

# Mossy Hill Mitigation Bank

Ecosystem Investment Partners

## WETLAND CREDIT PURCHASE AGREEMENT

THIS WETLAND CREDIT PURCHASE AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date") by and between **TALISHEEK, LLC**, a Delaware limited liability company, having an address of 2002 Clipper Park Road, Suite 201, Baltimore MD 21211 ("Seller"), and **ST. TAMMANY PARISH GOVERNMENT**, having an address of 21490 Koop Drive, Mandeville LA 70471 ("Buyer").

### RECITALS:

WHEREAS, Seller is the Sponsor of the Mossy Hill Mitigation Bank, located in St. Tammany Parish, Louisiana, within the Liberty Bayou-Tchefuncte Watershed of Louisiana (HUC 08090201) and permitted by the US Army Corps of Engineers ("Corps") pursuant to a Mitigation Banking Instrument ("MBI") agreement duly executed by the Seller and the Corps on March 5, 2010; and

WHEREAS, Buyer seeks to fulfill the requirements of permit # MVN 2008 2224 from the Corps under Section 404 of the Clean Water Act so as to allow the discharge of clean non-toxic fill material into wetlands within the Liberty Bayou-Tchefuncte Watershed of Louisiana (HUC 08090201); and

WHEREAS, as a condition to the issuance of such permit by the Corps, the Buyer is required to compensate for wetland impacts, and elects to do so through the purchase of wetland Credits from Seller under the provisions of this Agreement; and

WHEREAS, the Corps has determined that Buyer shall be required to purchase a total of 8.8 Credits (as defined below) due to the proposed impacts to wetlands resulting from the project (the "Project"); and

WHEREAS, the Buyer, per its arrangement with the permittee, Weyerhaeuser Real Estate Development Co., is responsible for purchasing 1.96 of the total Credits; and

NOW, THEREFORE, for and in consideration of One Hundred Dollars (\$100.00) and the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed as follows:

1) RECITALS: The recitals are hereby incorporated herein by this reference and made a part of this Agreement.

2) **DEFINITIONS:** The following terms shall have the following meanings in this Agreement:

a) **CREDITS:** "Credits" shall mean credits sold from the Mossy Hill Mitigation Bank and determined by the Corps using the Corps' Modified Charleston Method (MCM), under which Credits have an acre equivalency used in the Corps' online RIBITS ledger.

b) **WETLAND BANK:** "Wetland Bank" shall mean the bank sponsored by Seller with wetland mitigation Credits for sale to the open market in connection with Section 404 permitted projects, as provided for by the MBI.

3) **CREDITS PURCHASED:** Subject to the terms and conditions of this Agreement, Buyer shall purchase from Seller and Seller shall sell to Buyer 1.96 Credits.

4) **COMPENSATION:** In exchange for the Credits being purchased hereunder, Buyer shall, subject to the terms and conditions of this Agreement, pay to the Seller the sum of Twenty Nine Thousand Four Hundred Dollars (\$29,400.00) (the "Purchase Price").

a) **PAYMENT OF PURCHASE PRICE:** On or before ten (10) days from the Effective Date of this Agreement, Buyer shall pay to Seller the Purchase Price as stated herein. All payments hereunder shall be made to **TALISHEEK, LLC**.

b) **METHOD OF PAYMENT OF PURCHASE PRICE:** Buyer shall pay the Purchase Price by either a wire transfer or Automated Clearing House (ACH) transfer. Seller shall not accept payment in any form of check. In no instance shall Credits be transferred by Seller prior to Seller having received full payment of the Purchase Price. Instructions for wire transfers are located in Exhibit A. Upon its receipt of payment of the full Purchase Price, Seller shall promptly notify the Corps that Buyer has acquired the Credits from the Wetland Bank, with such notification to take the form of an update to the Corps' online RIBITS ledger and a Sales Verification Notice, copies of which shall contemporaneously be sent to Buyer.

c) **TERMINATION:** At Seller's discretion, this Agreement shall automatically terminate if Buyer does not pay the full Purchase Price to Seller on or before ten (10) days from the Effective Date of this Agreement. In any event, this Agreement must be fully executed on or before August 30, 2014, or, at the discretion of the Seller, any and all obligations of the Seller shall be terminated.

5) **SELLER'S COVENANTS AND REPRESENTATIONS:** Seller represents that it is authorized by Corps to sell Credits from the Wetland Bank in accordance with the MBI. Seller shall be responsible for the development and maintenance of the Credits and the Wetland Bank in accordance with the requirements of the MBI and other applicable laws. Seller has good and sufficient title to the Credits it will sell to Buyer. Buyer shall have no rights or obligations to perform any of the responsibilities of the Seller now or hereafter set forth by the Corps regarding the development and maintenance of the Credits or the Wetland Bank

nor shall Buyer have any rights or obligations to enforce any of the responsibilities of the Seller under the MEI.

6) **NOTICES:** Any notices required or permitted hereunder shall be sufficiently given if delivered by overnight courier, by United States mail, return receipt requested, by facsimile or electronic mail to the parties hereto as follows:

If to Seller:

**TALISHEEK, LLC**  
Katherine Birnie, Director of Markets  
c/o Ecosystem Investment Partners  
2002 Clipper Park Road, Suite 201  
Baltimore, MD 21211  
(443) 921-9441  
katherine@ecosystempartners.com

If to Buyer:

**ST. TAMMANY PARISH GOVERNMENT**  
21490 Koop Drive  
Mandeville, LA 70471  
Attn.: Patricia P. Brister  
Phone: (985) 898-2262  
Email: pbrister@stpgov.org

Any notice given pursuant hereto by overnight courier shall be effective as of delivery; any notice given pursuant hereto by First Class United States mail, return receipt requested, shall be effective as of the third business day following its posting, and any notice given pursuant hereto by facsimile or electronic mail shall be effective as of receipt of a confirmation by the sending party.

7) **PRIOR AGREEMENTS:** This Agreement shall supersede any and all prior understandings and agreements between the parties hereto, whether written or oral, with respect to the subject matter hereof and may be amended only by a written document stating the specifics of such amendment, executed by both Seller and Buyer.

8) **APPLICABLE LAW:** Seller and Buyer shall be contractually bound to this Agreement, which shall be governed by the laws of the State of Louisiana and subject to the requirements of any applicable federal laws or regulations. Changes in federal, state, or local laws, which might have otherwise impacted this Agreement, shall not be enforced retroactively after execution of this Agreement. Each party shall be held harmless for damages sustained by the other party as a result of changes in federal, state, or local laws pertaining to this transaction or the interpretation or enforcement of said changes.

9) **ATTORNEYS' FEES:** In the event any action, suit, or other proceeding at law or in equity is brought to enforce the covenants and agreements contained in this Agreement or to obtain monetary damages for breach thereof, and such action results in an award judgment for monetary damages, or the granting of any equitable relief in favor of any party hereto, all expenses, including reasonable attorney's fees, of the successful party in such action, suit, or other proceeding shall, upon demand of such party, be paid by the other party.

10) **SUCCESSORS AND ASSIGNS:** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of Seller and Buyer, as the case may be, and their respective successors and assigns. Neither party hereto shall assign any interest hereunder without the prior written approval of the other, which approval shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

**SELLER:**

NAME: TALISHEEK, LLC

By: Nicholas Dilks

Title: Manager

Date:

**BUYER:**

NAME: ST. TAMMANY PARISH GOVERNMENT

By: Patricia P. Bristow

Title: Parish President

Date: 8-13-2014