

Cosumnes Floodplain Mitigation Bank
AGREEMENT FOR SALE OF MITIGATION CREDITS
Permit Number: 1600-2016-0219-R2

This Agreement is entered into this _____ day of _____, 201__ by and between WESTERVELT ECOLOGICAL SERVICES, LLC (Bank Owner) and the COUNTY OF EL DORADO (Project Applicant), jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Owner has developed the Cosumnes Floodplain Mitigation Bank (Bank) located in Sacramento County, California; and

B. The Bank was approved by the U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (USEPA), National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) (jointly referred to as “Agencies”) on **September 30, 2009**, and is currently in good standing with these agencies; and

C. The Bank has received approval from the Agencies to offer riparian wetlands and seasonal wetlands under the Clean Water Act and riparian forest, Scrub Shrub, and Shaded Riverine Aquatic (SRA) credits through the *Cosumnes Floodplain Mitigation Bank Enabling Instrument* (Bank Agreement); and

D. Project Applicant is seeking to implement the **New York Creek Trail East Phase 2 Bike Path Project, CIP No. 72308**, described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact 0.023 acres of riparian habitat and seeks to compensate for the loss of the riparian habitat by purchasing Credits from the Bank; and

E. Project Applicant has been authorized by the California Department of Fish and Wildlife, (Permit Number: 1600-2016-0219-R2), to purchase from the Bank **0.03 Floodplain Riparian Habitat credits** upon confirmation by the Bank Owner of credit availability/adequate balance of credits remaining for sale; and

F. The minimum credit unit for purchase at the bank is no less than one hundredth of a credit; and

G. Project Applicant desires to purchase from Bank and Bank desires to sell to Project Applicant **0.03 Floodplain Riparian Habitat credits**;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank hereby sells to Project Applicant and Project Applicant hereby purchases from Bank **0.03 Floodplain Riparian Habitat credits** for the purchase price of **\$2,550.00**. The Bank 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 cashier’s check or, at the option of Bank, wire transfer of funds according to written instructions by Bank 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 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 shall monitor and make reports to the appropriate agency or agencies on the status of any Credits sold to Project Applicant. Bank shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the Credits by all state or federal jurisdictional agencies.

4. The 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 hereby commits to purchase the Credits and in association therewith shall tender payment for the Credits no later than thirty (30) days from the date of this Agreement.

6. Upon purchase of the credits specified in paragraph E above, the Bank shall submit to the parties listed in the Notices section of the Bank Agreement / Bank Enabling Instrument, copies of the: a) Agreement for Sale of 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 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:

WESTERVELT ECOLOGICAL SERVICES, LLC
Cosumnes Floodplain Mitigation Bank Owner

By: _____ Date: _____

PROJECT APPLICANT:

EL DORADO COUNTY

By: _____ Date: _____

Board of Supervisors
"County"

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

By: _____ Date: _____

Deputy Clerk

Exhibit “A”

**DESCRIPTION OF PROJECT
TO BE
MITIGATED**

**New York Creek Trail East Phase 2 – Bike Path Project
California Department of Fish and Wildlife Permit Number: 1600-2016-0219-R2**

The El Dorado County Community Development Agency, Transportation Division, proposes to install a prefabricated bicycle and pedestrian bridge across New York Creek. The project is located between Silva Valley Parkway and Tam O’Shanter Drive, El Dorado Hills, California

The proposed bicycle and pedestrian bridge would fully span the 100-year floodplain and the riparian corridor. The structure would be approximately 110 feet long and 14 feet wide, supported by abutments on both sides of the creek outside of the 100-year floodplain and riparian corridor. The proposed creek crossing would be located between two (2) transmission lines and would allow crane access from the west side of the creek from an existing utility corridor to install the bicycle and pedestrian bridge without needing to work under the transmission lines or in the creek. All vegetation removal along the creek in the location of the proposed bicycle and pedestrian bridge would be conducted by hand in accordance with the biological mitigation measures incorporated into the project and the terms of the Lake and Streambed Alteration agreement.

Exhibit "B"

BILL OF SALE

In consideration of **\$2,550.00**, receipt of which is hereby acknowledged, *Westervelt Ecological Services, LLC* does hereby bargain, sell and transfer to *County of El Dorado* **0.03 Floodplain Mosaic Habitat credits** in the *Cosumnes Floodplain Mitigation Bank* in Sacramento County, California, developed, and approved by the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, California Department of Fish and Wildlife, and National Marine Fisheries Service.

Westervelt Ecological Services, LLC 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.

Westervelt Ecological Services, LLC covenants and agrees with the buyer to warrant and defend, including any cost of defense and attorneys' fees, the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: _____

Westervelt Ecological Services, LLC
Cosumnes Floodplain Mitigation Bank Owner

By: _____

Exhibit "C"

**Cosumnes Floodplain Mitigation Bank
PAYMENT RECEIPT**

PARTICIPANT INFORMATION

Name: County of El Dorado
Address: 2850 Fairlane Court, Placerville, CA 95667
Telephone: (530) 621-3829
Contact: Donna Keeler, County of El Dorado Senior Planner

PROJECT INFORMATION

Project Name: New York Creek Trail East Phase 2 – Bike Path Project
Project File Number: 1600-2016-0219-R2
Species/Habitat Affected: Riparian habitat
Credits to be purchased: 0.03 Floodplain Riparian Habitat credits
Payment Amount: \$2,550.00
Project Location: El Dorado Hills, County of El Dorado, California
County/Address: New York Creek, between Silva Valley Parkway and Tam O'Shanter Drive

PAYMENT INFORMATION

Payee: Westervelt Ecological Services, LLC
Payer: County of El Dorado
Amount: Two Thousand-Five Hundred Fifty Dollars
Method of payment: Cash Check No. Money Order No.
Received by: _____ Date: _____
(Signature)

Name: _____ Title: _____