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Header 7

List View

General Information | Contact | Default Values | Discount | Document Information

Procurement Folder: 586151

Procurement Type: Central Master Agreement

Vendor ID: VC0000049184

Legal Name: LFF IV MITIGATION HOLDINGS LLC

Alias/DBA:

Total Bid: \$4,980,565.00

Response Date: 07/09/2019

Response Time: 9:31

SO Doc Code: CRFQ

SO Dept: 0313

SO Doc ID: DEP1900000035

Published Date: 6/28/19

Close Date: 7/9/19

Close Time: 13:30

Status: Closed

Solicitation Description: Addendum 1-Mitigation Bank Credits

Total of Header Attachments: 7

Total of All Attachments: 7



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

**State of West Virginia
 Solicitation Response**

Proc Folder : 586151
Solicitation Description : Addendum 1-Mitigation Bank Credits
Proc Type : Central Master Agreement

Date issued	Solicitation Closes	Solicitation Response	Version
	2019-07-09 13:30:00	SR 0313 ESR07081900000000082	1

VENDOR
VC0000049184 LFF IV MITIGATION HOLDINGS LLC

Solicitation Number: CRFQ 0313 DEP1900000035

Total Bid : \$4,980,565.00 **Response Date:** 2019-07-09 **Response Time:** 09:31:44

Comments:

FOR INFORMATION CONTACT THE BUYER
 Jessica S Chambers
 (304) 558-0246
 jessica.s.chambers@wv.gov

Signature on File	FEIN #	DATE
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All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Stream credits in ILF SSA 1	5440.00000	EA	\$755.000000	\$4,107,200.00

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Wetland credits in ILF SSA 1	1.00000	EA	\$60,000.000000	\$60,000.00

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Stream credit in ILF SSA 2	1.00000	EA	\$775.000000	\$775.00

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Wetland credits in ILF SSA 2	5.43900	EA	\$60,000.000000	\$326,340.00

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	Stream credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Wetland credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Stream credits in ILF SSA 4	550.00000	EA	\$775.000000	\$426,250.00

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	Wetland credits in ILF SSA 4	1.00000	EA	\$60,000.000000	\$60,000.00

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	Stream credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Wetland credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description : Mitigation Bank Credits / DWWM as outlined on the attached specifications

AGREEMENT FOR PURCHASE AND SALE OF STREAM
AND WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREAM AND WETLAND MITIGATION CREDITS (the "Agreement") is dated this ____ day of _____, 2019 by and between BEARWALLOW RUN MITIGATION HOLDINGS LLC, a Delaware limited liability company, and the operator of a stream and wetland mitigation bank commonly known as the Bearwallow Run Stream and Wetland Mitigation Bank ("Seller"), and DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

RECITALS

A. On November 25, 2015, Seller acquired from WV Bunrootis LLC the right to create and operate a wetland and stream mitigation bank on approximately 225 acres located at the Indian Creek Stream and Wetland Mitigation Bank in Ritchie County, West Virginia (the "Bank");

B. WVB Holdings is a wholly owned subsidiary of LFF IV Mitigation Holdings LLC, which is registered with wvOasis as vendor account code VC0000049184;

C. Seller is a subsidiary of WVB Holdings and has been authorized by WVB Holdings to manage and operate the Bank on WVB Holdings' behalf, including the right to sell mitigation credits generated by the Bank;

D. The Bank will be developed and operated pursuant to United States Army Corps of Engineers - Huntington District (the "Corps") and the West Virginia Department of Environmental Protection ("WVDEP") Nationwide Permit No. 27 - LRH-2014-00392-LKR, the Bank Development Plan and Mitigation Banking Instrument for the Bearwallow Run Stream and Wetland Mitigation Bank (the "MBI") dated January 2017 which was approved on August 9, 2018 by the Corps and the WVDEP to operate as a wetland and stream mitigation bank with wetland and stream credits available for sale. A copy of the permit will be provided upon request;

E. The Bearwallow Run Stream and Wetland Mitigation Bank is an instrument modification of the previously approved WV Bunrootis LLC Umbrella Mitigation Banking Instrument (the "UMBI") for the State of West Virginia, which operates as the Hayes Run Stream Mitigation Bank and was approved on August 7, 2012 by the Corps (file LRH-2009-150-LKR);

F. Seller has received approval from the Corps and WVDEP to offer wetland and stream credits from the Bank for sale as compensation for the loss of wetlands and streams due to impacts to such aquatic resources within the "Service Area," as defined by the MBI, which shall include the areas identified by the following eight-digit Hydrologic Unit Codes ("HUCs") as designated by the U.S. Geological Survey ("USGS"): Primary – Little Kanawha (05030203) and Secondary – Tygart Valley (05020001), Elk (05050007), West Fork (05050002), Middle Ohio South (05030202), Lower Kanawha (05050008), and Middle Ohio North (05030201); and,

F. Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser stream and wetland mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

1. Recitals. The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

2. Agreement to Sell and Purchase. Seller hereby sells to Purchaser or its designee(s), and Purchaser, or its assignee(s), hereby purchases from Seller _____ (_____) stream mitigation credits (the "Stream Credits") and _____ (_____) wetland mitigation credits (the "Wetland Credits") in the Bank. Upon execution of the Agreement to purchase Credits from Seller, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 30 days of receipt of the invoice. Purchaser shall have the right to apply the Credits for use on any enforcement issue, current project and/or future project, and Seller consents to such re-conveyances and agrees to cooperate with and assist Purchaser in the documentation of such re-conveyances, including delivery of notices of such re-conveyances to the Corps, WVDEP, United States Environmental Protection Agency ("EPA") and any other governing agency with jurisdiction over the creation and operation of wetland and stream mitigation banks.

3. Purchase Price. The purchase price for the _____ (_____) Stream Credits shall be Seven Hundred Fifty Five and 00/100 Dollars (\$755.00) for each Credit for a Purchase Price of _____ Dollars (\$_____) and the purchase price for the _____ (_____) Wetland Credits shall be Sixty Thousand and

00/100 Dollars (\$60,000.00) for each credit for a Purchase Price of _____ (\$_____) and a total purchase price of _____ Dollars (\$_____) (the "Total Purchase Price").

Upon payment of the Total Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment of any other consideration or fee in connection with the conveyance or assignment and/or re-conveyance of the Credits.

4. Delivery of Credits. Upon receipt of the Purchase Price, Seller shall deliver to Purchaser, its successors, assignees or designees the following documents to evidence the conveyance of the Credits:

(a) An affidavit in substantially the same form as Exhibit A attached hereto, with the project number filled in, if requested, and which upon the written request of Purchaser shall also be delivered by Seller to the Corps and, if appropriate, the WVDEP.

(b) A bill of sale for the Credits in substantially the same form as Exhibit B attached hereto.

5. Representations, Warranties and Covenants. Seller hereby warrants and represents to, and covenants with, Purchaser as follows:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A, B, C, D, E, and F above.

(b) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(c) Seller shall follow and comply with all the requirements for the maintenance of the Bank as required by the Corps, WVDEP, EPA, and any other agency having jurisdiction over the Bank.

(d) Seller has full power and authority to convey the Credits to Purchaser and to consummate the transactions contemplated herein.

(e) Seller shall deliver the Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(f) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(g) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(h) Seller shall be solely responsible, at its sole cost and expense, for compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank (collectively the "Bank Regulatory Requirements"). Seller shall indemnify, defend, and hold harmless Purchaser and Purchaser's successors, assigns, and designees from and against any action, order, investigation, or proceeding initiated by any individual or entity, including, but not limited to, any governmental agency, and arising from or based on Seller's failure to comply with (i) this Agreement, including, but not limited to, a breach by Seller of any of its representations, warranties and covenants herein, and (ii) any Bank Regulatory Requirements, such indemnification to include any and all costs and expenses, including without limitation, reasonable attorneys' fees, incurred by Purchaser or its successors assigns and designees related thereto.

(i) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(j) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement.

6. Miscellaneous

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Bearwallow Run Mitigation Holdings LLC
Attn: David Gibbons
23 South Main Street, 3rd Floor
Hanover, NH 03755

With a copy to:

The Lyme Timber Company LP
General Counsel
23 South Main Street, 3rd Floor
Hanover, NH 03755

Purchaser: West Virginia Department of Environmental Protection
Attn: Scott Settle
601 57th Street SE
Charleston, West Virginia 25304

Payment for the credits shall be made payable to Bear Wallow Mitigation Holdings LLC and will be sent to:

The Lyme Timber Company LP
Attn: Accounting
23 South Main Street, 3rd Floor
Hanover, NH 03755

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) Brokerage Commission. Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction. In the event any claims arise for commissions, fees, or other compensation in connection with this transaction, the party causing such claims or through whom such claims are made shall indemnify, defend, and hold harmless the other party for any loss or damage incurred by such party because of such claim. The foregoing indemnification shall survive the cancellation, termination or consummation of this Agreement.

