowments, etc. that may be required by the US Fish and Wildlife Service and/or Regional Water Quality Control Board deemed necessary to obtain approval of the compensation lands. Therefore, proposals must also include all costs associated with land acquisition, site improvements (plantings, restoration work), permits, licenses, conservation easements, performance bonds, endowments, etc. that may be required by Caltrans, US Fish and Wildlife Service and Regional Water Quality Control Board.
11. Mitigation Provider must identify a USFWS approved entity to hold the conservation easement and endowment.
12. Mitigation Provider must show they either have already or can obtain all permits, licenses and approvals by November 30, 2013.
13. Mitigation Provider must either own the mitigation property or have an option on the property.
14. To the extent approval of the mitigation site for CRLF and CSB has not been obtained from the USFWS at the time of submission of a proposal, the Mitigation Provider must submit a detailed plan demonstrating the necessary steps that need to take place and the correlated studies that need to be completed in order to obtain USFWS approval, with actual implementation to be achieved no later than November 30, 2013.

4.0 PROPOSAL REQUIREMENTS

Please submit your proposal in accordance with the following requirements. The word “Mitigation Provider” in this document means an individual, an organization or a firm that submits, or intends to submit, a Proposal.

1. *Transmittal Letter:* The Proposal and Supporting Documentation shall be transmitted with a cover letter describing the Provider’s interest and commitment to the proposed project. The cover letter should include the name, title, address and

telephone number of the individual to whom correspondence and other contacts should be directed during the final negotiation process.

Cover Letter with the following information:

- Title of this RFP
- Name and Mailing Address of Firm (include physical location if mailing address is a PO Box)
- Contact Person, Telephone Number, Fax Number, and Email Address
- A statement that the submitting firm will perform the services necessary to provide environmental mitigation for the **I-80/I-680/SR12 Interchange – Phase 1 Project** and that the proposal shall be valid November 30, 2013.
- Acknowledgement that all proposals may be considered public information. Subsequent to award of a contract associated with this RFP, all or part of any submittal may be released to any person or firm who may request it. Therefore, proposers shall specify in their Cover Letter if any portion of their submittal should be treated as proprietary and not releasable as public information. Proposers should be aware that all such requests may be subject to legal review and challenge.
- The person authorized to negotiate a contract with STA shall sign the cover letter. Address the cover letter and the Proposal as follows:

Proposal (RFP # 2013-05) to Provide Environmental Mitigation for the I-80/I-680/SR12 Interchange – Phase 1 Project

Attn: Janet Adams, Director of Projects
Solano Transportation Authority
One Harbor Center, Suite 130
Suisun City, CA 94585

2. *Project Understanding:* This section shall clearly convey the Mitigation Provider's understanding of the nature of the work, including coordination with and approvals from STA, Caltrans, USFWS and Regional Water Quality Control Board.
3. *Approach and Management Plan:* This section shall provide the Mitigation Provider's proposed approach and implementation plan for providing the services, including documentation of ownership interest in the proposed mitigation site(s).
4. *Qualifications and Experience:* The proposal shall provide the qualifications and experience of the Mitigation Provider's team that will deliver the required California Red-Legged Frog and Callippe Silverspot Butterfly, and Oak Woodland/Riparian environmental mitigation. Please emphasize the specific qualifications and experience from projects similar to this project.
5. *Implementation Plan and Schedule:* The Proposal shall include the Mitigation Provider's Implementation Plan, which will clearly state the approach the Provider will use to provide all of the required California Red-Legged Frog and Callippe Silverspot Butterfly, and Oak Woodland/Riparian environmental mitigation and the manner/approach for ensuring the environmental mitigation is delivered expeditiously per the required schedule. This section shall include a description of how each major task and subtask of

the project will be conducted, identification of deliverables for each major task and subtask, and a schedule. The Implementation Plan should be in sufficient detail to demonstrate a clear understanding of the project. The schedule should show the expected sequence of tasks and subtasks and include durations for the performance of each task, subtask, milestones. Discuss the Mitigation Provider's firm/team's approach for completing the services for this project on schedule. Mitigation Provider must show they either have already or can obtain all permits, licenses and approval, or can assist STA with modifying project permits by November 2013.

6. *Proposed Contract.* The apparent best evaluated Firm shall be prepared to enter into a contract with the STA which shall be substantially the same as the proposed contract included in Attachment B of this RFP. Notwithstanding, the STA reserves the right to add terms and conditions, deemed to be in the best interest of the STA, during final contract negotiations. Proposals shall also include a statement of acknowledgement that the proposed contract has been reviewed and accepted with or without qualification. If qualifications are involved, those items requiring adjustment or modification must be identified and listed along with suggested modifications to the contract. If no modifications to the contract are noted, then the STA will assume that the Responding Firm is capable of performing the services without reservation or qualification to the contract.¹

7. *Cost Proposal:* A cost proposal should be included in the proposal that clearly delineates all the costs associated with delivering the California Red-Legged Frog and Callippe Silverspot Butterfly, and Oak Woodland/Riparian environmental mitigation, including the endowment fund. Proposal costs shall be broken down into the following line items along with a total cost provided:
 - Cost of Land including conservation easement
 - Cost of any site improvements deemed necessary including oak woodland/riparian planting and ten (10) years of monitoring
 - All support costs including reports and studies that may be required
 - Performance Bond or Security
 - Endowment for long term maintenance, monitoring and reporting (assume annual monitoring for the first 10 years and every 3 years thereafter)

8. *Additional Relevant Information:* Provide additional relevant information that may be helpful in the selection process (not to exceed the equivalent of 2 single-sided pages).

9. *Submittal of Proposals:* Six (6) copies of your proposal are due at the STA offices no later than your proposal to the STA offices no later than 3:00 p.m. Friday, June 7, 2013. Envelopes or packages containing the proposals should be clearly marked, **“Proposals Enclosed.”**

¹ The proposed contract contains bracketed items that will be replaced with appropriate information in the final contract.

5.0 Proposal Evaluation and Selection

Each proposal will be reviewed to determine if it meets the minimum documentation requirements set forth above in Section 3.0. A Notice of Intent to Award will be issued to the Mitigation Provider offering the lowest cost proposal that meets the minimum requirements. STA staff will start contract negotiations with the selected Provider pending final approval by USFWS and Regional Water Quality Control Board.

The STA reserves the right to consider or reject any and all bids at its own discretion. The STA further reserves the right to reject all bids and issue a new RFP. Prospective Providers shall propose on all of the mitigation components listed in Table 1 above.

6.0 ATTACHMENTS

Attachment A- List of Mitigation Providers that Received this RFP

Attachment B – Proposed Contract

Attachment A

List of Mitigation Providers that Received this RFP

Jeff Mathews
Westervelt Ecological Services
600 N. Market Boulevard, Suite 3
Sacramento, CA 95834

Julie Maddox
Wildlands Inc.
3855 Atherton Road
Rocklin, CA 95765

Bruce Barnett
Environmental Consulting
5214 El Cemente Avenue
Davis, CA 95618

Robert Fletcher
Fletcher Conservation Properties
1576 Catalina Court
Livermore, CA 94550

Mark Dawson
Waterhole Land Company
3170 Crow canyon Place, Suite 260
San Ramon, CA 94583

Solano Land Trust
1001 Texas Street, Suite C
Fairfield, CA 94533

Jeff Olberding
OLBERDING ENVIRONMENTAL, INC.
3170 Crow Canyon Place, Suite 260
San Ramon, California 94583

Chris Stump
Muzzy Conservation Bank
4630 Westamerica Drive, Suite A
Fairfield, CA 94453

Tim DeGraff
WRA, Inc.
2169-G San Francisco Blvd
San Rafael, CA 94901

Anthony Georges
Burdell Mitigation Bank
P.O. Box 2039
Mill Valley, CA 94942

Attachment B

Proposed Contract

AGREEMENT OF PURCHASE AND SALE OF MITIGATION VALUES

This Agreement of Purchase and Sale ("**Agreement**") is entered into as of _____, 2013 ("**Effective Date**") by and between SOLANO TRANSPORTATION AUTHORITY ("STA") a joint powers agency ("**Buyer**"), and _____, a [California] corporation ("**Owner**"). In consideration of the mutual covenants and agreements hereinafter set forth, Owner and Buyer agree as follows:

