

**BOCC CONTRACT
APPROVAL FORM**
(Request for Contract Preparation)

CS-22-031

CONTRACT
TRACKING NO.
CM3231

GENERAL INFORMATION

Requesting Department: Capital Projects

Contact Person: Robert Companion/SC

Telephone: 530-6010 Fax: () _____ Email: rcompanion@nassaucountyfl.com

CONTRACTOR INFORMATION

Name: Longleaf Mitigation Development Co., LLC

Address: 8149 Green Glade Rd., Jacksonville, FL 32256
City State Zip

Contractor's Administrator Name: Bill Schroeder Title: President

Telephone: 536-3386 Fax: () _____ Email: bill@mitigationdev.com

IDENTIFY WHO WILL SIGN CONTRACT ON BEHALF OF CONTRACTOR (NAME AND EMAIL ADDRESS)

Authorized Signatory Name: Bill Schroeder

Authorized Signatory Email: bill@mitigationdev.com

CONTRACT INFORMATION

Contract Name: Reservation and Sales Agreement

Description: Federal Mitigation Credits for William Burgess Blvd Ext and Westside Regional Park
GOODS AND/OR SERVICES TO BE PROCURED, PHYSICAL LOCATION, ETC

Total Amount of Contract: \$350,000
APPROXIMATE IF NECESSARY

Source of Funds: County State Federal Other _____ Account: * _____

Authorized Signatory: Jeff Gray
IDENTIFY WHO WILL SIGN CONTRACT ON BEHALF OF BOCC

Contract Dates: From: Execution to: 12/28/2025 Termination/Cancellation: _____

Status: New Renew Amend# WA/Task Order Supplemental Agreement

How Procured: Exemption Sole Source Single Source ITB RFP RFQ Coop
 Piggyback Quotes Other _____
*68075572-563710 WSRP \$172,375
63470541-563100 WBEXT \$109,200
63470541-563100 PDCII \$68,425

If Processing an Amendment:

Contract #: _____ Increased Amount to Existing Contract: _____

New Contract Dates: _____ to _____ Total or Amended Amount: _____

Continued on next page

CHECKLIST		
<i>Review/Complete before sending contract for final signature</i>		
Requirement	Description	Complete By
Contract, Exhibits and Appendices	1) The contract and all documents incorporated by reference in the contract, including exhibits and appendices are attached (including E-Verify, Pricing, Scope, etc.) and properly identified; and 2) All such documents have been read and agreed to in their entirety by originating department and staff members who have obligations under this contract.	Dept LG
Name, Address, Contact Person	The full name, address, legal status (i.e., corporation, partnership, etc.) and contact person of other party are included.	Dept LG
Understanding	Written contract matches the verbal understanding of all parties. All terms and conditions conform to the final negotiations/agreement of the parties.	Dept LG
Competition/Conflicts and Existing Contracts/Compliance	This contract does not conflict with any other contracts, promises or obligations of the BOCC. The requesting department verifies the BOCC can comply with all terms and conditions.	Dept LG Cnty Atty
Other Necessary Agreements	All other necessary agreements or waivers referred to in contract have been obtained and are attached and properly identified for reference.	Cnty Atty
Indemnification	BOCC may not indemnify, hold harmless, be liable to, or reimburse any other party to the contract for claims, lawsuits, damages, attorney fees, or losses incurred by that party in connection with the contract.	Cnty Atty
Term of Contract	Start and end dates of contract are included. Any renewals are included.	Cnty Atty
Warranties/Guarantees	Warranties or guarantees give satisfactory protection.	Cnty Atty/Risk
Insurance	Risk manager has or will approve insurance clauses. Levels confirmed in requirements	Dept LG
Governing Law	The contract is governed under the laws of the State of Florida. The contract may be silent on this issue but in no event will another state's law govern the agreement.	Cnty Atty
Confidentiality Agreements	All nondisclosure clauses include exceptions regarding disclosure as required by law. If not applicable, indicate "n/a."	Cnty Atty
Printed/Typed Names	Names of all persons signing contracts are printed or typed below signatures.	Router

APPROVALS PURSUANT TO NASSAU COUNTY PURCHASING POLICY

1. Robert Companion 9/23/2022 DP 9/23/2022 DJ 9/23/2022
 Robert T. Companion, PE Date
 Deputy County Manager-County Engineer
2. Lanae Gilmore 9/26/2022
 Lanae Gilmore, Procurement Director Date
3. Chris Lacambra 9/26/2022
 Chris Lacambra, OMB Director Date
4. Denise C. May 9/26/2022 RLS 2022-614 approved 9/21/22
 Denise C. May, County Attorney Date 9/26/2022 DJ

COUNTY MANAGER – FINAL SIGNATURE APPROVAL

5. Taco E. Pope, AICP 9/26/2022
 Taco E. Pope, County Manager Date

RESERVATION AND SALES AGREEMENT

This Reservation and Sales Agreement (the "Agreement") is entered into effective as of this 10th day of October, 2022 (the "Effective Date") by and between Longleaf Mitigation Development Company, LLC, a Florida limited liability company ("Seller") whose address is P.O Box 238 Lake Butler, Florida 32054 and Nassau County Board of County Commissioners, Nassau County, Florida, a political subdivision of the State of Florida ("Buyer") whose address is 96135 Nassau Place, Suite 1, Yulee, Florida 32097.

BACKGROUND:

Buyer is obtaining permits for a project known as William Burgess Boulevard Extension and Westside Regional Park located in Nassau County, Florida. Buyer is obtaining these permits from the following (check applicable box) [] [(Saint Johns River Water Management District ("SJRWMD") /Florida Department of Environmental Protection ("DEP")), identified by [SJRWMD/DEP] permit application number, [] and the United States Army Corps of Engineers ("ACOE"), identified by ACOE permit application number : #118853-6 (William Burgess) and #190161-1 (Westside Regional Park) (collectively, the "Permits"). It is anticipated that [SJRWMD/DEP] or ACOE will impose a requirement as a condition to granting the Permits that certain mitigation credits be purchased by Buyer to satisfy the conditions of the Permits. The number of Credits required by each agency may not be the same.

Seller owns the Longleaf Mitigation Bank (the "Bank"), a mitigation bank with freshwater mitigation credits (evaluated under the Uniform Mitigation Assessment Method of Chapter 62-345, Florida Administrative Code, referred to as "UMAM") authorized by SJRWMD Permit Number 4-089-88607-1 (the "UMAM Credits") and with Wetland Rapid Assessment Procedure (WRAP) freshwater mitigation credits authorized by ACOE Mitigation Bank Instrument (MBI) Number SAJ-2003-640 (IPTL4) (the "WRAP Credits") (the UMAM Credits and the WRAP Credits are collectively referred to as "Credits"). Seller desires to sell Buyer Credits to meet Buyer's requirements under the Permits. Buyer has determined that the Credits available from Seller will meet Buyer's needs, and Buyer therefore desires to acquire Credits from Seller.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein and the payment of the Deposit, hereinafter defined, the receipt and sufficiency of which are acknowledged, Seller and Buyer agree as follows:

1. **Preamble.** The Background above is a material part of this Agreement and is incorporated by reference.
2. **Purchase Price.** Check applicable box and complete last sentence –
 - a) [] Buyer purchases only UMAM Credits and no WRAP Credits, purchase price is \$ _____ per Credit;
 - b) [] Buyer purchases UMAM Credits and WRAP Credits, purchase price is \$ _____ per UMAM Credit;
 - c) [] Buyer purchases WRAP Credits only, purchase price is \$35,000 per Credit.

Based upon the foregoing, the total purchase price to be paid by Buyer to Seller will be \$350,000 (the "Purchase Price"). Buyer will pay the Purchase Price by Buyer's certified check or wire transfer of immediately available funds.

3. Credit Reservation. Seller hereby reserves 0 State UMAM Credits and 10.00 Federal WRAP Credits for Buyer, which credits shall be specified and set forth in the Credit Reservation Letter as provided for in Paragraph 4 hereof (the "Reservation").

4. Credit Reservation Letter. After Buyer and Seller execute this Agreement and upon Buyer's request, Seller will address a Reservation Letter to the [SJRWMD/DEP] detailing the specific Credits reserved by Seller. Seller will also provide a similar Reservation Letter to the ACOE if so requested by Buyer or an ACOE agent.

5. Term. This Agreement shall commence upon the Effective Date and shall expire on December 28, 2025 (the "Expiration Date").

