

**SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 11.3
(ID # 21240)

MEETING DATE:
Tuesday, February 28, 2023

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Agreement for Sale of Credits for Compensatory Mitigation Efforts for the Commissioner Christine "Chris" Hyland Stormwater Drainage System, Project No. 3-0-00020, Nothing Further is Required Under CEQA, District 2. [\$152,000 Total Cost – District Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the environmental impacts of the Commissioner Christine "Chris" Hyland Stormwater Drainage System have been adequately addressed and nothing further is required pursuant to the California Environmental Quality Act (CEQA);
2. Approve the Agreement for Sale of Credits ("Agreement") between the Riverside County Flood Control and Water Conservation District ("District") and EIP III Credit Co., LLC;
3. Authorize the Chair of the District's Board of Supervisors to execute the Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to return two (2) executed Agreements to the District.

ACTION:Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 2/14/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel seconded by Supervisor Gutierrez and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, and Gutierrez
Nays: None
Absent: Perez
Date: February 28, 2023
xc: Flood

Kimberly Rector
Clerk of the Board

By:
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$152,000	\$0	\$152,000	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: 100% District Funds 525440-25130-947440 Zone 3 License and Permits			Budget Adjustment: No	
			For Fiscal Year: 22/23	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On January 11, 2022 (Agenda Item 11.1, MT#17703), the District's Board of Supervisors approved award of the contract for construction of the Commissioner Christine "Chris" Hyland Stormwater Drainage System ("Project"), previously known as the Lakeland Village MDP Line H, Stage 1.

The Project resulted in impacts to state jurisdictional waters. As a result of the impacts, the District is required to purchase 0.38 acre of compensatory mitigation credit as stipulated by the approval that was issued for the Project from the California Department of Fish and Wildlife (CDFW). Upon approval, this Agreement would purchase the required mitigation credit from EIP III Credit Co., LLC, owners of the Riverpark Mitigation Bank, at a cost of \$152,000, consistent with the conditions of the Operation of Law Letter from CDFW. EIP III Credit Co., LLC will sign the Agreement after approval and signature by the Chair of the District's Board of Supervisors.

Environmental Findings

On March 10, 2020 (Agenda Item 11.1, MT#10554), the District's Board approved an Addendum to the previously approved Programmatic Environmental Impact Report (PEIR). The PEIR included mitigation measures, including acquisition of the required regulatory permits for construction of the Project and mitigation for impacts of the Project to jurisdictional areas. The approval of the Agreement is consistent with the mitigation described and is merely executing that required mitigation. Therefore, the District determined that nothing further is required under CEQA.

Prev. Agn. Ref.:

- MT #17703, Item 11.1 of 01/11/22 Award**
- MT #17046, Item 11.3 of 09/14/21 Advertise**
- MT #12134, Item 11.2 of 05/19/20 Agreement**
- MT #10554, Item 11.1 of 03/10/20 Agreement**

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Impact on Residents and Businesses

No impact on residents or businesses will result from the Agreement.

Additional Fiscal Information

The Agreement defines a one-time cost associated with a specific mitigation requirement for the previously approved Project. No ongoing costs are associated with this Agreement.

Sufficient funding is available in the District's budget for Fiscal Year 2022/2023 and will be included in the recommended budget(s) for Fiscal Years 2023-2024 through 2025-2026, as appropriate and necessary.

SOURCE OF FUNDS:

- 525440-25130-947440 - Zone 3

ATTACHMENTS:

1. Agreement For Sale of Credits
2. CDFW Operation of Law Letter

SB:rlp
P8/248661



Jason Farin, Principal Management Analyst 2/21/2023



Aaron Gettis, Deputy County Counsel 2/14/2023

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.