ARTICLE 1. BACKGROUND AND PURPOSE

1.01. Owner Property. Owner [*define legal interest in property*] that certain real property (the "**Owner Property**") in Solano County, California, commonly known as "_____" The Owner Property consists of approximately ____ acres, legally described in **Exhibit A** attached and incorporated into this Agreement by this reference. In response to Buyer's Request for Proposal, issued May 20, 2013, Owner submitted a proposal, dated _____, attached as **Exhibit B**, which is incorporated into this Agreement.

1.02. Mitigation Property. Approximately [____] acres within the Owner Property and shown on attached **Exhibit C** (the "**Mitigation Property**") will be made subject by Owner to a conservation easement (the "**Conservation Easement**") to preserve in perpetuity certain environmentally sensitive features of the Mitigation Property including approximately ____ acres of habitat for the California red-legged frog which is listed as a "threatened" species under the Federal Endangered Species Act and the callippe silverspot butterfly which is listed as an "endangered" species under the Federal Endangered Species Act (the "**Preservation Action**"). Owner also will undertake certain planting activities on the Mitigation Property to create (a) approximately ____ acres of valley oak woodland; and (b) approximately _____ acres of live oak woodland (collectively, the "**Creation Actions**"). Owner expects that the Preservation Action and Creation Actions will result in a net increase in the environmental functions and values present on or exhibited by the Mitigation Property (collectively the "**Net Environmental Values**"). Owner shall be fully and completely responsible for satisfying any and all conditions placed on the Mitigation Property by the Resource Agencies to create the Compensatory Mitigation.

1.03. Project. Buyer has secured or intends to secure certain approvals from the State of California Department of Transportation ("Caltrans") for the construction of a state highway project commonly known as the "**I-80/I-680/SR12 Interchange Phase 1 Project**," as well as certain off-site infrastructure required in connection therewith (together the "**Project**"). Buyer has determined that development of the Project may result in the impact to ____ acres of California red-legged frog and callippe silverspot butterfly habitat, and the destruction of ____ acres of live oak woodland and ____ acres of valley oak woodland (collectively, the "**Development Impacts**"), and has applied to one or more of the following resource agencies: U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; California Department of Fish

and Game; Regional Water Quality Control Board (collectively, the "**Resource Agencies**"), as appropriate, for authorizations to cause the Development Impacts.

1.04. Mitigation Values. Pursuant to permits issued from the Resource Agencies (collectively, the "**Permits**"), Buyer is required to provide compensatory mitigation for the Development Impacts in the form of preservation of California red-legged frog and callippe silverspot butterfly habitat, and the creation of valley and live oak woodland habitat (collectively the "**Compensatory Mitigation**"), all in amounts roughly equivalent to the Net Environmental Values. Buyer therefore desires to purchase from Owner and Owner desires to sell to Buyer the Compensatory Mitigation and provide Net Environmental Values required by the Permits. For the purposes of this Agreement, said purchase and sale shall be described by Owner and Buyer as a sale of "**Mitigation Values**" in an amount equal to the Net Environmental Values.

ARTICLE 2.

PURCHASE AND SALE OF MITIGATION VALUES

2.01. Purchase and Sale. Owner shall sell to Buyer and Buyer shall purchase from Owner the Mitigation Values on terms and conditions specified in this Agreement.

2.02. Escrow.

A. Opening. The purchase and sale of the Mitigation Values shall be consummated by means of an escrow (the "**Escrow**") which is to be opened at _____ ("**Escrow Holder**"), on the Effective Date.

B. Escrow Instructions. The escrow instructions given to Escrow Holder shall be consistent with the terms of this Agreement and, as between the parties, the terms of this Agreement shall prevail if there is any inconsistency, unless the typewritten rather than printed portion of the instructions specifically provides to the contrary.

