

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



Contract Number

22-1173

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	Anthony Pham, Chief, Environmental Management
Telephone Number	909 387-8109
Contractor	Land Veritas Corp.
Contractor Representative	Nathan Bello, on behalf of -H. Tracey Brownfield, President
Telephone Number	(877) 455-8699
Contract Term	November 15, 2022 - January 31, 2023
Original Contract Amount	\$332,000.
Amendment Amount	
Total Contract Amount	\$332,000.
Cost Center	1910002518

Briefly describe the general nature of the contract:

The Agreement will enable the District to purchase 1.66 acres of 404 Ephemeral Stream Combination Enhancement credits from Land Veritas Corporation's Soquel Canyon Mitigation Bank for a total amount of \$332,000. These credits also contain 0.35 acres of 1600 Ephemeral Riparian Enhancement credits. The credits are required by the U.S. Army Corps of Engineers and the Regional Water Quality Control Board as compensatory mitigation and as a condition of their respective permits for the impacts to the waters of the United States caused by the District's Hawker-Crawford Storm Drain Realignment project.

FOR COUNTY USE ONLY

Approved as to Legal Form

► *Sophie Akins*

Sophie A. Akins, Deputy County Counsel

Date November 2, 2022

Reviewed for Contract Compliance

► *Andy Silao*

Andy Silao, P.E.

Date 11/02/2022

Reviewed/Approved by District

► *Brendon Biggs*

Brendon Biggs, Chief Flood Control Engineer

Date 11-2-22

AGREEMENT FOR SALE OF CREDITS

USACE FILE NO. SPL-2018-00780

CDFW FILE NO. 1600-2018-0198-R6

RWQCB FILE NO. WDID#362022-04

This Agreement is entered into this 15th day of Nov, 2022 by and between the Land Veritas Corp. (Bank Sponsor) and San Bernardino County Flood Control District (Project Proponent), jointly referred to as the "Parties," as follows:

RECITALS

A. The Bank Sponsor has developed the Soquel Canyon Mitigation Bank (Bank) located in San Bernardino and Orange Counties, California; and

B. The Bank has been developed pursuant to a Bank Enabling Instrument entered into by and between Bank Sponsor, Land Veritas I, LLC, the U.S. Army Corps of Engineers (USACE), the U.S. Environmental Protection Agency (EPA), the Santa Ana Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife (CDFW) on December 15, 2014 and is currently in good standing with these agencies; and

C. Project Proponent is seeking to implement the project described on Exhibit "A" attached hereto (Project), which would unavoidably and adversely impact waters of the U.S. and waters of the State thereon, and seeks to compensate for the loss of waters of the U.S. and waters of the State by purchasing credits from Bank Sponsor; and

D. Project Proponent has been authorized by the USACE File No. SPL-2018-00780, CDFW File No. 1600-2018-0198-R6, and RWQCB File No. WDID#362022-04, to purchase from the Bank 1.66 acres 404 Ephemeral Stream System credits, which include within them 0.35 acres 1600 Ephemeral Riparian Enhancement credits ("Credits") upon confirmation by the Bank Sponsor of credit availability/adequate balance of credits remaining for sale; and

E. Project Proponent desires to purchase from Bank Sponsor and Bank Sponsor desires to sell to Project Proponent the Credits;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank Sponsor hereby sells to Project Proponent and Project Proponent hereby purchases from Bank Sponsor Credits from the Bank for the purchase price of three hundred thirty-two thousand dollars (\$332,000). The Bank Sponsor will then deliver to Project Proponent 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 Sponsor, wire transfer of funds according to written instructions by Bank Sponsor to Project Proponent.

2. The sale and transfer herein is not intended as a sale or transfer to Project Proponent 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 Proponent 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 Proponent. Bank Sponsor 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 Proponent 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.

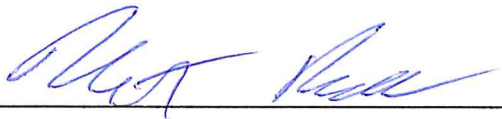
5. Project Proponent must exercise his/her/its right to purchase the Credits within 30 days of the date of this Agreement. After the 30 day period this Agreement will be considered null and void.

6. Upon purchase of the Credits specified in paragraph 1 above, the Bank Sponsor shall submit to the parties listed in the Notices section of the BEI, 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) Project Proponent; ii) Project Name; iii) Status (sale complete/sale not complete); iv) Credit Sale Date; v) Permitting Agency File/Tracking Number; vi) Total Number of Credits Authorized to Sell; vii) Total Number of Credits Sold to Date (inclusive); and viii) 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.