AGREEMENT FOR SALE OF CREDITS

March 2, 2023 | 06:05:55 PST

This Agreement is entered into this 28th day of February 2023, by and between EIP III CREDIT CO., LLC, a Delaware limited liability company (Bank Sponsor) and RIVERSIDE COUNTY FLOOD CONTROL DISTRICT (Project Proponent), jointly referred to as the "Parties," as follows:

RECITALS

A. The Bank Sponsor has developed the Riverpark Mitigation Bank (Bank) located in Riverside County, California; and

B. The Bank has been developed pursuant to a Bank Enabling Instrument (BEI) entered into by and between Bank Sponsor, the Los Angeles District of the U.S. Army Corps of Engineers (USACE) (File No. SPL-2015-00318), United States Fish and Wildlife Service (USFWS), the California Regional Water Quality Control Board, Region 8 (Regional Water Boards), and the California Department of Fish and Wildlife (CDFW) (Tracking No. 1798-2015-01-R6), on December 17, 2019, and

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

D. Project Proponent has been authorized by CDFW: 1600-2018-0046-R6 to purchase from the Bank 0.38 rehabilitation CDFW mitigation Credits, upon confirmation by the Bank Sponsor of Credit availability/adequate balance of Credits remaining for Transfer; and

E. Project Proponent desires to purchase from Bank Sponsor and Bank Sponsor desires to sell to Project Proponent 0.38 rehabilitation CDFW mitigation Credits;

FEB 28 2023 11.3

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank Sponsor hereby sells to Project Proponent and Project Proponent hereby purchases from Bank 0.38 rehabilitation CDFW mitigation Credits. The Bank Sponsor will upon receipt of the Purchase Price 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 ACH payment or wire transfer of funds according to written instructions provided by Bank Sponsor to Project Proponent.

2. The sale and transfer herein are 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-refundable, non-transferable and non-assignable to any project other than the one listed herein, 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 14 days of the date this Agreement is provided to the Project Proponent. Without Bank Sponsor approval, after the 14-day period this Agreement will be considered null and void.

6. Upon purchase of the Credits specified in Recital D 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); 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 ledger should include all sales data from bank establishment to the present.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

BANK SPONSOR

EIP III CREDIT CO., LLC, a Delaware limited liability company

DocuSigned by:
Joseph Williams
By: _____
Name: Joseph Williams
Its: Assistant Director of Markets

PROJECT PROPONENT

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By: *Karen S. Spiegel*
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors

ATTEST:
KIMBERLY A. RECTOR, Clerk

By *Blanca Smith*
DEPUTY

FORM APPROVED COUNTY COUNSEL
BY: *AC* 2-14-23
AARON C. GETTIS DATE

FEB 28 2023 11.3

Exhibit "A"
DESCRIPTION OF PROJECT TO BE MITIGATED

Name of Project:

Lakeland Village MDP Line H

Project Location:

The unincorporated community of Lakeland Village. Located on the west shore of Lake Elsinore in Riverside County.

Permitting Agencies File/Tracking Number:

CDFW: 1600-2018-0046-R6

Project Description:

The Project consists of construction, operation and maintenance of a new underground storm drain system with some aboveground at inlets and outlets and a mostly earthen sediment basin. The proposed 4,300-foot main line would capture flows from the end of Gillette Street, route them in an underground storm drain northerly in Gillette Street, east on Cottrell Boulevard, and then northerly on Maiden Lane which outlets into Lake Elsinore. The first lateral would route flow underground from Brand Street and Anthony Avenue in a storm drain, easterly on Anthony Avenue, northerly on Landerville Boulevard, and then junction with the mainline at Landerville Boulevard and Cottrell Avenue. The second lateral would route flows underground from a low-flow pickup point west of Adelfa Street in a storm drain across several vacant lots, northerly on Adelfa Street, and then junction with the mainline storm drain at Adelfa Street and Cottrell Boulevard. The lengths of Laterals 1 and 2 are approximately 1,100 and 500 feet, respectively.