6. Deposit. Upon execution of this Agreement, Buyer shall pay to Seller the sum of \$10,000 (hereinafter the "Deposit"). Unless otherwise indicated, the Deposit shall be applied against the total Purchase Price. The Deposit shall be non-refundable to Buyer unless (a) Seller breaches this Agreement in which event the Deposit shall be fully refundable to Buyer or (b) Buyer terminates this Agreement prior to the issuance of the SJRWMD/DEP permit or ACOE permit if no SJRWMD/DEP permit is required.

7. Payment of Full Purchase Price. Buyer must pay Seller the full Purchase Price prior to the earlier of the following events: (a) the commencement of any land clearing or work activities pursuant to either the SJRWMD/DEP permit or the ACOE permit as having mitigation in place before work begins is generally a requirement of said permits; or (b) expiration of the term of this Agreement. To purchase the Credits, Buyer shall notify Seller of the means of Buyer's payment to Seller. If the Corps permit requires fewer WRAP credits than indicated above, the excess credits reserved but not used shall revert back to the Seller with a corresponding reduction to the Purchase Price based on the unit price in Section 2 and the final number of WRAP credits to be purchased.

8. Transfer of Credits. Upon Seller's timely receipt of the full Purchase Price for the Credits, Seller shall transfer the purchased Credits to Buyer, and Seller and Buyer shall cooperate in notifying the appropriate governmental agencies that such transfer of the Credits is complete. If Buyer fails to timely pay the Purchase Price for any Credits, then Seller may terminate this Agreement and refuse to transfer any of the Credits to Buyer.

9. Effect of Condemnation or Regulatory Action

- a) Condemnation. If the Bank property or any part thereof is involuntarily taken prior to Closing pursuant to eminent domain proceedings, or if such involuntary proceedings are commenced prior to Closing, and as a result Seller determines that it will be unable to transfer the Credits to Buyer at Closing as specified in this Agreement, then Buyer may terminate this Agreement by notifying Seller in writing at any time prior to paying the full Purchase Price. If Buyer elects to

terminate this Agreement as provided in this subsection, neither party shall have any further rights or obligations hereunder, except as expressly provided herein. Seller covenants not to request or consent to any condemnation action that would result in Seller's inability to transfer the Credits to Buyer as specified in this Agreement without Buyer's approval.

- b) Seller Regulatory Action. If Seller is unable to transfer the Credits to Buyer as provided in this Agreement because of the action or order of any regulatory agency, regardless of whether or not Seller has contested or challenged such action or order, Seller may terminate this Agreement by providing written notice to Buyer at any time prior to the Expiration Date. If Seller elects to terminate this Agreement as provided in this subsection, the Deposit shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.
- c) Buyer Regulatory Action. If Buyer is prevented by any regulatory agency from acquiring the Credits from Seller as provided in this Agreement, or if Buyer's mitigation plan is not approved by the SJRWMD/DEP or ACOE, Buyer may terminate this Agreement by providing written notice to Seller at any time prior to the Expiration Date, and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

10. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties:

- a) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Seller, constitutes the binding agreement of Seller and is enforceable in accordance with its terms.
- b) Availability and Reservation of Credits. As of the date of this Agreement, the Seller has enough Credits to satisfy Seller's obligations under this Agreement and such Credits are approved by all requisite governmental agencies. During the period beginning on the Effective Date and ending upon: (i) Expiration Date or (ii) termination of this Agreement prior to the Expiration Date, Seller will not sell, or contract for the sale of, Credits from the Bank in an amount that would cause the Bank's outstanding Credits balance during the term of this Agreement to be less than the number of Credits necessary to satisfy Seller's obligations under this Agreement. Seller shall take all actions reasonably necessary both before and after closing to enforce, defend and maintain the Credits and Buyer's right thereto.
- c) Validity. SJRWMD Permit Number 4-089-88607-1 and ACOE Instrument Number SAJ-2003-640 (IPTL4) (together the "Credit Permits") are valid and in effect as of the date of this Agreement and Seller is in compliance with the requirements of the Credit Permits.

11. Buyer's Representations and Warranties. Buyer hereby makes the following representations and warranties.

- a) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of the Buyer, constitutes the valid and binding agreement of the Buyer and is enforceable in accordance with its terms.
- b) In entering into this Agreement, Buyer has not been induced by, and has not relied upon, any representations, warranties or statements, whether express or implied, made by the Seller or any agent, employee or other representative of the Seller, which are not expressly set forth herein.