2.03. Purchase Price. The purchase price ("**Purchase Price**") for the Mitigation Values shall be \$ _____ which includes i) _____ acres of CRLF/CSB habitat preservation at \$ _____ per acre; ii) _____ acres of valley oak woodland creation at \$ _____ per acre; and iii) _____ acres of live oak woodland creation at \$ _____ per acre. The parties agree that the Purchase Price includes all costs to perform the services necessary for the Compensatory Mitigation.

The Purchase Price shall include any and all costs related to the Conservation Easement (NOT including any endowment fund related to it), and any and all costs related to performing the Owner obligations identified in this Agreement. In the event the final Compensatory Mitigation required is less or more than as described above, the Purchase Price shall be reduced or increased in proportion to such change in Compensatory Mitigation.

2.04. Payment. No later than thirty (30) days following the Parties' mutual execution and delivery of this Agreement, Buyer shall deposit with Escrow Holder the entire Purchase Price. Escrow Holder shall hold the Purchase Price in an interest-bearing account reasonably acceptable to Buyer and Seller for the benefit of Buyer and Seller, in accordance with the terms,

and conditions of this Agreement, with the Purchase Price to be disbursed to Owner on the Closing Date.

2.05. Close. For the purposes of this Agreement, the "**Closing Date**" shall be on or before [_____]. On the Closing Date, Owner shall cause the Conservation Easement to be recorded by the Escrow Holder as part of the Closing and a conformed copy to be promptly delivered to Buyer.

2.06. Closing Deliverables. The parties shall deposit the following with Escrow Holder prior to the Closing Date:

A. Buyer's Deliveries. Buyer shall deposit (a) the Purchase Price, and (b) Buyer's share of closing costs and prorations.

B. Owner's Deliveries. Owner shall deposit (a) Owner's share of closing costs and prorations, if any, (b) a Bill of Sale in the form of **Exhibit D** attached to and incorporated in by this reference (the "**Bill of Sale**"), executed by Owner, evidencing the sale of the Mitigation Values to Buyer, (c) a fully executed original of the Conservation Easement, and (d) executed copy of surety bond and/or letter of credit guaranteeing Owner's performance of the Mitigation Work as set forth in Section 3.02 below.

C. Additional Instruments. Owner and Buyer shall each deposit such other instruments as are reasonably required by Escrow Holder or otherwise required to proceed to the close of escrow and to carry out the purpose and intent of this Agreement.

2.07. Closing Costs.

A. Borne by Owner. Owner shall pay its own legal and professional fees and fees of other consultants retained by the Owner incurred with regard to this transaction.

B. Borne by Buyer. Buyer shall bear the costs of any escrow fees and any other such fees and miscellaneous costs. Buyer shall pay its own legal and professional fees and fees of other consultants retained by the Buyer incurred with regard to this transaction.

2.08. Termination of Agreement. If on the Closing Date any condition precedent to the obligations of either party under this Agreement remains unsatisfied and has not been waived by the party entitled hereunder to waive such condition, then either party may elect to terminate this Agreement.

ARTICLE 3.

OBLIGATIONS WITH RESPECT TO MITIGATION VALUES

3.01. Owner Obligations Re Mitigation Property Approvals. Owner, at Owner's sole cost and expense, shall: (a) prepare a Resource Management Plan (the "**RMP**") for the Preservation Action and Creation Actions on the Mitigation Property and a Creation Plan ("**Creation Plan**") for the Creation Actions on the Mitigation Property; (b) prepare the Conservation Easement for the Mitigation Property and cause the recordation of the

Conservation Easement in the Official Records of Solano County; (c) prepare a copy of the Property Analysis Report (PAR) which will be used to determine the amount of endowment necessary for long-term management; (d) prepare applications for such other approvals as Owner reasonably determines are required for Owner to undertake the Preservation Action and Creation Actions on the Mitigation Property; and (e) take any such other actions as may be required by the applicable Resource Agencies to undertake the Preservation Action and Creation Actions on the Mitigation Property, including the establishment of any and all endowment funds or other security required for the Preservation Action and Creation Actions or otherwise for the perpetual maintenance of the Mitigation Property in accordance with the requirements of the applicable Resource Agencies (collectively, the “**Owner Mitigation Property Approvals**”).

