

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

22-798

SAP Number

## San Bernardino County Flood Control District

<b>Department Contract Representative</b>	Anthony Pham, P.E., Chief, Environmental Management
<b>Telephone Number</b>	909 387-8109
<b>Contractor</b>	Desert Environmental Resources, Inc. dba The Mojave River Watershed Mitigation Bank
<b>Contractor Representative</b>	Richard Lyons
<b>Telephone Number</b>	310-795-5616
<b>Contract Term</b>	September 13 - November 13, 2022
<b>Original Contract Amount</b>	\$407,500
<b>Amendment Amount</b>	
<b>Total Contract Amount</b>	\$407,500
<b>Cost Center</b>	1940002532

### Briefly describe the general nature of the contract:

#### Mitigation Purchase Credits for Bandicoot Basin Project (Project)

In order to comply with the conditions of the Project's United States Army Corps of Engineers {USACE} Individual Permit, the Lahontan Regional Water Quality Control Board {LRWQCB} Section 401 Water Quality Standards Certification, and the California Department of Fish and Wildlife {CDFW} 1600 Lake and Streambed Alteration Agreement, the District must provide proof of contribution of sufficient funds to an agency-selected and approved mitigation bank prior to commencement of any Project activities.

Permanent impacts to 2.72 acres of non-wetland waters of the U.S. caused by the Project shall be mitigated at a 1.2:1 ratio, as agreed upon by the regulatory agencies in perpetuity. Thus, the District is required to mitigate for 3.26 acres of riparian desert wash enhancement through the purchase of credits from the mitigation banker mentioned above. The mitigation banker has sufficient mitigation credits available and are authorized to sell these credits to the District.

#### FOR COUNTY USE ONLY

Approved as to Legal Form

*Sophie Akins*

Sophie A. Akins, County Counsel

Date August 31, 2022

Reviewed for Contract Compliance

*Andy Silao*

Andy Silao, P.E.

Date 9/1/2022

Reviewed/Approved by District

*Brendon Biggs*

Brendon Biggs, Chief Flood Control Engineer

Date 9-17-22

## AGREEMENT FOR SALE OF CREDITS

This Agreement is entered into this 13 day of September, 2022, by and between Desert Environmental Resources, Inc, a Washington State Corporation, (“Bank Sponsor”), and the San Bernardino County Flood Control District (“Project Applicant”), jointly referred to as the “Parties,” as follows:

### RECITALS

- A. The Bank Sponsor has developed the Mojave River Watershed Mitigation Bank (“Bank”) located in San Bernardino County, California; and
- B. The Bank has been developed pursuant to a Bank Enabling Instrument (BEI) entered into by and between Bank Sponsor, the United States Army Corps of Engineers (“USACE”) and the California Department of Fish and Wildlife (“CDFW”) Lahontan Regional Water Quality Control Board (“LRWQCB”) and Environmental Protection Agency (“EPA”); and
- C. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (“Project”), which would unavoidably and adversely impact Waters of the United States and/or Waters of the State thereon, and seeks to compensate for such impacts by purchasing Credits from Bank Sponsor; and
- D. Project Applicant has been authorized by the USACE and CDFW under permit number [USACE File No. SPL-2016-00690-SLP and CDFW File No. 1600-2016-0121-R6] to purchase from the Bank Sponsor [3.26 acres of riparian desert wash enhancement] Credits; and
- E. Project Applicant desires to purchase from Bank Sponsor and Bank Sponsor desires to sell to Project Applicant [ 3.26 acres of riparian desert wash enhancement] Credits.

### NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank Sponsor hereby sells the Project Applicant and Project Applicant hereby purchases from Bank Sponsor 3.26 acres of riparian desert wash enhancement Credits from the Bank for a total purchase price of \$ 407,500. Upon payment of the total purchase price, the Bank Sponsor will deliver to the Project Applicant an executed Bill of Sale in the manner and form attached hereto and marked as Exhibit “B”. The purchase price for said Credits shall be paid by cashier’s checks or, at the option of the Bank Sponsor, by wire transfers of funds according to written instructions by Bank Sponsor to Project Applicant with these payments to occur by no later than November 13, 2022.
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 BEI and any amendments thereto, Bank Sponsor shall monitor and make reports to the appropriate agency or agencies on the status of any Credits sold to Project Applicant. The 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. Upon purchase of the Credits specified in paragraph 1 of this Agreement, the Bank Sponsor shall submit to the parties listed in the Notices section of the BEL, copies of the: a) Agreement for Sale of Credits; b) Bill of Sale; c) Payment Receipt; and d) an updated ledger. The updated ledger must detail: i) The Project Applicant; ii) The Project Name; iii) Credit sale date; iv) The USACE and the CDFW file tracking numbers; v) Total Number of Credits Authorized to Sell; vi) Total Number of Credits Sold to Date (inclusive); and vii) Balance of all Credits Available. The ledger should include all sales data from Bank Establishment Date to the present.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written. This agreement may be executed in counterparts all of which shall be treated as part of the same agreement. This Agreement may be executed by e-mail or facsimile signatures which shall be treated as original signatures for all purposes.