Species/Habitat Affected:

The Project will impact 0.36 acres of streambed including 0.19 acres of riparian habitat (Southern Willow Scrub). The Project received an Operation of Law from the CDFW, and it was agreed that the District would purchase 0.38 acres of riparian habitat rehabilitation credits.

Credits to be Purchased:

0.38 rehabilitation

Method of payment:

Wire Transmittal ACH Payment

Exhibit "B"
BILL OF SALE
Riverpark Mitigation Bank

Contract # 23__-RP

Permitting Agency File/Tracking No(s). CDFW: 1600-2018-0046-R6.

In consideration of \$152,000.00, receipt of which is hereby acknowledged, EIP III Credit Co., LLC (Bank Sponsor), does hereby bargain, sell and transfer to RIVERSIDE COUNTY FLOOD CONTROL DISTRICT (Project Proponent), for the Lakeland Village MDP Line H project, 0.38 rehabilitation CDFW mitigation Credits in the Riverpark Mitigation Bank in Riverside County, California, developed, and approved under the authority of the Los Angeles District of the U.S. Army Corps of Engineers (USACE), United States Fish and Wildlife Service (USFWS), the California Regional Water Quality Control Board, Region 8 (Regional Water Boards), and the California Department of Fish and Wildlife (CDFW), as mitigation for 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 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: _____

EIP III CREDIT CO., LLC, a Delaware limited liability company

By: _____
Name: Joseph Williams
Its: Assistant Director of Markets

SAMPLE

Attachment 1
Riverpark Mitigation Bank
WETLAND CREDITS: PAYMENT RECEIPT

PROJECT PROPONENT INFORMATION

Name:

Riverside County Flood Control District

Address:

1995 Market Street
Riverside, CA 92501
Telephone (951) 955-8856
Fax: (951) 788-9965

Contact:

Jason Uhley, Chief Engineer
Telephone: (951) 955-8856

PROJECT INFORMATION

Project Description:

The Project consists of construction, operation and maintenance of a new underground storm drain system with some aboveground at inlets and outlets and a mostly earthen sediment basin. The proposed 4,300-foot main line would capture flows from the end of Gillette Street, route them in an underground storm drain northerly in Gillette Street, east on Cottrell Boulevard, and then northerly on Maiden Lane which outlets into Lake Elsinore. The first lateral would route flow underground from Brand Street and Anthony Avenue in a storm drain, easterly on Anthony Avenue, northerly on Landerville Boulevard, and then junction with the mainline at Landerville Boulevard and Cottrell Avenue. The second lateral would route flows underground from a low-flow pickup point west of Adelfa Street in a storm drain across several vacant lots, northerly on Adelfa Street, and then junction with the mainline storm drain at Adelfa Street and Cottrell Boulevard. The lengths of Laterals 1 and 2 are approximately 1,100 and 500 feet, respectively.

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

D. Project Proponent has been authorized by CDFW: 1600-2018-0046-R6 to purchase from the Bank 0.38 rehabilitation CDFW mitigation Credits, upon confirmation by the Bank Sponsor of Credit availability/adequate balance of Credits remaining for Transfer; and

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By: _____
Name: Joseph Williams
Its: Assistant Director of Markets

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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By: Karen S. Spiegel
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors

ATTEST:
KIMBERLY A. RECTOR, Clerk

By: Kimberly A. Rector
DEPUTY

FORM APPROVED COUNTY COUNSEL
BY: Aaron C. Gettis 2-14-23
AARON C. GETTIS DATE

FEB 28 2023 11.3

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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: _____

EIP III CREDIT CO., LLC, a Delaware limited liability company

By: _____

Name: Joseph Williams

Its: Assistant Director of Markets

SAMPLE

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Jason Uhley, Chief Engineer
Telephone: (951) 955-8856

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habitat (Southern Willow Scrub). The Project received an Operation of Law from the CDFW, and it was agreed that the District would purchase 0.38 acres of riparian habitat rehabilitation credits.