3.02. Owner’s Obligations Re Mitigation Work. The creation of live oak and valley oak woodland habitat on the Mitigation Property may be referred to as the “**Mitigation Work**”. As part thereof, Owner, at its sole cost and expense, shall be responsible for obtaining any grading or other permit which may be required on the Mitigation Property to perform the Mitigation Work. Owner shall complete the Mitigation Work in accordance with the requirements of the Owner Mitigation Property Approvals prior to the recordation of the Conservation Easement or provide security satisfactory to the applicable resource agency(s) in the form of a bond or letter of credit or such other acceptable security to guarantee the completion of said Mitigation Work. Owner shall maintain and monitor the Mitigation Property until the success criteria described in the Owner Mitigation Property Approvals are met.

3.03. Exclusivity. Owner shall not sell or assign to any third party the Mitigation Values with respect to the Mitigation Property before or after the Closing Date unless Buyer or Owner has rightfully terminated this Agreement prior to the Closing Date.

3.04. Cooperation. Buyer shall, at no material additional cost to Buyer, reasonably cooperate with Owner and Owner’s designated environmental consultants for the Mitigation Property as may be reasonably necessary to complete this transaction in accordance with the intent of the parties, and to facilitate the issuance of the Owner Mitigation Property Approvals. Owner shall, at no material additional cost to Owner, reasonably cooperate with Buyer and Buyer’s designated environmental consultant for the Project as may be reasonably necessary to complete this transaction in accordance with the intent of the parties, and to facilitate the issuance of the Permits that identify the Net Environmental Values as the Compensatory Mitigation for the Development Impacts.

ARTICLE 4.

REPRESENTATIONS, WARRANTIES AND COVENANTS

4.01. Owner's Representations and Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to buy the Mitigation Values from Owner, Owner makes the following representations and warranties (which representations, warranties and covenants shall survive the Closing Date for a period of two years), each of which is material and is being relied upon by Buyer (the continuing truth and accuracy of which shall constitute a condition precedent to Buyer's obligation hereunder):

A. Owner has the legal right, power and authority to enter into this Agreement and to consummate the transaction contemplated and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Owner is requisite to be valid and binding execution, delivery and performance of this Agreement.

4.02. Buyer's Representations, Warranties and Covenants. In consideration of Owner entering into this Agreement and as an inducement to Owner to sell the Mitigation Values to Buyer, Buyer makes the following representations, warranties and covenants (which representations, warranties and covenants shall survive the Closing Date for a period of two years), each of which is material and is being relied upon by Owner (the continued truth and accuracy of which shall constitute a condition precedent to Owner's obligations hereunder):

A. Buyer has the legal right, power and authority to enter into this Agreement and to consummate the transaction contemplated hereby, and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Buyer is requisite to the valid and binding execution, delivery and performance of this Agreement.

4.03. Limitation on Liability. Notwithstanding any other provision of this Agreement, in no event will Owner or Buyer be liable to the other party for any indirect, special, consequential or incidental damages, or loss of profits or loss of goodwill, regardless of whether the Owner or Buyer has been informed of the possibility of such damages or is negligent, and whether or not such damages were reasonably foreseeable.

ARTICLE 5. **MISCELLANEOUS**

5.01. Captions. All section captions used in this Agreement are for reference only and shall not be considered in interpreting the provisions of this Agreement.

5.02. Time of Essence. Time is of the essence of this Agreement and of the sale provided for herein.

5.03. Integration. This Agreement contains the entire agreement of Buyer and Owner, superseding any and all prior written or oral agreements between them concerning the subject matter contained herein, and Buyer and Owner release each other from any and all rights, obligations and claims under such prior agreements.

5.04. Additional Documents. From time to time prior to and after the Closing Date, Buyer and Owner shall execute and deliver such instruments of transfer and other documents as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement.

