

FAX

Ecosystem Investment Partners

5550 Newbury Street, Suite B
Baltimore, MD 21209
P: 443.921.9441
F: 410.235.1503

TO

Name: Ms. Jessica Chambers
Fax Number: 304.558.3970
Date: August 21, 2019

of Pages: 6

FROM

Name: Jaime Zsiros
Contact Number: 321.258.1774

SUBJECT

Urgent

Please Reply

CRFQ DEP1900000035/ Mitigation Credits-Best and Final Offer

MESSAGE

Ms. Chambers,

Please find enclosed Ecosystem Investment Partner's Final Bid Offer for stream mitigation credits in ILF SSA1.

Thank you for your time and consideration.

RECEIVED

2019 AUG 22 AM 8:47

WV PURCHASING
DIVISION

WV PURCHASING
DIVISION
AM 8:47

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RECEIVED

Attachment A

**PURCHASE OF STREAM AND/OR WETLAND MITIGATION CREDITS
PRICING PAGE**

Item	Description	Quantity	Unit Price	Extended Price
1	Stream credits in ILF SSA 1	5440	\$645.00	\$645.00
	Total			3,508,800.00

Mitigation Bank Information

The following is required as part of the bid.

Bank Name: Oxbow Mitigation Bank

Physical Address: North of State Route 47, Ritchie County. (39.107441, -81.207344)

Bank Owner Name: EIP III Credit Co., LLC

Bank Owner Address: 5550 Newbury Street, Suite B, Baltimore, MD 21209

Contact Name: Jaime Zsiros

Contact Email: jaime@ecosystempartners.com

Service Area (HUCs): Primary-05030203; Secondary-05030201, 05020002,05050007, 05050008, 05030202, 05020001

Required Items: Return the following with your bid. Bank geographic service area map or equivalent Bank's Agreement for Credit Purchase and Sale



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STREAM CREDIT PURCHASE AGREEMENT

THIS STREAM CREDIT PURCHASE AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2019, (the "Effective Date") by and between **EIP III CREDIT CO., LLC**, a Delaware limited liability company, having an address of 5550 Newbury Street Suite B, Baltimore, MD 21209 ("Seller"), and the **WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MGT (WVDEP-DWWM)** having an address of 601 57TH Street SE, Charleston, WV 25304 ("Buyer").

RECITALS

WHEREAS, Seller is the sponsor of the Oxbow Mitigation Bank, located in Ritchie County, West Virginia, within the Little Kanawha sub basin of West Virginia (HUC 05030203) and permitted by the US Army Corps of Engineers ("Corps") pursuant to an MBI (permit number LRH-2013-01071-GUY) agreement duly executed by the Seller and the Corps on June 1, 2018; and

WHEREAS, Buyer seeks to fulfill the requirements of a permit from the Corps under Section 404 of the Clean Water Act so as to compensate for In-Lieu Fee (ILF) Advanced Credit Sales in Secondary Service Area (SSA) 1; and

WHEREAS, as a condition to the issuance of permit number TBD by the Corps, the Buyer is required to compensate for advance credit sales of stream impacts, and elects to do so through the purchase of Stream Credits (as defined below) from Seller under the provisions of this Agreement; and

WHEREAS, the Corps has determined that Buyer shall be required to purchase a total of 5,440.00 Stream Credits due to the proposed advanced credit sales for impacts to streams resulting from credit sales within SSA 1 (the "Project"); 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) **STREAM CREDITS**. "Stream Credits" shall mean mitigation credits sold from the Stream Bank (defined below) and determined by the Corps using the West Virginia Stream and Wetland Valuation Metric ("SWVM").
 - b) **STREAM BANK**. "Stream Bank" shall mean the bank sponsored by Seller with stream mitigation Stream Credits for sale to the open market in connection with Section 404 of the Clean Water Act 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 5,440.00 Stream Credits. Stream Credits are non-transferrable and non-refundable.

- 4) **COMPENSATION.** In exchange for the Stream Credits being purchased hereunder, Buyer shall, subject to the terms and conditions of this Agreement, pay to the Seller a unit price of Six Hundred Forty Five (\$645.00) per Stream Credit, for a sum total of **Three Million Five Hundred Eight Thousand Eight Hundred Dollars (\$3,508,800.00)** (the "Purchase Price").
 - a) **PAYMENT OF PURCHASE PRICE.** On or before thirty (30) 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 EIP III CREDIT CO., 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 Stream Credits be transferred by Seller prior to Seller having received full payment of Purchase Price. Upon its receipt of full payment of the Purchase Price, Seller shall promptly notify the Corps that Buyer has acquired the Stream Credits from the Stream 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. **Wire transfer / ACH payment instructions are attached as Exhibit A.**
 - 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 thirty (30) days from the Effective Date of this Agreement. In any event, **this Agreement must be fully executed on or before September 1, 2019**, 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 Stream Credits from the Stream Bank in accordance with the MBI. Seller shall be responsible for the development and maintenance of the Stream Credits and the Stream Bank in accordance with the requirements of the MBI and other applicable laws. Seller has good and sufficient title to the Stream 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 Stream Credits or the Stream Bank nor shall Buyer have any rights or obligations to enforce any of the responsibilities of the Seller under the MBI.