BANK SPONSOR

LAND VERITAS CORP.

By: 

Date: 11/3/22

Name: Nathan Bello, on behalf of H. Tracey Brownfield

Its: President

PROJECT PROPONENT

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

By: 

Date: NOV 15 2022

Name: Curt Hagman

Its: Chairman, Board of Supervisors

SIGNED AND RECORDED. A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CLERK OF THE BOARD OF
LYNNA MONTILL
Clerk of the Board of Supervisors
of the County of San Bernardino

By: 
Deputy



EXHIBIT "A"

DESCRIPTION OF PROJECT TO BE MITIGATED

Name of Project:

Hawker-Crawford Storm Drain Realignment Project

Project Location:

34.149926, -117.481054

APN 1108-011-03

Southwest of Duncan Canyon Rd. and Coyote Canyon Rd. intersection in the City of Rancho Cucamonga, San Bernardino County

Permitting Agency(ies) File/Tracking Number:

USACE File No. SPL-2018-00780

CDFW File No. 1600-2018-0198-R6

RWQCB File No. WDID#362022-04

Project Description:

The proposed project is the realignment of the existing Hawker-Crawford flood control channel into a subterranean storm drain facility with an outlet at San Sevaine Basin No. 1. The project includes construction of a new transition from the existing box culvert under Beech Avenue, and construction of outlet improvements within San Sevaine Basin No. 1. Associated construction activities would include the removal and reconstruction of portions of Beech Avenue and Cherry Avenue and of existing sidewalks, curbs, gutter and guard rails and installation/replacement of 6' chain link fencing.

The proposed outlet structure would connect flows with an existing low-flow channel within San Sevaine Basin No. 1 which conveys flows to the basin outlet and downstream into the adjacent San Sevaine Basins

EXHIBIT "B"

BILL OF SALE

USACE File No. SPL-2018-00780

CDFW File No. 1600-2018-0198-R6

RWQCB File No. WDID#362022-04

In consideration of \$332,000, receipt of which is hereby acknowledged in the form of _____ [Payment Type], Land Veritas Corp. (Bank Sponsor) does hereby bargain, sell and transfer to San Bernardino County Flood Control District Credits in the Soquel Canyon Mitigation Bank in San Bernardino and Orange Counties, California, developed, and approved under the authority of the United States Army Corps of Engineers and/or California Department of Fish and Wildlife associated the Project described in Exhibit A.

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 Project Proponent 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: _____

Land Veritas Corp.

By: _____

Nathan Bello, on behalf of H. Tracey Brownfield, President

EXHIBIT "C"
SOQUEL CANYON MITIGATION BANK
PAYMENT RECEIPT

PROJECT PROPONENT INFORMATION

Name:

San Bernardino County Flood Control District

Address:

825 E. Third St.

San Bernardino, Ca. 92415

Telephone:

(909) 387-8109

Contact:

AJ Gerber, Planner

PROJECT INFORMATION

Project Description:

The proposed project is the realignment of the existing Hawker-Crawford flood control channel into a subterranean storm drain facility with an outlet at San Sevaine Basin No. 1. The project includes construction of a new transition from the existing box culvert under Beech Avenue, and construction of outlet improvements within San Sevaine Basin No. 1. Associated construction activities would include the removal and reconstruction of portions of Beech Avenue and Cherry Avenue and of existing sidewalks, curbs, gutter and guard rails and installation/replacement of 6' chain link fencing.

The proposed outlet structure would connect flows with an existing low-flow channel within San Sevaine Basin No. 1 which conveys flows to the basin outlet and downstream into the adjacent San Sevaine Basins.

Project Location:

34.149926, -117.481054

APN 1108-011-03

Southwest of Duncan Canyon Rd. and Coyote Canyon Rd. intersection in the City of Rancho Cucamonga, San Bernardino County

Agency File/Tracking Number:

USACE File No. SPL-2018-00780

CDFW File No. 1600-2018-0198-R6

RWQCB File No. WDID#362022-04

Species/Habitat Affected:

1.00 acre non-wetland waters of the U.S.

1.00 acre CDFW-jurisdictional streambed

Credits to be Purchased:

1.66 acres 404 ephemeral stream system credits, which include within them 0.35 acres 1600 ephemeral riparian enhancement credits

PAYMENT INFORMATION

Payee:

Land Veritas Corp.

Payer:

San Bernardino County Flood Control District

Amount:

\$332,000

Method of payment:

Cash ____ Check No. _____ Money Order No. _____

Received by:

Nathan Bello, on behalf of H. Tracey Brownfield, President

Date: