

**WETLAND MITIGATION PURCHASE AGREEMENT
RED STONE FARM MITIGATION BANK**

WHEREAS, the discharge of dredge or fill material into waters of the United States and waters of the State of Ohio, including wetlands, is regulated pursuant to Section 404 of the Clean Water Act, 33 U.S.C. § 1344, and/or Ohio Revised Code Chapter 6111; and

WHEREAS, entities planning to place dredged or fill material into waters of the United States or waters of the State of Ohio, including wetlands, must comply with standards and conditions imposed by the Army Corps of Engineers (the "Corps") and/or Ohio Environmental Protection Agency ("Ohio EPA") including, in many cases, the mitigation of wetland impacts; and

WHEREAS, efforts to restore wetlands are often most successful when directed toward the establishment of large, varied wetland ecosystems rather than small, isolated wetlands which are often threatened by urban encroachment; and

WHEREAS, the Red Stone Farm, LLC has participated in the Interagency Review Team ("IRT") review process and received approval from the IRT (which includes the Corps and Ohio EPA) to establish the Red Stone Farm Mitigation Bank and to sell wetland mitigation credits to entities required to mitigate for impacts to wetlands and other waters pursuant to the Section 404/401 permit process and Ohio's Isolated Wetland Permit process; and

WHEREAS, the Corps and the Ohio EPA have agreed to consider the purchase of wetland mitigation credits in an appropriate service area approved by the IRT to fulfill an entity's requirement to mitigate wetland impacts.

THEREFORE, The Ohio Department of Transportation ("Client") and Red Stone Farm, LLC agree they will comply with the following guidelines and procedures by which Client will purchase wetland mitigation credits from Red Stone Farm, LLC representing the restoration of wetlands in the State of Ohio which will be permanently maintained and which will serve to mitigate wetland impacts permitted under Sections 404 and 401 of the Clean Water Act and in accordance with ORC Chapter 6111.

I. RESERVATION OF CREDITS AND PAYMENT TERMS FOR THE CLIENT

A. Pursuant to the requirements of Sections 401 and 404 of the Clean Water Act and the regulations promulgated thereunder and/or ORC Chapter 6111, Client is obligated to mitigate for impacts to **0.83 acre of forested wetlands and 5.67 acres of impact to non-forested wetlands** at its proposed Portsmouth Bypass site located at Lucasville-Minford Road interchange to US 23 interchange and Sciotoville interchange to Shumway Hollow Road interchange near the Scioto County Airport in Scioto County, Ohio. Based on the sale price of **\$60,000 per acre of mitigation credit**, the Client hereby agrees to pay Red Stone Farm, LLC the **amount of \$900,000 in consideration for the purchase of 5 acres of forested wetlands and 10 acres of non-forested wetlands mitigation credits** at the Red Stone Farm Mitigation Bank. Red Stone Farm, LLC will reserve the necessary wetland credits (acreage) for a period of 180 days (the "Reservation Period") upon receipt of: a signed Purchase Agreement, record of the LRH or OEPA permit # TBD, and a deposit payment of \$90,000 (equal to 10% of the total sale price).

If Client has not received the necessary approvals pursuant to Section 404 and/or 401 of the Clean Water Act or the Ohio Isolated Wetland Permit program during the Reservation Period, Red Stone Farm, LLC will extend the Reservation Period for an additional 180 days upon receipt of an additional 10% deposit. If the Reservation Period must be extended a third time, the price of credits may be adjusted by Red Stone Farm, LLC to reflect market value. The Reservation Period will not be extended a fourth time. Payment of deposits must be made within 10 days of the due date. Thereafter, a penalty of 2% of the amount due will be levied every 30 days. Once the Reservation Period expires, the wetlands credits will not be reserved for Client but will be available on a first-come basis to all Red Stone Farm, LLC clients.