BANK SPONSOR:

Desert Environmental Resources, Inc, a Washington State Corporation

**NOTE:**

The California Department of Transportation (CALTRANS) may use the above Credit Sales Agreement in the process of purchasing credits from the Bank, or alternatively use a State of California Department of General Services Standard Agreement Form (STD 213), or both, to finalize credit purchases.

By: 

Date: SEP 13 2022

PROJECT APPLICANT: Curt Hagman, Chairman  
[Board Supervisor]

By:   
Name: Richard Lyons  
Its: President.

Date: Sept 1, 2022

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD LYNNADON... Clerk of the Board of Supervisors of the County of...  
By:   
Deputy  


**Exhibit "A"****DESCRIPTION OF PROJECT  
TO BE  
MITIGATED****Name of Project:**

Bandicoot Basin Project

**Project Location:**

The Project site is bordered on the east by the California Aqueduct and located approximately 0.75 miles east of Escondido Avenue and 0.5 miles north of Mesquite Road, Hesperia, San Bernardino County.

**Permitting Agency(ies) File/Tracking Number:**

USACE File No. SPL-2016-00690-SLP

RWQCB File No. 6B361606003

CDFW File No. 1600-2016-0121-R6

**Project Description:**

The purpose of the Project is to construct, operate, and maintain a 59-acre storm water detention basin for the purpose of flood control.

**Exhibit "B"****BILL OF SALE**

Contract # \_\_\_\_\_

Permitting Agency and File Tracking No.

USACE File No. SPL-2016-00690-SLP

RWQCB File No. 6B361606003

CDFW File No. 1600-2016-0121-R6

In consideration of \$ 407,500 for the purchase price, receipt of which is hereby acknowledged, Desert Environmental Resources, Inc, a Washington State Corporation ("Bank Sponsor") does hereby bargain, sell and transfer to San Bernardino County Flood Control District (the "Project Applicant" or "Buyer"), 3.26 Credits in the Mojave River Watershed Mitigation Bank in San Bernardino County, California, developed and approved under the authority of the United States Army Corps of Engineers and California Department of Fish and Wildlife associated with the Project described in Attachment 1.

Bank Sponsor 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.

Bank Sponsor 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: \_\_\_\_\_, 20 \_\_\_\_

Desert Environmental Resources, Inc, a Washington State

Corporation

By: \_\_\_\_\_

**Attachment 1****Mojave River Watershed Mitigation Bank****3.26 acres riparian desert wash enhancement credits: PAYMENT RECEIPT****PROJECT APPLICANT INFORMATION**

**Name:** San Bernardino County Flood Control District

**Address:**  
825 E. Third Street,  
Room 123  
San Bernardino,  
CA.  
92415-0835

**Telephone:**  
909-387-8109

**Contact:**  
Anthony Pham

**PROJECT INFORMATION**

**Project Description:**  
The purpose of the Project is to construct, operate, and maintain a 59-acre storm water detention basin for the purpose of flood control.

**Project Location:**  
The Project site is bordered on the east by the California Aqueduct and located approximately 0.75 miles east of Escondido Avenue and 0.5 miles north of Mesquite Road, Hesperia, San Bernardino County

**Agency File/Tracking Number:**  
USACE File No. SPL-2016-00690-SLP  
RWQCB File No. 6B361606003 CDFW  
File No. 1600-2016-0121-R6

**Species/Habitat Affected:**

To permanently discharge fill material into 2.72 acres of non-wetland waters of the U.S., and to temporarily discharge fill material into 1.81 acres of non-wetland waters of the U.S. **Credits to be Purchased:**

3.26 acres of riparian desert wash enhancement

**PAYMENT INFORMATION**

**Payee:**  
Desert Environmental Resources, Inc.

**Payer:**  
San Bernardino County Flood Control District

**Total Payment Amount: \$ 407,500**

**Credit Purchase Price: \$ 407,500**

**Method of payment:**

Cash\_\_\_\_ Cashier's Check No.\_\_\_\_\_ Wire transfer

**Received by:**

\_\_\_\_\_

Desert Environmental Resources, Inc  
(Signature)

**Date:**

[Insert Date Payment Received]

<https://drive.google.com/drive/u/1/folders/0B-cvosQhCkuARTV5SzFIWXIDMzQ>