

Landowner Access Agreement

7/7/16

Page 1

WHEN RECORDED RETURN TO:

Project: _____

APN(s): _____

AGREEMENT REGARDING ACCESS TO AND USE OF REAL PROPERTY IN ORDER TO IMPLEMENT AND MAINTAIN A HABITAT RESTORATION PROJECT

This Landowner Access Agreement ("Agreement") is entered into by _____, a California [[select one: nonprofit organization/public agency/tribal organization/mutual water company]] ("the [[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]"), and _____ ("the Landowner").

PERTINENT FACTS

- A. The Landowner owns certain real property ("the Property"), located in _____, _____ County, California, as shown in Exhibit A, which is incorporated by reference and attached.
B. [[If relevant, insert: The nonprofit organization is a California nonprofit organization existing under Section 501(c)(3) of the United States Internal Revenue Code and whose purposes are consistent with Division 21 of the California Public Resources Code.]] If this clause is not relevant to the Agreement, delete entire paragraph.
C. The Landowner has willingly partnered with the [[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]] to restore the natural resources and enhance habitat on the Property.
D. The [[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]] has been awarded a grant from the Sacramento-San Joaquin Delta Conservancy ("the Conservancy"), an agency of the State of California established

Landowner Access Agreement

7/7/16

Page 2

under Division 22.3 of the Public Resources Code, to undertake a habitat restoration project, **[[insert name of project here]]**, (“the Project”) on the Property. The implementation, maintenance, and completion of the Project is governed by a grant agreement (“Grant Agreement”) between the Conservancy and the **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]**. The Grant Agreement is incorporated by reference and attached to this Agreement as Exhibit B.

- E. In order to insure implementation, maintenance, and completion of the Project, the **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** must also enter into this Agreement to protect the public interest in the Project, and to insure that the **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** has permission to implement, monitor and maintain the Project on the Property consistent with the Grant Agreement.
- F. The Landowner certifies that there are no other encumbrances on or rights affecting the property that would prevent or adversely impact Project implementation.
- G. **[[If relevant, insert: The Landowner certifies that the Property’s water rights are in good standing with the State Water Resources Control Board, and that the Landowner has the legal right to divert and use water for purposes of implementing the Project.]] If this clause is not relevant to the Agreement, delete entire paragraph.**

In light of the Pertinent Facts above, **THE **[[SELECT ONE: NONPROFIT ORGANIZATION/PUBLIC AGENCY/TRIBAL ORGANIZATION/MUTUAL WATER COMPANY]]** AND THE LANDOWNER AGREE AS FOLLOWS:**

1. **DURATION**. This Agreement shall take effect when fully executed, on the date last signed below, and shall run until _____ **[[this date shall be at least 15 years after the date the Agreement takes effect]]**, unless the Agreement is terminated earlier by mutual agreement in writing by the parties, with the written consent of the Executive Officer of the Conservancy. The Agreement may only be canceled if an act of war or act of god, such as earthquakes, floods, and other natural disasters, renders performance of this Agreement or the Project impossible.
2. **AUTHORITY TO PROCEED**. The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** shall implement, monitor, and maintain the Property in fulfillment of the Project. The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** may assign without novation the responsibility to implement, monitor, and maintain the Project on the Property.
3. **[[If relevant, insert: LANDOWNER MAINTENANCE OF THE PROJECT**. Upon completion of Project implementation in _____ **[[enter the month and year of projected Project completion here]]**, the Landowner agrees to maintain the

Landowner Access Agreement

7/7/16

Page 3

Project in accordance with the Grant Agreement. In the event that the Project is not maintained in accordance with the Grant Agreement, the **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** or the Conservancy is authorized to maintain the Project during the duration of this Agreement. **]] If this clause is not relevant to the Agreement, delete entire paragraph.**

4. **[[If relevant, insert: WATER USE**. Consistent with the Landowner's water right, water will be made available for and utilized to implement, monitor, and maintain the Property in fulfillment of the Project. **]] If this clause is not relevant to the Agreement, delete entire paragraph.**
5. **LANDOWNER'S USE OF THE PROPERTY**. Except as provided in this paragraph, the Landowner reserves the right to use the Property in any manner, provided that its use does not interfere with the **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]**'s rights under this Agreement or the Project. During the term of this Agreement, the Landowner shall use the Property in a manner consistent with the purposes of the Grant Agreement and the functioning of the Project; this includes, but is not limited to, refraining from harming, damaging, removing, altering, or interfering with the Project.
6. **CONSTRUCTIVE NOTICE**. The terms, conditions and restrictions of this Agreement shall be binding upon, and inure to, the benefit of the parties hereto and their personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the land for the duration of this Agreement. The Landowner shall notify prospective buyers, lessees, or operators of the Property of this Agreement. This Agreement shall be recorded with the County Recorder's Office.
7. **ACCESS BY THE **[[SELECT ONE: NONPROFIT ORGANIZATION/PUBLIC AGENCY/TRIBAL ORGANIZATION/MUTUAL WATER COMPANY]]****. The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** shall have access to the Property, with at least a 10-day prior written or verbal notice to the Landowner, to accomplish the purposes of this Agreement, including monitoring during the entire term of this Agreement.
8. **INSPECTION**. The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** and the Landowner shall permit the Conservancy, its agents or employees, to visit the Project site at agreed-upon intervals, but not less than once every year, during the term of this Agreement to determine whether the site is being restored and maintained in a manner consistent with the Grant Agreement.
9. **LIABILITY**. The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** shall be responsible for, indemnify and save

Landowner Access Agreement

7/7/16

Page 4

harmless the Landowner and the Conservancy, its officers, agents, and employees from any and all liabilities, claims, demands, damages or costs resulting from, growing out of, or in any way connected with or incident to the Property and improvements on it, except for active negligence of the Landowner or the Conservancy, its officers, agents or employees. The duty to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778. The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]** waives any and all rights to any type of express or implied indemnity or right of contribution from the Conservancy, its officers, agents or employees, for any liability resulting or arising from or in any way connected with or incident to the Project

8. AUTHORIZING SIGNATURES

IT IS SO AGREED,

_____ (The **[[select one: Nonprofit Organization/Public Agency/Tribal Organization/Mutual Water Company]]**)

[Authorized signature]

Date

[Print or type name]

[Title]

Landowner

[Authorized signature]

Date

[Print or type name]

[Title]

Approved As to Form:

Landowner Access Agreement

7/7/16

Page 5

Sacramento San Joaquin Delta Conservancy

SAMPLE

EXHIBIT A

Map of the Property

SAMPLE

EXHIBIT B

Grant Agreement

SAMPLE