Red Stone Farm, LLC
1727 Frost Rd., Hillsboro, Ohio 45133

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Date 11/6/13

Please complete the following Credit Calculation Table to confirm credits required:

Impacted Wetland Category	Acres Impacted Completed by Client	Mitigation Ratio	Credits Required (round to nearest tenth acre) Completed by Client
1 non-forested/forested	2.064	1.5	3.1
2 non-forested	2.719	2.0	5.4
2 forested	0.827	2.5	2.1
3 non-forested	0.839	2.5	2.1
3 forested	0	0	0
1 isolated non-forested/forested	0.009	2	0.02
2 isolated non-forested	0.038	2	0.08
2 isolated forested	0	0	0

B. The Client will provide copies of the granted Sections 404 permit from the Corps, the granted Section 401 Water Quality Certification from OEPA, if needed, and the Isolated Wetland Permit from OEPA, if needed, to Red Stone Farm LLC to demonstrate regulatory approval for the Red Stone Farm Wetland Mitigation Bank to meet wetland requirements for the development site designated in paragraph 1A.

C. The Client and Red Stone Farm, LLC are aware that the Section 404 permit process, and, if necessary, the Section 401 Certification process, or the Ohio Isolated Wetland Permit program must be completed by the Corps and/or Ohio EPA and that this Wetland Mitigation Agreement will be used by the Corps and/or Ohio EPA to document the Client's mitigation plan. Therefore, the Client's deposit payment(s), as defined in paragraph 1A of this agreement, will be held by Red Stone Farm, LLC until such time as the Corps and/or Ohio EPA issues the requested permits.

D. If within the Reservation Period the Corps or Ohio EPA denies the Client's request for a permit for the wetland impact or if the Client elects to withdraw their permit application, Red Stone Farm, LLC will refund the Client's deposit and provide written notification of the termination of this Agreement to the Corps. If the Reservation Period expires, the Client shall forfeit their deposit payment(s) to Red Stone Farm, LLC. The Client must provide written notification to Red Stone Farm, LLC of the denial of its permit or its intention to withdraw its permit application prior to the expiration of the Reservation Period in order to obtain a refund of its deposit.

E. Within thirty (30) days of issuance of the Clean Water Act Section 404 permit and, if necessary, the Section 401 Certification or Ohio Isolated Wetland Permit, the Client will tender the outstanding balance of the cost of the mitigation credits. The Client will also provide Red Stone Farm, LLC with a copy of the Section 404 permit and, if applicable, the Section 401 Certification or the Ohio Isolated Wetland Permit or other approval to proceed. Final receipt for payment in full will not be issued until copy of the above permit is received. If payment is not received by Red Stone Farm, LLC by the end of the thirtieth day after the Permit Issuance Date, the Client will be considered to be in Default of Payment. The Permit Issuance Date is the date of the wetland fill permit (Isolated wetlands Permit, Clean Water Act Section 401/404 permits) issued for the projects. If more than one wetland fill permit is required

for the project identified in this agreement then the date of the most recent permit shall be considered as the Permit Issuance Date.

F. Should the Client be in Default of Payment for greater than 30 days, Red Stone Farm, LLC will have the right to sell the credits reserved by this agreement to other clients on a first come first serve basis or to assess a late payment penalty of \$300 or 2.0% interest per month, whichever is greater, on the outstanding balance from the Permit Issuance Date for each month or portion thereof until payment is received in full. It is the sole responsibility of the Client to ensure that they adhere to the terms of this agreement, including timely payment, and to the terms of permit(s) issued to it for their project. If the Client is in Default of Payment for greater than 90 days and Red Stone Farm, LLC elects to sell the reserved credits to a different client, the Client, the Corps and Ohio EPA shall be notified by Red Stone Farm, LLC that this agreement has been terminated and the credits are no longer held in reserve for the Client. The Client's deposit payment will be forfeited to Red Stone Farm, LLC at this time and may be applied to future mitigation purchases at the discretion of Red Stone Farm, LLC.

G. The Client shall have no other obligation other than the payments detailed in this agreement for future maintenance or remedial measures of the Red Stone Farm Mitigation Bank.

II. OBLIGATIONS OF RED STONE FARM, LLC

A. Red Stone Farm, LLC offers for sale mitigation credits at the Red Stone Farm Mitigation Bank which have been approved by the IRT to mitigate for certain wetland impacts.

