

Cosumnes Floodplain Mitigation Bank
AGREEMENT FOR SALE OF MITIGATION CREDITS

Permit Number: 1600-2018-0032-R2

This Agreement is entered into this _____ day of _____, 2019 by and between WESTERVELT ECOLOGICAL SERVICES, LLC (Bank Owner) and the EL DORADO COUNTY DEPARTMENT OF TRANSPORTATION (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 **Silver Springs Offsite (South Segment)** described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact waters of the U.S. and seeks to compensate for the loss by purchasing Credits from the Bank; and

E. Project Applicant has been authorized by the California Department of Fish and Wildlife, to purchase from the Bank **2.31 Floodplain Mosaic Wetland (riparian) credits** upon confirmation by the Bank Owner of credit availability/adequate balance of credits remaining for sale; and

F. Project Applicant desires to purchase from Bank and Bank desires to sell to Project Applicant **2.31 Floodplain Mosaic Wetland (riparian) credits**;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank hereby sells to Project Applicant and Project Applicant hereby purchases from Bank **2.31 Floodplain Mosaic Wetland (riparian) credits** for the purchase price of **\$300,300.00**. 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.
Cosumnes Floodplain Mitigation Bank Credit Sales Agreement

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 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:
Kim Dawson
Clerk of the Board of Supervisors

By: _____ Date: _____

Deputy Clerk

Exhibit "A"

**DESCRIPTION OF PROJECT
TO BE
MITIGATED****Permit Number: 1600-2018-0032-R2****Project Description:**

The California Department of Fish and Wildlife (CDFW) has executed Lake and Streambed Alteration Agreement number 1600-2018-0032-R2, pursuant to section 1602 of the Fish and Game Code to the project Applicant, the El Dorado County Department of Transportation. The project is limited to the construction of a segment of Silver Springs Parkway and associated infrastructure, and realignment of Bass Lake Road from south of the Bass Lake Road/Madera Way intersection north to a new intersection that will be constructed at Bass Lake Road/Silver Springs Parkway. The segment of Silver Springs Parkway will be approximately 1,400 feet long, and the reconstructed segments of Bass Lake Road will be approximately 800 and 500 feet long. Storm drain facilities, including a pipe network, concrete-lined ditches, unlined ditches, and drain inlets and outlets will be installed within the roadway right-of way and drainage easements.

The project as a whole includes ten subprojects:

1. Installation of an 18" piped culvert in the northern portion of the road segment
2. Construction of a bioretention basin along the east side of Silver Springs Parkway
3. Installation of an 18" storm drain tie into the bioretention basin
4. Installation of an 18" storm drain inlet at the south end of the bioretention basin
5. Installation of an 18" storm drain inlet further south of the bioretention basin, on the west side of Silver Springs Parkway
6. Installation of a 36" culvert with headwalls on the east side of Silver Springs Parkway
7. Installation of a 36" culvert with headwalls on the west side of Silver Springs Parkway
8. Installation of an 18" storm drain inlet on the west side of Silver Springs Parkway, just south of the intersection with Bass Lake Road
9. Installation of a 36" outfall with a rock apron on the south side of Bass Lake Road, east of the intersection with Silver Springs Parkway
10. Mass grading of the road

Exhibit "B"

BILL OF SALE

In consideration of **\$300,300.00**, receipt of which is hereby acknowledged, *Cosumnes Floodplain Mitigation Bank* Sponsor does hereby bargain, sell and transfer to the [Project Applicant] *El Dorado County Department of Transportation* **2.31 Floodplain Mosaic Wetland (riparian) 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 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: El Dorado County Department of Transportation
Address: 2850 Fairlane Court, Placerville, CA 95667
Telephone: (530) 621-5900
Contact: Rafael Martinez

PROJECT INFORMATION

Project Description: **Silver Springs Offsite (South Segment)**
Permit Number: 1600-2018-0032-R2
Species/Habitat Affected: Riparian Woodland
Credits to be Purchased: 2.31 Floodplain Mosaic (riparian) credits
Payment Amount: \$300,300.00
Project Location: The project is located within unnamed tributaries to Green Springs Creek
County/Address: El Dorado County

PAYMENT INFORMATION

Payee: Westervelt Ecological Services, LLC
Payer: EL DORADO COUNTY DEPARTMENT OF TRANSPORTATION
Amount: Three Hundred Thousand and Three Hundred Dollars

Method of payment: Cash Check No. Money Order No.

Received by: _____ Date: _____
(Signature)

Name: _____ Title: _____