Credits to be Purchased:

0.38 rehabilitation

From: [Brandt, Jeff@Wildlife](mailto:Brandt.Jeff@Wildlife)
To: Uhley, Jason
Cc: [Martinez, Edith@Wildlife](mailto:Martinez.Edith@Wildlife); [Freeburn, Kim@Wildlife](mailto:Freeburn.Kim@Wildlife); Brandt, Jeff@Wildlife
Subject: LSA 1600-2018-0046-R6 Lakeland Village Master Drainage Plan, Line H, Stage 1
Date: Thursday, December 13, 2018 9:57:58 AM
Attachments: [image001.jpg](#)

Jason Uhley
Riverside County Flood Control and Water Conservation District
1995 Market Street
Riverside, CA 92501
juhley@rcflood.org

Dear Mr. Uhley:

Notification of Lake or Streambed Alteration, Notification No. 1600-2018-0046-R6 Lakeland Village Master Drainage Plan, Line H, Stage 1

The California Department of Fish and Wildlife (CDFW) had until October 2, 2018 to submit a draft Lake or Streambed Alteration Agreement (Agreement) to you or inform you that an Agreement is not required. CDFW did not meet that date. As a result, by law, you may now complete the project described in your notification without an Agreement.

Please note that pursuant to Fish and Game Code section 1602, subdivision (a)(4)(D), if you proceed with this project, it must be the same as described and conducted in the same manner as specified in the notification and any modifications to that notification received by CDFW in writing prior to October 2, 2018. This includes completing the project within the proposed term and seasonal work period and implementing all avoidance and mitigation measures to protect fish and wildlife resources specified in the notification. If the term proposed in your notification has expired, you will need to re-notify CDFW before you may begin your project. Beginning or completing a project that differs in any way from the one described in the notification may constitute a violation of Fish and Game Code section 1602.

Your project proposes impacts to several unnamed tributaries to Lake Elsinore within the unincorporated community of Lakeland Village, south of Lake Elsinore, north of the lower foothills of Santa Ana Mountains, west of Blackwell Boulevard, and east of Gillette Street, in the County of Riverside, State of California; Assessor's parcel numbers 383-062-046 and 383-075-004. Your project proposes to construct a new storm drain system and sediment basin to alleviate flooding within the Lakeland Village community. **A total of 0.36 acre of streambed will be impacted, including 0.19 acre of riparian habitat. You have proposed to mitigate the impacts to 0.19 acre of riparian habitat through the purchase of 0.38 acre of riparian habitat rehabilitation credits. Your project term will end October 1, 2023.**

Also note that while you are entitled to complete the project without an Agreement, you are still responsible for complying with other applicable local, state, and federal laws. These include, but are not limited to, Fish and Game Code sections 2080 *et seq.* (species listed as threatened or endangered, or a candidate for listing under the California Endangered Species Act); section 1908

(rare native plants); sections 3511, 4700, 5050, and 5515 (fully protected species); section 3503 (bird nests and eggs); section 3503.5 (birds of prey); section 5650 (water pollution); section 5652 (refuse disposal into water); section 5901 (fish passage); section 5937 (sufficient water for fish); and section 5948 (obstruction of stream).

Finally, if you decide to proceed with your project without an Agreement, you must have a copy of this letter and your notification with all attachments available at all times at the work site.

If you have questions regarding this letter, please contact Edith Martinez, Senior Environmental Scientist (Specialist), at (909) 944-0187 or by email at Edith.Martinez@wildlife.ca.gov.

Thank you,

Jeff Brandt
Habitat Conservation
California Department of Fish and Wildlife
3602 Inland Empire Blvd, Suite C-220
Ontario, CA 91764
Phone (909) 987-7161
Fax (909) 481-2945
Email jeff.brandt@wildlife.ca.gov

Every Californian should conserve water. Find out how at:



SaveOurWater.com · Drought.CA.gov