12. Notices. Any notice required hereunder shall be given in writing and shall be sent by (i) personal delivery, (ii) email transmission in PDF format, or (iii) overnight courier service (with all fees prepaid) to the receiving party as follows:

SELLER: Longleaf Mitigation Development Company, LLC
P.O Box 238
Lake Butler, Florida 32054
Attn: Denise Howard
Email: denise@flaland.com

Copy to:

Bill Schroeder, President
Mitigation Development Services
8149 Green Glade Rd
Jacksonville, FL 32256
Email: bill@mitigationdev.com

BUYER: Nassau County Board of County Commissioners
96135 Nassau Place, Suite 1
Yulee, Florida 32097
Attn: Robert T. Companion, PE- Deputy County Mgr – County Engineer
Email: rcompanion@nassaucountyfl.com

Notices will be deemed received when delivered if hand delivered or sent via a recognized overnight courier service. If notice is made by email transmission, the notifying party shall request confirmation of receipt from the receiving party; there will be no deemed receipt of email transmission. If the time period or date by which or on which any right or election provided under this Agreement must be exercised, or by which or on which any act required hereunder must be performed, or by which or on which any notice or demand must be given or received, expires or occurs on a Saturday, Sunday or a holiday observed by local, state or Federal governments or state chartered or national banks in the State of Florida, then such time period or date shall be automatically extended through the end of the next day which is not a Saturday, Sunday or such a holiday. Any party sending a notice or other communication by email transmission shall also send a hard copy of such notice or other communication by one of the other means of providing notice set forth in this section. Any notice or other communication shall be given to such other representative or at such other address as a party to this Agreement may furnish to the other party pursuant to this section.

13. Default and Exclusive Remedies. In the event of Buyer's default hereunder Seller's exclusive remedy shall be to terminate the Agreement and retain the Deposit. In the event of Seller's default hereunder, Buyer's exclusive remedy shall be to terminate the Agreement and receive a refund of any consideration paid by Buyer to Seller. Neither Buyer nor Seller shall have recourse to any other remedies nor shall either party be liable for any consequential, special, punitive and exemplary damages of any nature under this Agreement.

14. Attorneys' Fees. In connection with any litigation, including pretrial, trial, appellate or bankruptcy or collection proceedings, arising out of, under or relating to this Agreement, or in connection with any action for rescission of this Agreement or for declaratory or injunctive relief, each party shall bear its own costs, expenses, and attorney's fees.

15. Severability. If any provisions of this Agreement are held to be illegal or invalid, the other provisions shall remain in full force and effect.

16. Binding Effect. The obligations and covenants of this Agreement shall bind and benefit the successors, personal representatives, heirs and permitted assigns of the parties hereto.

17. Captions. The captions for each paragraph of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, or the intent of any provision hereof.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be and be taken to be an original, and all collectively but one instrument.

19. Facsimile Signatures. Facsimile signatures of this Agreement shall be deemed binding on all parties.

20. Governing Law; Venue. The laws of the State of Florida shall govern the validity, enforcement, and interpretation of this Agreement. The obligations of the parties are performable, and venue for any legal action arising out of this Agreement, shall lie in Nassau County, Florida.

21. Entire Agreement/Amendments. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the Credits and supersedes all letters of intent, term sheets, letters of interest, understandings, promises, covenants, representations, statements, agreements and undertakings (whether written or oral), if any, with respect thereto, which may have been given, distributed, furnished or made prior to or contemporaneously with the execution and delivery of this Agreement. This Agreement may not be amended except by written agreement signed by all of the parties.

22. Assignment. Buyer shall not have the right to assign this Agreement except upon Seller's written consent.

23. Waiver. No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

24. Time of the Essence. Time is of the essence of this Agreement and each and every provision hereof.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SELLER:

Longleaf Mitigation Development Company, LLC

By: _____
Name: _____
Title: _____

Executed: _____, 2022

BUYER:

Nassau County Board of County Commissioners
Nassau County, Florida, a political subdivision of the State of Florida

By:  _____
Name: Jeff Gray
Title: Chairman

Executed: October 10, 2022

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SELLER:

Longleaf Mitigation Development Company, LLC

By Bill Schroeder
Name: **Bill Schroeder**
Title: **President**

Executed: 10/31/2022, 2022

BUYER:

Nassau County Board of County Commissioners
Nassau County, Florida, a political subdivision of the State of Florida

By: Jeff Gray
Name: **Jeff Gray**
Title: **Chairman**

Executed: October 10, 2022