(c) Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and neither Party shall be bound by representations except as set forth in this Agreement. There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia, with the proper venue being Harrison County, except to the extent that any applicable federal law or regulation shall supersede West Virginia law in relation to the matters set forth in this Agreement.

(e) Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) Severability. The provisions of this Agreement shall be deemed severable and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) Additional Assurances. Both of the parties agree to execute and deliver

any other document or documents that may be requested from time to time by the other party necessary to perform such party's obligations under this Agreement.

(h) Attorney's Fees. If legal action is commenced by either party to enforce its rights under this Agreement, the substantially prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) Nature of Credits. The sale and conveyance of the Credits pursuant to this Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(j) Duration. This Agreement shall continue in existence until ninety (90) days after the conveyance of all of the Credits, including without limitation, any conveyance at the request of Purchaser in accordance with the provision of Sections 3 and 6(k) herein; provided, however, that the provisions of Section 5 and 6(m) shall survive the termination of this Agreement upon the payment in full of the Purchase Price.

(k) Assignability. Purchaser may assign its rights and obligations hereunder to any other project undertaken by Purchaser's parent company or by any affiliate or subsidiary of Purchaser's parent company. Seller shall not assign its rights and obligations hereunder to any third-party entity without the prior written consent of Purchaser, which may be withheld in Purchaser's sole discretion.

(l) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature or electronic signature shall have the same legal effect as an original.

(m) Confidentiality. Purchaser and Seller agree to maintain, in strictest confidence, the terms of this Agreement and any and all communications between the parties. This Section shall not apply to any information which: (i) was known to receiving party prior to it being disclosed to such party hereunder and can be so demonstrated by written documentation; (ii) was in the public domain by publication when received by receiving party or later came into the public domain by publication through no fault of receiving party; (iii) was disclosed to receiving party, free of confidentiality obligations, by a third party who (to the knowledge of receiving party) is not under obligations of secrecy concerning the information and/or materials; or (iv) was

independently developed by receiving party without reference to the information. In the event legal process requires or requests disclosure by receiving party, its agents, representatives and/or employees of any of the information, if legally permissible to do so, receiving party shall give prompt notice of such process immediately to the other party so that the other party may either seek an appropriate protective order and/or waive compliance by receiving party with the provisions of this Section.

WITNESS the following authorized signatures:

SELLER: BEARWALLOW RUN MITIGATION HOLDINGS LLC

By: _____

Printed: David E. Gibbons

Its: Authorized Representative

PURCHASER: DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection

By: _____

Printed: _____

Its: _____

EXHIBIT A

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

I, David E. Gibbons, certify that I am now, and at all times mentioned herein have been, the Authorized Representative of Bearwallow Run Mitigation Holdings LLC, a Delaware limited liability company (the "Company"), and as such I hereby certify the following.

The Company, as of the date hereof, has granted, sold, and transferred or made available for transfer _____ (_____) stream credits and _____ (_____) wetland credits to the Department of Environmental Protection – Division of Waste Water Management, a West Virginia State agency in the West Virginia Department of Environmental Protection from the Bearwallow Run Stream and Wetland Mitigation Bank located in Ritchie County, West Virginia, established under the authority of the United States Army Corps of Engineers – Huntington District Nationwide Permit No. 2014-2014-00392-LKR issued on August 9, 2018.

The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the _____ day of _____, 2019.

Bearwallow Run Mitigation Holdings LLC, a
Delaware limited liability company

By: _____

Printed: David E. Gibbons

Title: Authorized Representative

STATE OF TEXAS:

COUNTY OF DALLAS:

Sworn to and subscribed before me this _____ day of _____, 2019 the undersigned Notary Public for and in the jurisdiction aforesaid, by David E. Gibbons, the Authorized Representative of the Bearwallow Run Mitigation Holdings LLC, a Delaware limited liability company.

Notary Public

My commission expires: _____

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the ____ day of April, 2019, by BEAR WALLOW RUN MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

Seller (by and through its operator and manager, Bearwallow Run Mitigation Holdings LLC) and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated _____, 2019 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Wetland Credits (as defined in the Agreement) held in Seller's Bearwallow Run Stream and Wetland Mitigation Bank located in Ritchie County, West Virginia.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns _____ (_____) stream Credits and _____ (_____) wetland Credits, to have and hold all such stream mitigation Credits forever.

Witness the following authorized signature:

Bearwallow Run Mitigation Holdings LLC, a Delaware limited liability company

By: _____

Printed: David E. Gibbons

Its: Authorized Representative

AGREEMENT FOR PURCHASE AND SALE OF STREAM
AND WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREAM CREDITS (this "Agreement") is dated this ____ day of _____, 2019, by and between HAYES RUN MITIGATION HOLDINGS LLC, a Delaware limited liability company, and the operator of a stream and wetland mitigation bank commonly known as the Hayes Run Stream and Wetland Mitigation Bank ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

RECITALS

A. On November 25, 2015, Seller acquired from WV Bunrootis LLC a wetland and stream mitigation bank on approximately 178 acres located at the Hayes Run Stream and Wetland Mitigation Bank in Roane County, West Virginia (the "Bank");

B. WVB Holdings is a wholly owned subsidiary of LFF IV Mitigation Holdings LLC, which is registered with wvOasis as vendor account code VC0000049184;

C. Seller is a subsidiary of WVB Holdings and has been authorized by WVB Holdings to manage and operate the Bank on WVB Holdings' behalf, including the right to sell mitigation credits generated by the Bank;

D. WVB Holdings, as sponsor under the hereinafter defined UMBI, manages the Bank under United States Army Corps of Engineers (the "Corps") and the West Virginia Department of Environmental Protection ("WVDEP") Nationwide Permit No. 27 2009-150-LKR; Seller has developed the Hayes Run Stream and Wetland Mitigation Bank under the Bank Development Plan and Mitigation Banking Instrument for the Hayes Run Stream Mitigation Bank dated, April 2012, which was approved on August 7, 2012 (the "UMBI") by the Corps and the WVDEP for operation as a wetland and stream mitigation bank with stream credits available for sale;

E. The Bank received approval from the Corps and WVDEP to offer stream credits for sale in its primary watershed Little Kanawha (05030203) as compensation for the loss of stream function due to impacts from construction activity;

F. By letter dated January 6, 2014 from the Corps to Seller, the Corps approved the modification of the secondary service area for the Bank to include the following 8-digit HUC watersheds in West Virginia: Upper Ohio North (05030101), Upper Ohio South (05030106), Little

Muskingum-Middle Island (05030201) and Upper Ohio-Shade (05030202); and

E. Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser stream mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

1. Recitals. The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

2. Agreement to Sell and Purchase. Seller hereby sells to Purchaser or its designee(s), and Purchaser, or its assignee(s), hereby purchases from Seller _____ (_____) stream mitigation credits (the "Stream Credits") and _____ (_____) wetland mitigation credits (the "Wetland Credits") in the Bank. Upon execution of the Agreement to purchase Credits from Seller, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 30 days of receipt of the invoice. Purchaser shall have the right to apply the Credits for use on any enforcement issue, current project and/or future project, and Seller consents to such re-conveyances and agrees to cooperate with and assist Purchaser in the documentation of such re-conveyances, including delivery of notices of such re-conveyances to the Corps, WVDEP, United States Environmental Protection Agency ("EPA") and any other governing agency with jurisdiction over the creation and operation of wetland and stream mitigation banks.

3. Purchase Price. The purchase price for the _____ (_____) Stream Credits shall be Seven Hundred Seventy Five and 00/100 Dollars (\$775.00) for each Credit for a Purchase Price of _____ Dollars (\$_____) and the purchase price for the _____ (_____) Wetland Credits shall be Sixty Thousand and 00/100 Dollars (\$60,000.00) for each credit for a Purchase Price of _____ (\$_____) and a total purchase price of _____ Dollars (\$_____) (the "Total Purchase Price"). Upon payment of the Total Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment of any other consideration or fee in connection with the conveyance or assignment and/or re-conveyance of the Credits.

4. Delivery of Credits. Seller shall deliver to Purchaser, its successors, assignees or designees the following documents to evidence the conveyance of the Credits:

(a) An affidavit in substantially the same form as Exhibit A attached hereto, with the project number filled in, if requested, and which upon the written request of Purchaser shall also be delivered by Seller to the Corps and, if appropriate, the WVDEP.

(b) A bill of sale for the Credits in substantially the same form as Exhibit B attached hereto.

5. Representations, Warranties and Covenants. Seller hereby warrants and represents to, and covenants with, Purchaser as follows:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A, B, C, D, and E above.

(b) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(c) Seller shall follow and comply with all the requirements for the maintenance of the Bank as required by the Corps, WVDEP, EPA, and any other agency having jurisdiction over the Bank.

(d) Seller has full power and authority to convey the Credits to Purchaser, free and clear of any liens, security interests or other encumbrances, and to consummate the transactions contemplated herein.

(e) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(f) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(g) Seller shall be solely responsible, at its sole cost and expense, for compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank (collectively the "Bank Regulatory Requirements"). Seller shall indemnify, defend, and hold harmless Purchaser and Purchaser's successors, assigns, and designees from and against any action, order, investigation, or proceeding initiated by any individual or entity, including, but not limited to, any governmental agency, and arising from or based on Seller's failure to comply with (i) this

Agreement, including, but not limited to, a breach by Seller of any of its representations, warranties and covenants herein, and (ii) any Bank Regulatory Requirements, such indemnification to include any and all costs and expenses, including without limitation, reasonable attorneys' fees, incurred by Purchaser or its successors assigns and designees related thereto.

(h) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(i) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement.

6. Miscellaneous

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Hayes Run Mitigation Holdings LLC
Attn: David Gibbons
6515 Bandera Avenue, #2D
Dallas, Texas 75225

With a copy to:

The Lyme Timber Company LP
General Counsel
23 South Main Street, 3rd Floor
Hanover, NH 03755

Purchaser: West Virginia Department of Environmental Protection
Attn: Scott Settle
601 57th Street SE
Charleston, West Virginia 25304

Payment for the credits shall be made payable to Kincheloe Mitigation Holdings LLC and will be sent to:

The Lyme Timber Company LP
Attn: Christine Tongol
23 South Main Street, 3rd Floor
Hanover, NH 03755

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) Brokerage Commission. Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction. In the event any claims arise for commissions, fees, or other compensation in connection with this transaction, the party causing such claims or through whom such claims are made shall indemnify, defend, and hold harmless the other party for any loss or damage incurred by such party because of such claim. The foregoing indemnification shall survive the cancellation, termination or consummation of this Agreement.

(c) Entire Agreement; Modification. There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia, with the proper venue being Harrison County, except to the extent that any applicable federal law or regulation shall supersede West Virginia law in relation to the matters set forth in this Agreement.

(e) Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) Severability. The provisions of this Agreement shall be deemed severable and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) Additional Assurances. Both of the parties agree to execute and deliver any other document or documents that may be requested from time to time by the other party necessary to perform such party's obligations under this Agreement.

(h) Attorney's Fees. If legal action is commenced by either party to enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) Nature of Credits. The sale and conveyance of the Credits pursuant to this

Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(j) Duration. This Agreement shall continue in existence until the later of (a) ninety (90) days after the conveyance of all the Credits, including without limitation, any conveyance at the request of Purchaser in accordance with the provisions of Sections 2, 4, and 6(k) herein, or (b) the termination hereof pursuant to the provisions of Section 3 herein. Provided, however, that the provisions of Section 5 and 6(m) shall survive the termination of this Agreement upon the payment in full of the Purchase Price.

(k) Assignability. Purchaser may assign its rights and obligations hereunder to any other project undertaken by Purchaser's parent company. Seller shall not assign its obligations hereunder to any third party entity without the prior written consent of Purchaser, which may be withheld in Purchaser's sole discretion.

(l) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature shall have the same legal effect as an original.

(m) Confidentiality. Purchaser and Seller agree to maintain, in strictest confidence, the terms of this Agreement and any and all communications between the parties.

[Intentionally left blank]

WITNESS the following authorized signatures:

SELLER: HAYES RUN MITIGATION HOLDINGS LLC

By: _____
Printed: David E. Gibbons
Its: Authorized Representative

PURCHASER: DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION
OF WASTE AND WATER MANAGEMENT, a West Virginia State
agency in the West Virginia Department of Environmental Protection

By: _____
Printed: _____
Its: _____

EXHIBIT A

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

I, David E. Gibbons, certify that I am now, and at all times mentioned herein have been, the Authorized Representative of Hayes Run Existing Mitigation Holdings LLC, a Delaware limited liability company (the "Company"), and as such I hereby certify the following:

The Company, as of the date hereof, has granted, sold, and transferred or made available for transfer _____ (_____) stream credits and _____ (_____) wetland credits to the Department of Environmental Protection – Division of Waste Water Management, a West Virginia State agency in the West Virginia Department of Environmental Protection from from the Hayes Run Stream and Wetland Mitigation Bank located in Roane County, West Virginia, established under the authority of the United States Army Corps of Engineers Nationwide Permit No. No. 27 2009-150-LKR issued on August 7, 2012.

The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the _____ day of _____, 2019.

Hayes Run Existing Mitigation Holdings LLC, a
Delaware limited liability company

By: _____

Printed: David E. Gibbons

Title: Authorized Representative

STATE OF TEXAS:

COUNTY OF DALLAS:

Sworn to and subscribed before me this _____ day of _____, 2019 the undersigned Notary Public for and in the jurisdiction aforesaid, by David E. Gibbons, the Authorized Representative of Hayes Run Existing Mitigation Holdings LLC, a Delaware limited liability company.

Notary Public

My commission expires: _____

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the ____ day of _____, 2019, by HAYES RUN MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream Mitigation Credits dated _____, 2019 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of stream Credits (as defined in the Agreement) held in Seller's Hayes Run Stream and Wetland Mitigation Bank located in Roane County, West Virginia.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns _____ (_____) stream Credits and _____ (_____) wetland Credits, to have and hold all such stream mitigation Credits forever.

Witness the following authorized signature:

HAYES RUN MITIGATION HOLDINGS LLC, a
Delaware limited liability company

By: _____

Printed: David E. Gibbons

Its: Authorized Representative



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 27 - Miscellaneous

Proc Folder: 586151

Doc Description: Addendum 1-Mitigation Bank Credits

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2019-06-28	2019-07-09 13:30:00	CRFQ 0313 DEP1900000035	2

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

LFF IV Mitigation Holdings LLC
 23 S Main Street, Suite 3
 Hanover, New Hampshire 03755
 Attn. David Gibbons
 214-616-0652

Mitigation banks providing stream and wetland credits for ILF SSA 1
 Hayes Run Mitigation Holdings LLC
 Bearwallow Run Mitigation Holdings LLC

FOR INFORMATION CONTACT THE BUYER

Jessica S Chambers
 (304) 558-0246
 jessica.s.chambers@wv.gov

Signature X

FEIN # 47-2798169

DATE July 8, 2019

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION:

Addendum

Addendum No.01 issued to publish and distribute the attached information to the vendor community.

The West Virginia Purchasing Division is soliciting bids on behalf of the Department of Environmental Protection to establish an open-end contract for the purchase of released mitigation credits from U.S. Army Corps of Engineers approved mitigation bank(s) in various secondary service areas (SSAs) of the State per the terms and conditions and specifications as attached.

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Stream credits in ILF SSA 1	5440.00000	EA	\$755/credit	see Exhibit A

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Wetland credits in ILF SSA 1	1.00000	EA	\$60,000/credit	see Exhibit A

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Stream credit in ILF SSA 2	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Wetland credits in ILF SSA 2	5.43900	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Stream credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Wetland credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Stream credits in ILF SSA 4	550.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Wetland credits in ILF SSA 4	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Stream credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Wetland credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ: DEP1900000035

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

LFF IV Holdings LLC

Company



Authorized Signature

July 8, 2019

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 6/8/2012

State of West Virginia Bid Opportunity

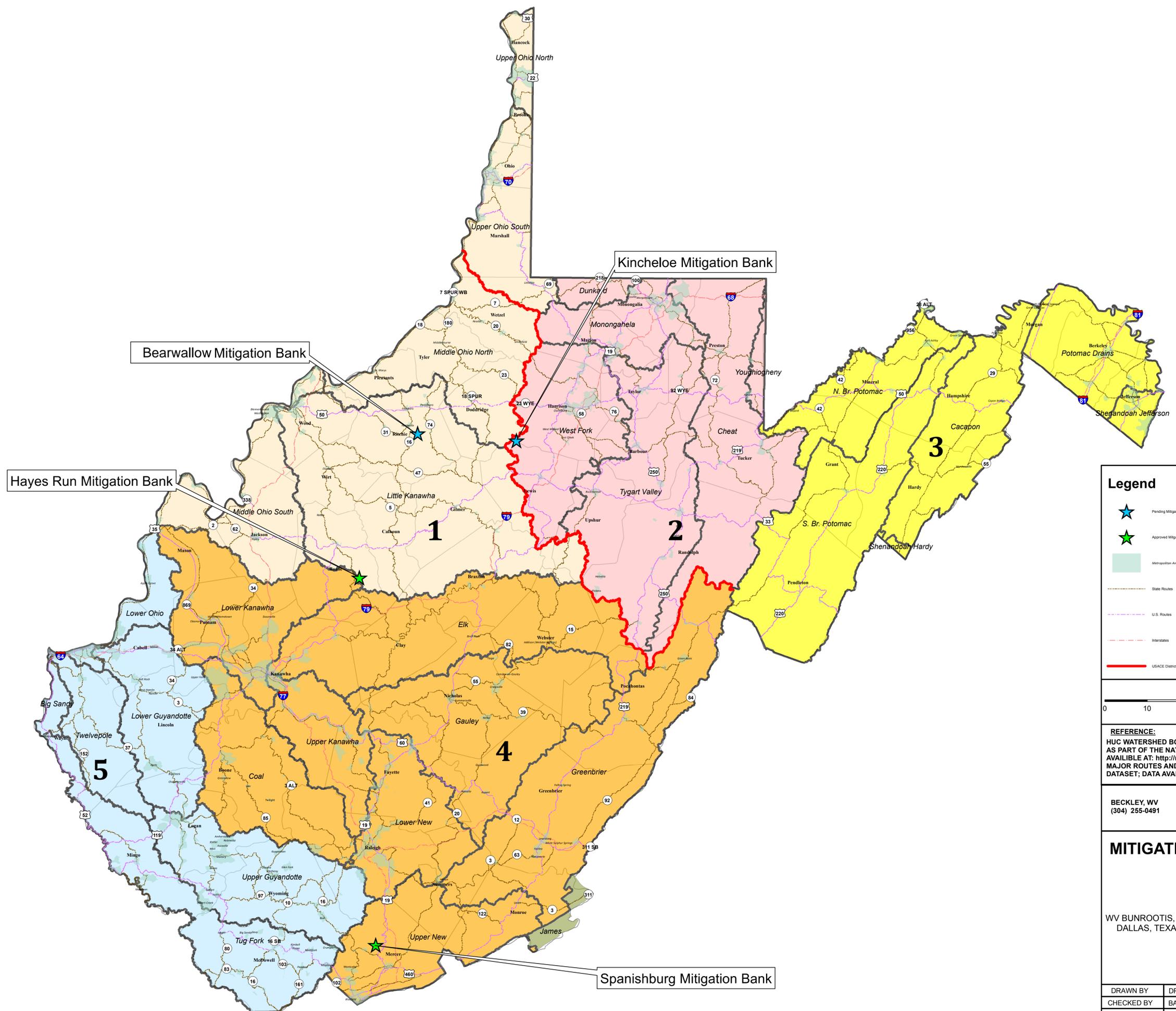
Solicitation Type CRFQ
Solicitation No. DEP19000000035
Description: Mitigation Bank Credits

EXHIBIT A

ILF SSA Zone	Mitigation Bank	Wetland Credits			Stream Credits		
		Currently Available	Available by June 30-2020	Unit Price	Currently Available	Available by June 30-2020	Unit Price
1	Bearwallow Run	-0-	-0-	\$60,000 / credit	4,680.52	4,680.52	\$755 / credit
1	Hayes Run	0.01	0.13	\$60,000 / credit	-0-	356.0	\$755 / credit

Note:

Hayes Run - Projected release date for stream and wetland credits for Hayes Run Mitigation Bank is August 1, 2019. Release has been approved by the WV IRT, but the release letter from the US Army Corps of Engineers – Huntington District has not been drafted and sent.



Bearwallow Mitigation Bank

Kincheloe Mitigation Bank

Hayes Run Mitigation Bank

Spanishburg Mitigation Bank

Legend

- Pending Mitigation Bank
- Approved Mitigation Banks
- Metropolitan Area
- State Routes
- U.S. Routes
- Interstates
- USACE District Boundary
- Counties
- WV DEP Geographic Service Areas**
 - 1
 - 2
 - 3
 - 4
 - 5



REFERENCE:
 HUC WATERSHED BOUNDARIES DOWNLOADED AS PART OF THE NATIONAL HYDROGRAPHY DATASET (NHD). AVAILABLE AT: <http://nhd.usgs.gov/>
 MAJOR ROUTES AND URBAN AREAS TAKEN FROM THE 2011 AND 2010 TIGER DATASET; DATA AVAILABLE AT <http://www.census.gov/>

BECKLEY, WV (304) 255-0491 *Alliance Consulting, Inc.* CANONSBURG, PA (724) 745-3630
Engineers · Constructors · Scientists

MITIGATION BANK LOCATION MAP

Prepared For

WV BUNROOTIS, LLC DALLAS, TEXAS DAVID GIBBONS Phone: (214) 747-0353 Cell: (214) 616-0652

DRAWN BY	DR	2/10/14	PROJECT NO. B14-001-1760 DRAWING NO. B14-001-D2
CHECKED BY	BAH	2/10/14	
APPROVED BY			



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 27 - Miscellaneous

Proc Folder: 586151

Doc Description: Addendum 1-Mitigation Bank Credits

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2019-06-28	2019-07-09 13:30:00	CRFQ 0313 DEP1900000035	2

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
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 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

LFF IV Mitigation Holdings LLC
 23 S Main Street, Suite 3
 Hanover, New Hampshire 03755
 Attn. David Gibbons
 214-616-0652

Mitigation banks providing stream and wetland credits for ILF SSA 4
 Spanishburg Mitigation Holdings LLC

FOR INFORMATION CONTACT THE BUYER

Jessica S Chambers
 (304) 558-0246
 jessica.s.chambers@wv.gov

Signature X

FEIN # 47-2798169

DATE July 8, 2019

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION:

Addendum

Addendum No.01 issued to publish and distribute the attached information to the vendor community.

The West Virginia Purchasing Division is soliciting bids on behalf of the Department of Environmental Protection to establish an open-end contract for the purchase of released mitigation credits from U.S. Army Corps of Engineers approved mitigation bank(s) in various secondary service areas (SSAs) of the State per the terms and conditions and specifications as attached.

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ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Stream credits in ILF SSA 1	5440.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Wetland credits in ILF SSA 1	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Stream credit in ILF SSA 2	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
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INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Wetland credits in ILF SSA 2	5.43900	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

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Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Stream credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Wetland credits in ILF SSA 3	1.00000	EA		

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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Stream credits in ILF SSA 4	550.00000	EA	\$775/credit	Exhibit A

Comm Code	Manufacturer	Specification	Model #
94131501			

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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Stream credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Wetland credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ: DEP1900000035

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

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| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
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LFF IV Holdings LLC

Company



Authorized Signature

July 8, 2019

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 6/8/2012

State of West Virginia Bid Opportunity

Solicitation Type CRFQ
Solicitation No. DEP19000000035
Description: Mitigation Bank Credits