B. In consideration for the payment of \$900,000 (plus penalties, if applicable, as per paragraph I.F of this Agreement) by Client, Red Stone Farm, LLC hereby agrees to provide 15 acres of wetlands mitigation credit at the Red Stone Farm Mitigation Bank for the benefit of Client hereunder. Red Stone Farm, LLC shall bear responsibility for assuring the restoration and the monitoring and maintenance of the wetlands as provided herein and in the *Red Stone Farm Wetland Mitigation Bank: Banking Instrument* dated January 2007.

C. Red Stone Farm, LLC will provide written confirmation to the Client that full payment has been made for the purchase of wetland mitigation credits specified in paragraphs IA and IB of this agreement.

D. Client may submit the executed copy of this Agreement to the Corps and/or Ohio EPA with their permit application in order to document its commitment to mitigate anticipated wetland impacts.

III. GENERAL PROVISIONS

- A. All fiscal obligations of ODOT shall commence on the date of the last signature hereto and shall expire on June 30, 2015. However, all obligations regarding ODOT's use of mitigation credits and RSF's obligations set forth in Sections I and II of this agreement and the IRT Agreement shall survive the expiration of the fiscal obligations and shall remain in effect until terminated by mutual agreement of both parties.
- B. It is expressly understood by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all statutory provisions under the Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the General Assembly and by the Controlling Board of the State of Ohio or, in the event that federal funds are used, until such time that the State gives RSF written notice that such funds have been made available to the State by the State's funding source.

- C. RSF affirms that, as applicable, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous years, one or more contributions totaling in excess of \$1,000.00 to the Governor of Ohio or to the Governor's campaign committees.
- D. RSF agrees to adhere to the requirements of Ohio Ethics Law as provided by Chapter 102 of the Ohio Revised Code.
- E. Either party may, at any time during the term of this Agreement, request amendments or modifications. Requests for amendments or modifications shall be in writing and shall specify the requested changes and the justifications of such changes. Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original Agreement.
- F. Neither this agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- G. This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and RSF hereby irrevocably consents to such jurisdiction. To the extent that the State is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- H. All notices under this Agreement must be in writing and shall be deemed validly given if sent by overnight delivery or regular certified mail, return receipt requested, effective the third day following the date the notice is postmarked. Notices should be addressed as follows:

ODOT: Ohio Department of Transportation
Office of Environmental Services
1980 West Broad Street, Mail Stop 4170
Columbus, OH 43223
Attention: Tim Hill
Telephone: 614-644-0377

RSF: Redstone Farm
1727 Frost Road
Hillsboro, Ohio 45133
Attention: Drausin Wulsin
(740) 634-2440

Either party may change the designated recipient of notices and the address by so notifying the other party in writing.

- I. RSF Shall indemnify and hold harmless ODOT for any and all claims, damages, lawsuits, costs, judgments, expenses or any other liabilities which arise as a result of the services performed by the RSF or its employees or agents which is in any way connected with, or based upon the creation/restoration/enhancement and the monitoring and maintenance of its wetlands.
- J. This Agreement entered into hereunder constitutes the entire agreement of the parties and shall supersede any prior or contemporaneous agreements or negotiations, whether written or oral, between the parties, regarding the subject matter herein.

- K. Nothing in this Agreement entered into hereunder is intended to create any rights in any third parties.
- L. Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

RED STONE FARM, LLC

Signed By: Drausin Wulsin
Drausin Wulsin, Manager

Date: 11/6/13

CLIENT Ohio Department of Transportation

Signed By: Jerry Wang / pp

Printed Name: Jerry Wang by Patrick Piccininni

Title: Director for Chief Legal

Date: 12-3-13

Address: 1980 W. Broad Street
Columbus, OH 43223

Telephone: (614) 466-7170

Email: _____

CLIENT'S CONSULTING FIRM

Firm Name: _____

Contact Name: _____

Address: _____

Telephone: _____

Email: _____