- 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:

EIP III CREDIT CO., LLC
 c/o Ecosystem Investment Partners
 5550 Newbury Street Suite B
 Baltimore, MD 21209
 Attn: Nick Dilks
 410.982.0230
 nick@ecosystempartners.com

If to Buyer:

WVDEP - DWMM
 601 57th Street SE
 Charleston, WV 25304
 Attn: Jessica Chambers
 304.558.0246
 Jessica.S.Chambers@wv.gov

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 West Virginia 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:

BUYER:

EIP III CREDIT CO., LLC

WVDEP - DWWM

By: Nick Dilks

By: _____

Its: Managing Partner

Its: _____

Dated: _____

Dated: _____

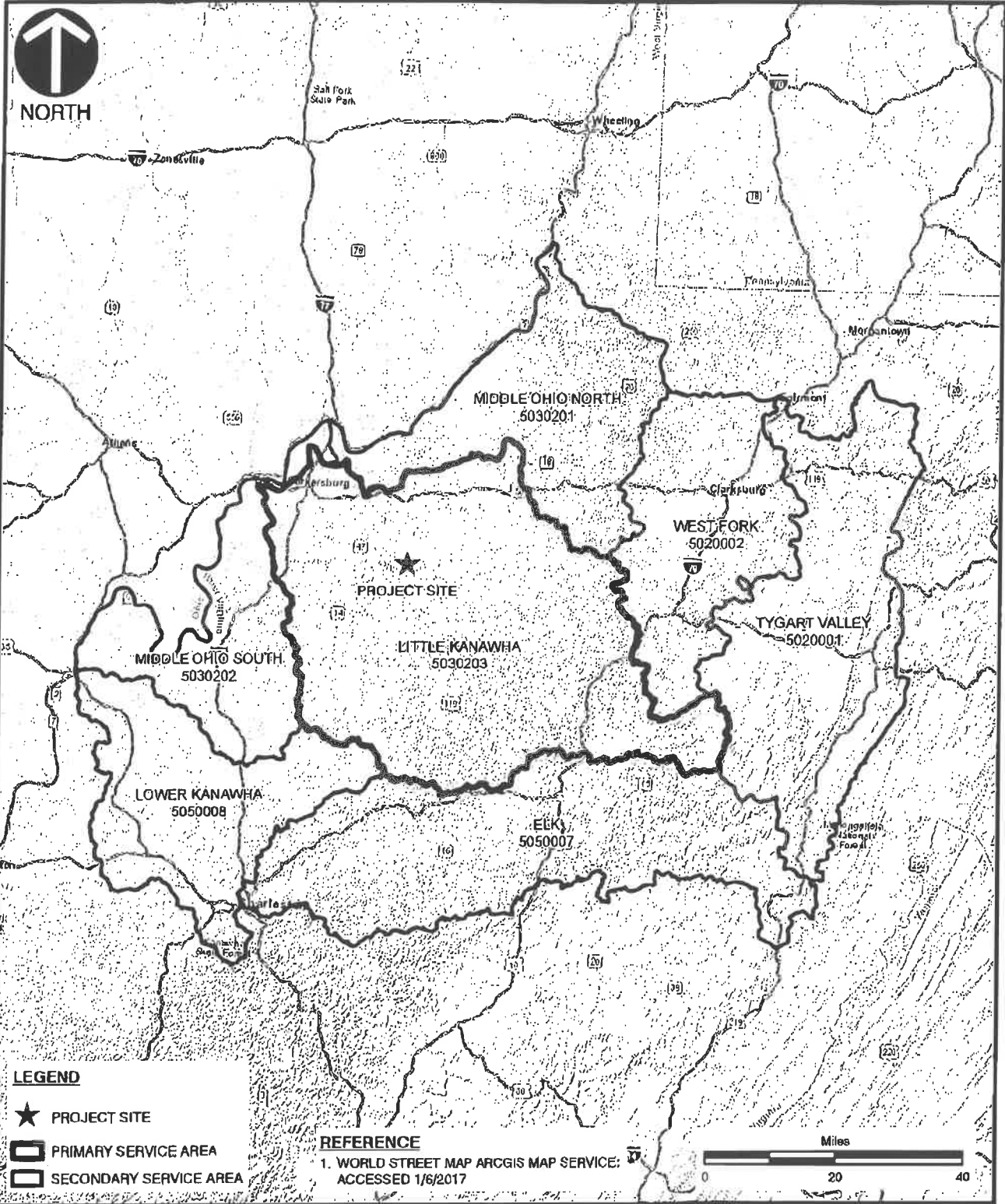


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Exhibit A
Wire / ACH Payment Instructions

EIP III Credit Co., LLC

Bank Name: Silicon Valley Bank
Bank Address: 3003 Tasman Drive
Santa Clara, CA 95054
ABA: 121140399
Account Name: EIP III Credit Co. LLC
Account Number: 3301491686
Attn: Ashley Todd
Relationship Advisor
Private Equity Services
Phone 617.796.6971



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Civil & Environmental Consultants, Inc.
600 Marketplace Avenue, Suite 200 - Bridgeport, WV 26330-9121
Phone: 304-633-3119 Toll-Free: 855-488-9539 Fax: 304-939-3327
www.cedinc.com

EIP III CREDIT CO.
OXBOW MITIGATION BANK
RITCHIE COUNTY, WEST VIRGINIA

SERVICE AREA MAP

DRAWN BY:	NJH	CHECKED BY:	IPT	APPROVED BY: * Hand signature on file NSO*	FIGURE NO:
DATE:	1/6/2017	SCALE:	1" = 20 miles	PROJECT NO:	161-250
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