

AGREEMENT FOR SALE OF MITIGATION CREDITS

File No. 1-1- _____

This Agreement is entered into this ____ day of _____, 20__, by and between _____ (Bank Sponsor) and _____ (Project Applicant), jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Owner has developed the Cosumnes Floodplain Mitigation 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) and California Department of Fish and Game (DFG) (jointly referred to as “Agencies”) on *[enter date approved]*, and is currently in good standing with these agencies; and

C. The Bank has received approval from the Agencies to offer (*INSERT LANGUAGE REGARDING TYPE OF WETLANDS OR SPECIES*) compensation for impacts to Waters of the United States regulated by both the federal Endangered Species Act and the Clean Water Act, through the *Cosumnes Floodplain Mitigation Bank Enabling Instrument* (Bank Agreement); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact _____ *[enter species or habitats to be impacted by the project, e.g., listed vernal pool crustaceans]*, and seeks to compensate for the loss of _____ *[enter species/habitat affected, e.g., vernal pool habitat]* by purchasing Credits from Bank; and

E. Project Applicant has been authorized by the Corps, File No. _____, and Service, File No. _____ to purchase from the Bank _____ *[enter number of credits and credit type]* 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 _____ *[enter number of credits and credit type]* credits;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank hereby sells to Project Applicant and Project Applicant hereby purchases from Bank _____ *[enter number of credits and credit type]* credits for the purchase price of _____. 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 must exercise his/her/its right to purchase the Credits within 30 days of the date of this Agreement. After the 30 day period this Agreement will be considered null and void.

6. Upon purchase of the credits specified in paragraph D 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:

Cosumnes Floodplain Mitigation Bank Sponsor

By: _____ Date: _____

PROJECT APPLICANT:

[Enter NAME OF PROJECT APPLICANT/COMPANY]

By: _____ Date: _____

Exhibit "A"

**DESCRIPTION OF PROJECT
TO BE
MITIGATED**

[Name of Project (Corps and Service File No's. _____)], _____
County, California

Exhibit "B"

BILL OF SALEContract # _____ *[Bank Sales Number]*

Service File # 1-1- _____

[Other Agency file number]

In consideration of \$_____, receipt of which is hereby acknowledged, *Cosumnes Floodplain Mitigation Bank* Sponsor does hereby bargain, sell and transfer to _____ (Project Applicant), _____ 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, and California Department of Fish and Game.

Westervelt Ecological Services 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 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: _____

Cosumnes Floodplain Mitigation Bank Sponsor

By: _____

Cosumnes Floodplain Mitigation Bank
MITIGATION CREDITS: PAYMENT RECEIPT

PARTICIPANT INFORMATION

Name: _____

Address: _____

Telephone: _____

Contact: _____

PROJECT INFORMATION

Project Description: _____

Agency File Number's: _____

Species/Habitat Affected: _____

Credits to be Purchased: _____

Payment Amount: _____

Project Location: _____

County/Address: _____

PAYMENT INFORMATION

Payee: _____

Payer: _____

Amount: _____

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

Received by: _____ Date: _____

(Signature)

Name: _____ Title: _____