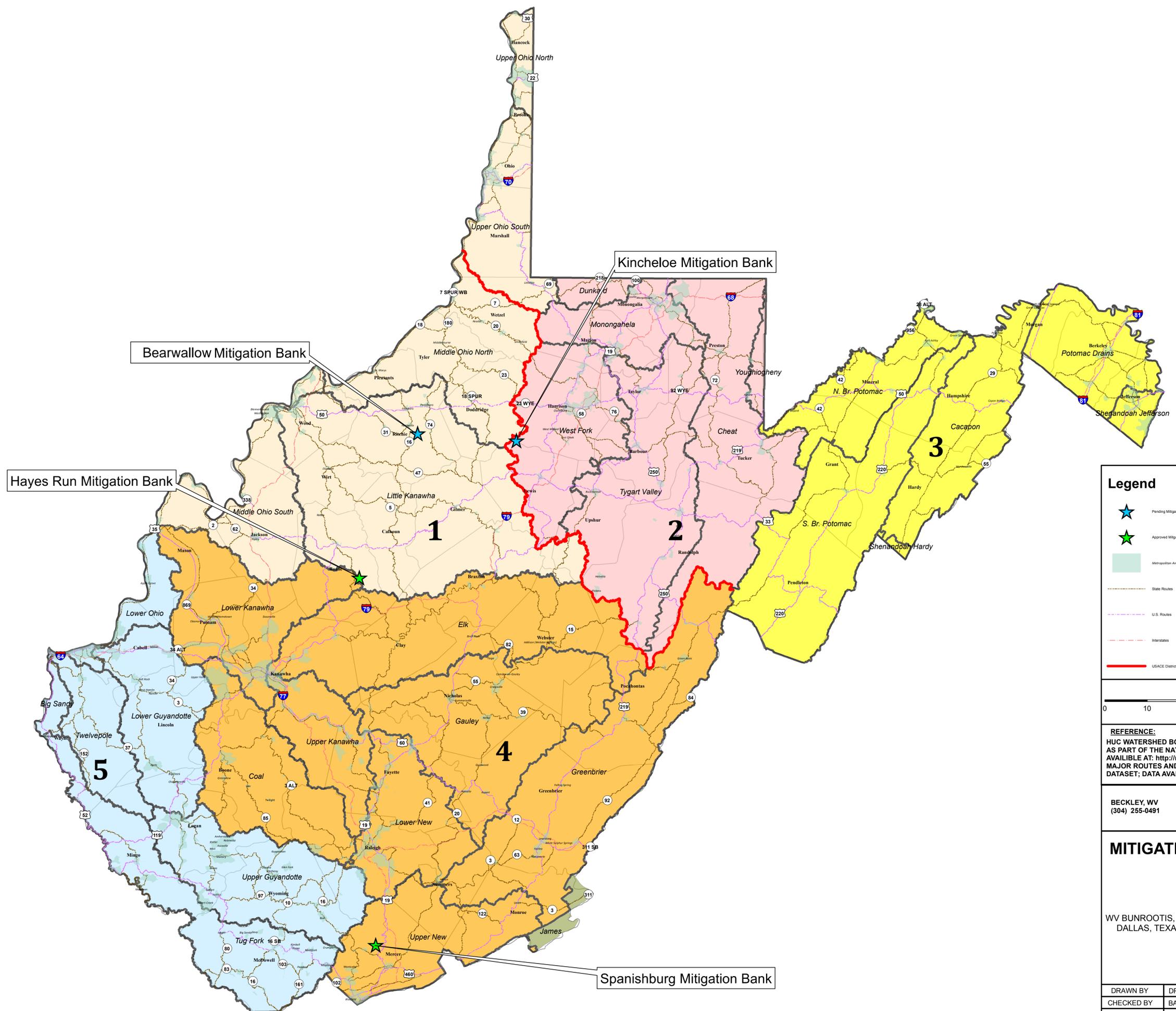
EXHIBIT A

ILF SSA Zone	Mitigation Bank	Wetland Credits			Stream Credits		
		Currently Available	Available by June 30-2020	Unit Price	Currently Available	Available by June 30-2020	Unit Price
4	Spanishburg	0.981	1.962	\$60,000 / credit	944.80	1,889.60	\$775 / credit

Note:

Spanishburg – Justin Elkins with the US Army Corps of Engineers – Huntington District stated that a credit release was to be prepared for Mike Hatten’s signature by July 3, 2019. That release is to be 945.0 stream credits and 0.981 wetland credits.

Another release of credit should occur by April 30, 2020 for an additional 945 stream credits and 0.981 wetland credits.



Bearwallow Mitigation Bank

Kincheloe Mitigation Bank

Hayes Run Mitigation Bank

Spanishburg Mitigation Bank

Legend

- Pending Mitigation Bank
- Approved Mitigation Banks
- Metropolitan Areas
- State Routes
- U.S. Routes
- Interstates
- USACE District Boundary
- Counties
- WV DEP Geographic Service Areas**
 - 1
 - 2
 - 3
 - 4
 - 5



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 HUC WATERSHED BOUNDARIES DOWNLOADED AS PART OF THE NATIONAL HYDROGRAPHY DATASET (NHD). AVAILABLE AT: <http://nhd.usgs.gov/>
 MAJOR ROUTES AND URBAN AREAS TAKEN FROM THE 2011 AND 2010 TIGER DATASET; DATA AVAILABLE AT <http://www.census.gov/>

BECKLEY, WV (304) 255-0491 *Alliance Consulting, Inc.* CANONSBURG, PA (724) 745-3630
Engineers · Constructors · Scientists

MITIGATION BANK LOCATION MAP

Prepared For

WV BUNROOTIS, LLC
DALLAS, TEXAS



DAVID GIBBONS
Phone: (214) 747-0353
Cell: (214) 616-0652

DRAWN BY	DR	2/10/14	PROJECT NO. B14-001-1760
CHECKED BY	BAH	2/10/14	DRAWING NO. B14-001-D2
APPROVED BY			



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 27 — Miscellaneous

Proc Folder: 586151

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BID RECEIVING LOCATION

BID CLERK
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Vendor Name, Address and Telephone Number:

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FOR INFORMATION CONTACT THE BUYER

Jessica S Chambers
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 jessica.s.chambers@wv.gov

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Addendum

Addendum No.01 issued to publish and distribute the attached information to the vendor community.

The West Virginia Purchasing Division is soliciting bids on behalf of the Department of Environmental Protection to establish an open-end contract for the purchase of released mitigation credits from U.S. Army Corps of Engineers approved mitigation bank(s) in various secondary service areas (SSAs) of the State per the terms and conditions and specifications as attached.

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Stream credits in ILF SSA 1	5440.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Wetland credits in ILF SSA 1	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Stream credit in ILF SSA 2	1.00000	EA	\$775/credit	Exhibit A

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Wetland credits in ILF SSA 2	5.43900	EA	\$60,000/credit	Exhibit A

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Stream credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Wetland credits in ILF SSA 3	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Stream credits in ILF SSA 4	550.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :
Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Wetland credits in ILF SSA 4	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Stream credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION DIV OF WASTE AND WATER MGT 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MGT 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Wetland credits in ILF SSA 5	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
94131501			

Extended Description :

Mitigation Bank Credits / DWWM as outlined on the attached specifications

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ: DEP1900000035

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

LFF IV Holdings LLC

Company



Authorized Signature

July 8, 2019

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.
Revised 6/8/2012

State of West Virginia Bid Opportunity

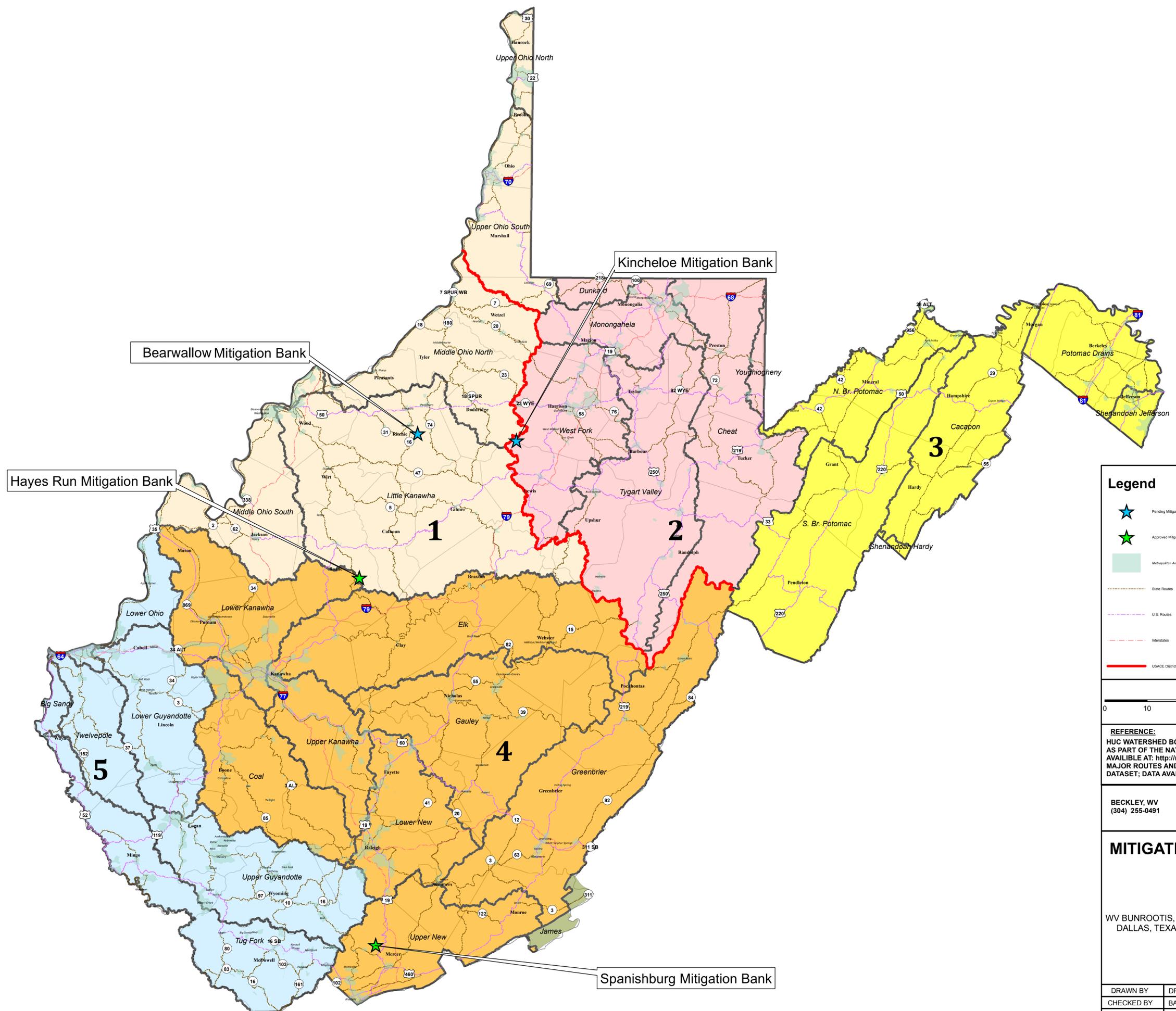
Solicitation Type CRFQ
Solicitation No. DEP19000000035
Description: Mitigation Bank Credits

EXHIBIT A

ILF SSA Zone	Mitigation Bank	Wetland Credits			Stream Credits		
		Currently Available	Available by June 30-2020	Unit Price	Currently Available	Available by June 30-2020	Unit Price
2	Kincheloe	-0-	0.468	\$60,000 / credit	87.805	1,219.805	\$775 / credit

Note:

Kincheloe - Projected release date for stream and wetland credits for the Kincheloe Mitigation Bank is March 15, 2020. The anticipated release will be 1,132 stream credits and 0.468 wetland credits.



Bearwallow Mitigation Bank

Kincheloe Mitigation Bank

Hayes Run Mitigation Bank

Spanishburg Mitigation Bank

Legend

- Pending Mitigation Bank
- Approved Mitigation Banks
- Metropolitan Area
- State Routes
- U.S. Routes
- Interstates
- USACE District Boundary
- Counties
- WV DEP Geographic Service Areas**
 - 1
 - 2
 - 3
 - 4
 - 5



REFERENCE:
 HUC WATERSHED BOUNDARIES DOWNLOADED AS PART OF THE NATIONAL HYDROGRAPHY DATASET (NHD). AVAILABLE AT: <http://nhd.usgs.gov/>
 MAJOR ROUTES AND URBAN AREAS TAKEN FROM THE 2011 AND 2010 TIGER DATASET; DATA AVAILABLE AT <http://www.census.gov/>

BECKLEY, WV (304) 255-0491 *Alliance Consulting, Inc.* CANONSBURG, PA (724) 745-3630
Engineers · Constructors · Scientists

MITIGATION BANK LOCATION MAP

Prepared For

WV BUNROOTIS, LLC
DALLAS, TEXAS



DAVID GIBBONS
Phone: (214) 747-0353
Cell: (214) 616-0652

DRAWN BY	DR	2/10/14	PROJECT NO. B14-001-1760
CHECKED BY	BAH	2/10/14	DRAWING NO. B14-001-D2
APPROVED BY			

AGREEMENT FOR PURCHASE AND SALE OF STREAM
AND WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREAM AND WETLAND CREDITS (this "Agreement") is dated this ____ day of _____, 2019 by and between SPANISHBURG MITIGATION HOLDINGS LLC, a Delaware limited liability company, and the operator of a stream and wetland mitigation bank commonly known as the Spanishburg Stream and Wetland Mitigation Bank ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

RECITALS

A. On November 25, 2015, WV Bunrootis Existing Mitigation Holdings LLC (“WVB Holdings”) acquired from WV Bunrootis LLC the right to create and operate a wetland and stream mitigation bank on approximately 100 acres located at the Spanishburg Stream and Wetland Mitigation Bank in Mercer County, West Virginia (the “Bank”);

B. WVB Holdings is a wholly owned subsidiary of LFF IV Mitigation Holdings LLC, which is registered with wvOasis as vendor account code VC0000049184;

C. Seller is a subsidiary of WVB Holdings and has been authorized by WVB Holdings to manage and operate the Bank on WVB Holdings’ behalf, including the right to sell mitigation credits generated by the Bank.

D. Seller has developed and authorized to manage the Spanishburg Stream and Wetland Mitigation Bank under United States Army Corps of Engineers (the “Corps”) and the West Virginia Department of Environmental Protection (“WVDEP”) Nationwide Permit No. 27 2010-116-NEW, the Bank Development Plan and Mitigation Banking Instrument for the Spanishburg Stream and Wetland Mitigation Bank (the “MBI”) dated May 2013 and approved on October 1, 2013 by the Huntington District office of the Corps and the WVDEP to operate as a wetland and stream mitigation bank with wetland and stream credits available for sale.

E. The Spanishburg Stream and Wetland Mitigation Bank is an instrument modification of the previously approved WV Bunrootis LLC Umbrella Mitigation Banking Instrument (the “UMBI”) for the State of West Virginia, which operates as the Hayes Run Stream Mitigation Bank and was approved on August 7, 2012 by the Corps (file LRH-2009-150-LKR).

E. The Bank has been approved by the Corps and WVDEP to offer wetland and stream

credits from the Bank for sale as compensation for the loss of wetlands and streams due to impacts to such aquatic resources within the "Service Area," that was modified by the Corps in a letter dated September 12, 2017 to include the areas identified by the following eight-digit Hydrologic Unit Codes ("HUCs") as designated by the U.S. Geological Survey ("USGS"): Primary – Upper New (05050002) and Secondary – Lower New River (05050004), Greenbrier River (05050003), Coal River (05050009), Gauley River (05050005), Lower Kanawha River (05050003), Upper Kanawha River (05050006) and Elk River (05050007).

F. Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser stream and wetland mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

1. Recitals. The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

1. Agreement to Sell and Purchase. Seller hereby sells to Purchaser or its designee(s), and Purchaser, or its assignee(s), hereby purchases from Seller _____ (_____) stream mitigation credits (the "Stream Credits") and _____ (_____) wetland mitigation credits (the "Wetland Credits") in the Bank. Upon execution of the Agreement to purchase Credits from Seller, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 30 days of receipt of the invoice. Purchaser shall have the right to apply the Credits for use on any enforcement issue, current project and/or future project, and Seller consents to such re-conveyances and agrees to cooperate with and assist Purchaser in the documentation of such re-conveyances, including delivery of notices of such re-conveyances to the Corps, WVDEP, United States Environmental Protection Agency ("EPA") and any other governing agency with jurisdiction over the creation and operation of wetland and stream mitigation banks.

3. Purchase Price. The purchase price for the _____ (_____) Stream Credits shall be Seven Hundred Seventy Five and 00/100 Dollars (\$775.00) for each Credit for a Purchase Price of _____ Dollars (\$_____) and the purchase price for the _____ (_____) Wetland Credits shall be Sixty Thousand and

00/100 Dollars (\$60,000.00) for each credit for a Purchase Price of _____ (\$_____) and a total purchase price of _____ Dollars (\$_____) (the "Total Purchase Price").

Upon payment of the Total Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment of any other consideration or fee in connection with the conveyance or assignment and/or re-conveyance of the Credits.

4. Delivery of Credits. Upon receipt of the Purchase Price, Seller shall deliver to Purchaser, its successors, assignees or designees the following documents to evidence the conveyance of the Credits:

(a) An affidavit in substantially the same form as Exhibit A attached hereto, with the project number filled in, if requested, and which upon the written request of Purchaser shall also be delivered by Seller to the Corps and, if appropriate, the WVDEP.

(b) A bill of sale for the Credits in substantially the same form as Exhibit B attached hereto.

5. Representations, Warranties and Covenants. Seller hereby warrants and represents to, and covenants with, Purchaser as follows:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A, B, C, D, E, and F above.

(b) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(c) Seller shall follow and comply with all the requirements for the maintenance of the Bank as required by the Corps, WVDEP, EPA, and any other agency having jurisdiction over the Bank.

(d) Seller has full power and authority to convey the Credits to Purchaser and to consummate the transactions contemplated herein.