5.05. Notice. All notices, demands, requests, elections, approvals, disapprovals, consents or other communications which this Agreement contemplates, requires or permits either Buyer or Owner to give to the other shall be in writing and shall be personally delivered, transmitted by facsimile, or sent by first class, or certified mail, return receipt requested, addressed to the respective parties, as follows:

Solano Transportation Authority
One Harbor Center, Suite 130
Suisun City, CA 94585
Attn: Daryl K. Halls, Executive Director
Fax: (707) 424-6074

Insert Owner contact information here

or to such other address or facsimile as Buyer or Owner may from time to time designate by notice to the other party given in accordance with this section. Personally delivered notice shall be deemed delivered upon the delivery thereof; notice transmitted by facsimile shall be deemed delivered upon sending provided that the sender has a confirmation of such transmission and deposits in the United States mail on the same day a copy of such notice by first-class mail, otherwise upon the receiving party's receipt of such mailing; and mailed notice shall be deemed delivered upon the earlier of (i) receipt or (ii) 72 hours after deposit thereof in the United States mail.

5.06. No Recordation. Buyer and Owner agree that neither this Agreement nor any memorandum thereof shall be recorded by either party.

5.07. Assignment or Subsequent Transfers. Neither party shall assign, transfer or convey such party's rights and/or obligations under this Agreement without the prior written approval of the non-assigning party, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either party shall have the right without consent of the other party to assign its rights and obligations hereunder to a party that controls, is controlled by, or is under common control with the assigning party. Further notwithstanding the foregoing, in no event shall Buyer have the right to apply the Mitigation Values to any property or project other than subsequent phases of the Project without the prior written consent of Owner, which consent shall not be unreasonably withheld. Any attempted assignment which is subject to approval and which is not approved shall be void and the assigning party shall be deemed in default hereunder.

5.08. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of Buyer and Owner.

5.09. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect.

5.10. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

5.11. Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future right to enforce such provision or any other provision hereof.

5.12. Governing Law. This Agreement shall be construed in accordance with, and be governed by, the laws of the State of California.

5.13. Construction. Buyer and Owner acknowledge and agree that (a) each party to this Agreement is of equal bargaining strength, (b) each such party has actively participated in the drafting, preparation and negotiation of this Agreement, (c) each such party has consulted or has had the opportunity to consult with such party's own independent counsel, and such other professionals as such party deems appropriate relative to any and all matters contemplated under this Agreement, (d) each such party and such party's counsel and advisors have reviewed the Agreement and following such review each party agrees to enter into this Agreement, and (e) any rule of construction to the effect that ambiguities are to be resolved against the drafting party(ies) shall not apply in the interpretation of this Agreement, or any portions hereof or any amendments hereto.

5.14. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by Buyer or Owner to create a relationship of principal and agent, partnership, joint venture or any other association between Buyer and Owner.

5.15. Exhibits. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement.

Buyer and Owner have executed this Agreement as of the date first set forth above.

BUYER:

SOLANO TRANSPORTATION AUTHORITY

By: _____

Daryl K. Halls
Executive Director

OWNER:

Name: _____

By: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF OWNER PROPERTY

(Attached)

EXHIBIT B
OWNER'S PROPOSAL

(Attached)

EXHIBIT C

DEPICTION OF MITIGATION PROPERTY

(Attached)

DRAFT

EXHIBIT D

FORM OF BILL OF SALE

In consideration of \$ _____, receipt of which is acknowledged, _____, a _____ corporation ("**Owner**"), does bargain, sell and transfer to **Solano Transportation Authority**, a joint powers agency ("**Buyer**"), the following mitigation values ("**Mitigation Values**") from the _____ Mitigation Site:

<u>Mitigation Site</u>	<u>Impacts Mitigated</u>	<u>Quantity</u>	<u>Cost per Mitigation Value Unit</u>	<u>Total Cost</u>
	Habitat for CRLF/CSB	287.85 Acres		
	Created Valley Oak Woodland	0.14 Acres		
	Created Live Oak Woodland	11.77 Acres		
Purchase Price				\$

Owner represents and warrants that it has good title to the Mitigation Values and the property thereon, has good right to sell the same, and they are free and clear of all claims, liens, or encumbrances.

Owner covenants and agrees with Buyer to warrant and defend the sale of the Mitigation Values described above against all and every person and persons whomsoever lawfully claiming or to claim the same.

Date: _____

a _____ corporation

By: _____

Its: _____