(e) Seller shall deliver the Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(f) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(g) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(h) Seller shall be solely responsible, at its sole cost and expense, for compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank (collectively the "Bank Regulatory Requirements"). Seller shall indemnify, defend, and hold harmless Purchaser and Purchaser's successors, assigns, and designees from and against any action, order, investigation, or proceeding initiated by any individual or entity, including, but not limited to, any governmental agency, and arising from or based on Seller's failure to comply with (i) this Agreement, including, but not limited to, a breach by Seller of any of its representations, warranties and covenants herein, and (ii) any Bank Regulatory Requirements, such indemnification to include any and all costs and expenses, including without limitation, reasonable attorneys' fees, incurred by Purchaser or its successors assigns and designees related thereto.

(i) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(j) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement.

6. Miscellaneous

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Spanishburg Mitigation Holdings LLC
Attn: David Gibbons
6515 Bandera Avenue, #2D
Dallas, Texas 75225

With a copy to:

The Lyme Timber Company LP
General Counsel
23 South Main Street, 3rd Floor
Hanover, NH 03755

Purchaser: West Virginia Department of Environmental Protection
Attn: Scott Settle
601 57th Street SE
Charleston, West Virginia 25304

Payment for the credits shall be made payable to Kincheloe Mitigation Holdings LLC and will be sent to:

The Lyme Timber Company LP
Attn: Christine Tongol
23 South Main Street, 3rd Floor
Hanover, NH 03755

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) Brokerage Commission. Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction. In the event any claims arise for commissions, fees, or other compensation in connection with this transaction, the party causing such claims or through whom such claims are made shall indemnify, defend, and hold harmless the other party for any loss or damage incurred by such party because of such claim. The foregoing indemnification shall survive the cancellation, termination or consummation of this Agreement.

(c) Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and neither Party shall be bound by representations except as set forth in this Agreement. There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia, with the proper venue being Mercer County, except to the extent that any applicable federal law or regulation shall supersede West Virginia law in relation to the matters set forth in this Agreement.

(e) Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) Severability. The provisions of this Agreement shall be deemed severable and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) Additional Assurances. Both of the parties agree to execute and deliver

any other document or documents that may be requested from time to time by the other party necessary to perform such party's obligations under this Agreement.

(h) **Attorney's Fees.** If legal action is commenced by either party to enforce its rights under this Agreement, the substantially prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) **Nature of Credits.** The sale and conveyance of the Credits pursuant to this Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(j) **Duration.** This Agreement shall continue in existence until ninety (90) days after the conveyance of all of the Credits, including without limitation, any conveyance at the request of Purchaser in accordance with the provision of Sections 3 and 6(k) herein; provided, however, that the provisions of Section 5 and 6(m) shall survive the termination of this Agreement upon the payment in full of the Purchase Price.

(k) **Assignability.** Purchaser may assign its rights and obligations hereunder to any other project undertaken by Purchaser's parent company or by any affiliate or subsidiary of Purchaser's parent company. Seller shall not assign its rights and obligations hereunder to any third party entity without the prior written consent of Purchaser, which may be withheld in Purchaser's sole discretion.

(l) **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature or electronic signature shall have the same legal effect as an original.

(m) **Confidentiality.** Purchaser and Seller agree to maintain, in strictest confidence, the terms of this Agreement and any and all communications between the parties. This Section shall not apply to any information which: (i) was known to receiving party prior to it being disclosed to such party hereunder and can be so demonstrated by written documentation; (ii) was in the public domain by publication when received by receiving party or later came into the public domain by publication through no fault of receiving party; (iii) was disclosed to receiving party, free of confidentiality obligations, by a third party who (to the knowledge of receiving party) is not under obligations of secrecy concerning the information and/or materials; or (iv) was

independently developed by receiving party without reference to the information. In the event legal process requires or requests disclosure by receiving party, its agents, representatives and/or employees of any of the information, if legally permissible to do so, receiving party shall give prompt notice of such process immediately to the other party so that the other party may either seek an appropriate protective order and/or waive compliance by receiving party with the provisions of this Section.

WITNESS the following authorized signatures:

SELLER: SPANISHBURG MITIGATION HOLDINGS LLC

By: _____

Printed: David E. Gibbons

Its: Authorized Representative

PURCHASER: DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection

By: _____

Printed: _____

Its: _____

EXHIBIT A

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

I, David E. Gibbons, certify that I am now, and at all times mentioned herein have been, the Authorized Representative of Spanishburg Mitigation Holdings LLC, a Delaware limited liability company (the "Company"), and as such I hereby certify the following:

The Company, as of the date hereof, has granted, sold, and transferred or made available for transfer _____ (_____) stream credits and _____ (_____) wetland credits to the Department of Environmental Protection – Division of Waste Water Management, a West Virginia State agency in the West Virginia Department of Environmental Protection from the Spanishburg Stream and Mitigation Bank located in Mercer County, West Virginia, established under the authority of the United States Army Corps of Engineers – Huntington District Nationwide Permit No. 27 2010-116-NEW issued on October 1, 2013. The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the _____ day of _____, 2019.

SPANISHBURG MITIGATION HOLDINGS LLC, a
Delaware limited liability company

By: _____

Printed: David E. Gibbons

Title: Authorized Representative

STATE OF TEXAS:

COUNTY OF DALLAS:

Sworn to and subscribed before me this _____ day of _____, 2019 the undersigned Notary Public for and in the jurisdiction aforesaid, by David E. Gibbons, the Authorized Representative of the Spanishburg Mitigation Holdings LLC, a Delaware limited liability company.

Notary Public

My commission expires: _____

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the ____ day of _____, 2017, by SPANISHBURG MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream Mitigation Credits dated _____, 2019 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of _____ (_____) stream Credits and _____ (_____) wetland credits (as defined in the Agreement) held in Seller's Spanishburg Stream and Wetland Mitigation Bank located in Mercer County, West Virginia.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns _____ (_____) stream Credits and _____ (_____) wetland Credits, to have and hold all such stream mitigation Credits forever.

Witness the following authorized signature:

SPANISHBURG MITIGATION HOLDINGS LLC, a
Delaware limited liability company

By: _____

Printed: David E. Gibbons

Its: Authorized Representative

AGREEMENT FOR PURCHASE AND SALE OF STREAM
AND WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE, AND SALE OF STREAM AND WETLAND CREDITS (this "Agreement") is dated this ____ day of _____, 2019, by and between KINCHELOE MITIGATION HOLDINGS LLC, a Delaware limited liability company, and the operator of a stream and wetland mitigation bank commonly known as the Kincheloe Stream and Wetland Mitigation Bank ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

RECITALS

A. On November 25, 2015, WV Bunrootis Existing Mitigation Holdings LLC (“WVB Holdings”) acquired from WV Bunrootis LLC the right to create and operate a wetland and stream mitigation bank on approximately 220 acres located at the Kincheloe Stream and Wetland Mitigation Bank in Lewis and Harrison Counties, West Virginia (the “Bank”);

B. WVB Holdings is a wholly owned subsidiary of LFF IV Mitigation Holdings LLC, which is registered with wvOasis as vendor account code VC0000049184;

C. Seller is a subsidiary of WVB Holdings and has been authorized by WVB Holdings to manage and operate the Bank on WVB Holdings’ behalf, including the right to sell mitigation credits generated by the Bank;

D. Seller has developed the Kincheloe Stream and Wetland Mitigation Bank under United States Army Corps of Engineers - Pittsburgh District (the “Corps”) and the West Virginia Department of Environmental Protection (“WVDEP”) Nationwide Permit No. 27 2014-1128, the Bank Development Plan and Mitigation Banking Instrument for the Kincheloe Stream and Wetland Mitigation Bank (the “MBI”) dated January 2015 and approved on August 14, 2015 by the Corps and the WVDEP to operate as a wetland and stream mitigation bank with wetland and stream credits available for sale; and,

E. The Kincheloe Stream and Wetland Mitigation Bank is an instrument modification of the previously approved WV Bunrootis LLC Umbrella Mitigation Banking Instrument (the “UMBI”) for the State of West Virginia, which operates as the Hayes Run Stream Mitigation Bank and was approved on August 7, 2012 by the Corps (file LRH-2009-150-LKR);

F. Seller has received approval from the Corps and WVDEP to offer wetland and

stream credits from the Bank for sale as compensation for the loss of wetlands and streams due to impacts to such aquatic resources within the "Service Area," as defined by the MBI, which shall include the areas identified by the following eight-digit Hydrologic Unit Codes ("HUCs") as designated by the U.S. Geological Survey ("USGS"): Primary – West Fork (05050002) and Secondary – Tygart Valley (05020001), Monongalia (05020003), Middle Ohio North (05030201) and Little Kanawha (05030203): and,

E. Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser stream mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

1. Recitals. The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

2. Agreement to Sell and Purchase. Seller hereby sells to Purchaser or its designee(s), and Purchaser, or its assignee(s), hereby purchases from Seller _____ (_____) stream mitigation credits (the "Stream Credits") and _____ (_____) wetland mitigation credits (the "Wetland Credits") in the Bank. Upon execution of the Agreement to purchase Credits from Seller, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 30 days of receipt of the invoice. Purchaser shall have the right to apply the Credits for use on any enforcement issue, current project and/or future project, and Seller consents to such re-conveyances and agrees to cooperate with and assist Purchaser in the documentation of such re-conveyances, including delivery of notices of such re-conveyances to the Corps, WVDEP, United States Environmental Protection Agency ("EPA") and any other governing agency with jurisdiction over the creation and operation of wetland and stream mitigation banks.

3. Purchase Price. The purchase price for the _____ (_____) Stream Credits shall be Seven Hundred Seventy Five and 00/100 Dollars (\$775.00) for each Credit for a Purchase Price of _____ Dollars (\$_____) and the purchase price for the _____ (_____) Wetland Credits shall be Sixty Thousand and 00/100 Dollars (\$60,000.00) for each credit for a Purchase Price of _____ Dollars (\$_____).

_____ (\$_____) and a total purchase price of _____ Dollars (\$_____) (the "Total Purchase Price").

Upon payment of the Total Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment of any other consideration or fee in connection with the conveyance or assignment and/or re-conveyance of the Credits.

4. Delivery of Credits. Seller shall deliver to Purchaser, its successors, assignees or designees the following documents to evidence the conveyance of the Credits:

(a) An affidavit in substantially the same form as Exhibit A attached hereto, with the project number filled in, if requested, and which upon the written request of Purchaser shall also be delivered by Seller to the Corps and, if appropriate, the WVDEP.

(b) A bill of sale for the Credits in substantially the same form as Exhibit B attached hereto.

5. Representations, Warranties and Covenants. Seller hereby warrants and represents to, and covenants with Purchaser as follows:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A, B, C, D, and E above.

(b) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(c) Seller shall follow and comply with all the requirements for the maintenance of the Bank as required by the Corps, WVDEP, EPA, and any other agency having jurisdiction over the Bank.

(d) Seller has full power and authority to convey the Credits to Purchaser, free and clear of any liens, security interests or other encumbrances, and to consummate the transactions contemplated herein

(e) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(f) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(g) Seller shall be solely responsible, at its sole cost and expense, for

compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank (collectively the "Bank Regulatory Requirements"). Seller shall indemnify, defend, and hold harmless Purchaser and Purchaser's successors, assigns, and designees from and against any action, order, investigation, or proceeding initiated by any individual or entity, including, but not limited to, any governmental agency, and arising from or based on Seller's failure to comply with (i) this Agreement, including, but not limited to, a breach by Seller of any of its representations, warranties and covenants herein, and (ii) any Bank Regulatory Requirements, such indemnification to include any and all costs and expenses, including without limitation, reasonable attorneys' fees, incurred by Purchaser or its successors assigns and designees related thereto.

(h) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(i) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement

6. Miscellaneous

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Kincheloe Mitigation Holdings LLC
Attn: David Gibbons
6515 Bandera Avenue, #2D
Dallas, Texas 75225

With a copy to:

The Lyme Timber Company LP
General Counsel
23 South Main Street, 3rd Floor
Hanover, NH 03755

Purchaser: West Virginia Department of Environmental Protection
Attn: Scott Settle
601 57th Street SE
Charleston, West Virginia 25304

Payment for the credits shall be made payable to Kincheloe Mitigation Holdings LLC and will be sent to:

The Lyme Timber Company LP
Attn: Christine Tongol
23 South Main Street, 3rd Floor
Hanover, NH 03755

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) **Brokerage Commission.** Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction. In the event any claims arise for commissions, fees, or other compensation in connection with this transaction, the party causing such claims or through whom such claims are made shall indemnify, defend, and hold harmless the other party for any loss or damage incurred by such party because of such claim. The foregoing indemnification shall survive the cancellation, termination or consummation of this Agreement.

(c) **Entire Agreement; Modification.** There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) **Governing Law.** The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia, with the proper venue being Harrison County, except to the extent that any applicable federal law or regulation shall supersede West Virginia law in relation to the matters set forth in this Agreement.

(e) **Compliance with Applicable Laws.** Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) **Severability.** The provisions of this Agreement shall be deemed severable and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) **Additional Assurances.** Both of the parties agree to execute and deliver any other document or documents that may be requested from time to time by the other party

necessary to perform such party's obligations under this Agreement.

(h) **Attorney's Fees.** If legal action is commenced by either party to enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) **Nature of Credits.** The sale and conveyance of the Credits pursuant to this Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(j) **Duration.** This Agreement shall continue in existence until the later of (a) ninety (90) days after the conveyance of all the Credits, including without limitation, any conveyance at the request of Purchaser in accordance with the provisions of Sections 2, 4, and 6(k) herein, or (b) the termination hereof pursuant to the provisions of Section 3 herein. Provided, however, that the provisions of Section 5 and 6(m) shall survive the termination of this Agreement upon the payment in full of the Purchase Price.

(k) **Assignability.** Purchaser may assign its rights and obligations hereunder to any other project undertaken by any State of West Virginia agency. Seller shall not assign its obligations hereunder without the prior written consent of Purchaser, which may be withheld in Purchaser's sole discretion.

(l) **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature shall have the same legal effect as an original.

(m) **Confidentiality.** Purchaser and Seller agree to maintain, in strictest confidence, the terms of this Agreement and any and all communications between the parties. This Section shall not apply to any information which: (i) was known to receiving party prior to it being disclosed to such party hereunder and can be so demonstrated by written documentation; (ii) was in the public domain by publication when received by receiving party or later came into the public domain by publication through no fault of receiving party; (iii) was disclosed to receiving party, free of confidentiality obligations, by a third party who (to the knowledge of receiving party) is not under obligations of secrecy concerning the information and/or materials; (iv) was independently developed by receiving party without reference to the information; or (v) is required

by law to be disclosed by Purchaser to the public or to any regulatory agency or agencies.

WITNESS the following authorized signatures:

SELLER: KINCHELOE MITIGATION HOLDINGS LLC, a Delaware limited liability company

By: _____

Printed: David E. Gibbons

Its: Authorized Representative

PURCHASER: DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection

By: _____

Printed: _____

Its: _____

EXHIBIT A

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

I, David E. Gibbons, certify that I am now, and at all times mentioned herein have been, the Authorized Representative of Kincheloe Mitigation Holdings LLC, a Delaware limited liability company (the "Company"), and as such I hereby certify the following:

The Company, as of the date hereof, has granted, sold, and transferred or made available for transfer _____ (_____) stream credits and _____ (_____) wetland credits to the Department of Environmental Protection – Division of Waste Water Management, a West Virginia State agency in the West Virginia Department of Environmental Protection from the Kincheloe Stream and Wetland Mitigation Bank located in Lewis and Harrison Counties, West Virginia, established under the authority of the United States Army Corps of Engineers – Pittsburgh District Nationwide Permit No. No. 2014-1128 issued on August 14, 2015.

The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the _____ day of _____, 2019.

Kincheloe Mitigation Holdings LLC, a Delaware limited liability company

By: _____

Printed: David E. Gibbons

Title: Authorized Representative

STATE OF TEXAS:

COUNTY OF DALLAS:

Sworn to and subscribed before me this _____ day of _____, 2019 the undersigned Notary Public for and in the jurisdiction aforesaid, by David E. Gibbons, the Authorized Representative of the Kincheloe Mitigation Holdings LLC, a Delaware limited liability company

Notary Public

My commission expires: _____

**EXHIBIT B
BILL OF SALE**

THIS BILL OF SALE is made as of the ____ day of _____, 2019, by KINCHELOE MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and the DEPARTMENT OF ENVIRONMENTAL PROTECTION – DIVISION OF WASTE AND WATER MANAGEMENT, a West Virginia State agency in the West Virginia Department of Environmental Protection ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream Mitigation Credits dated _____, 2019 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of _____ (_____) stream Credits and _____ (_____) wetland credits (as defined in the Agreement) held in Seller's Kincheloe Stream and Wetland Mitigation Bank located in Lewis and Harrison Counties, West Virginia.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns _____ (_____) stream Credits and _____ (_____) wetland Credits, to have and hold all such stream mitigation Credits forever.

Witness the following authorized signature:

KINCHELOE MITIGATION HOLDINGS LLC, a
Delaware limited liability company

By: _____

Printed: David E. Gibbons

Its: Authorized Representative