

MITIGATION CREDIT SUPPLY AGREEMENT

THIS MITIGATION CREDIT SUPPLY AGREEMENT (this "Agreement") by and between **BLUEFIELD RANCH ENVIRONMENTAL MITIGATION BANK, LLC** ("Bank Sponsor"), and **CITY OF DORAL** ("Buyer") is effective as of November 20, 2023 (the "Effective Date").

RECITALS:

WHEREAS, Bank Sponsor has established a mitigation bank known as the Bluefield Ranch Mitigation Bank (the "Bank") authorized by the South Florida Water Management District, Permit No. 56-00002-M and the United States Army Corps of Engineers, Permit No. SAJ-2000-02935 deemed as one or both (the "Permitting Agency") pursuant to a mitigation banking instrument (as amended or modified from time to time, the "Bank Instrument");

WHEREAS, Bank Sponsor is authorized to operate the Bank and to sell and transfer mitigation credits and/or acres, as described in the Bank Instrument ("Mitigation Credits"), in accordance with and the Bank Instrument; and

WHEREAS, Buyer desires to purchase from Bank Sponsor, and Bank Sponsor desires to sell to Buyer, Mitigation Credits, upon the terms and subject to the conditions set forth in this Agreement.

THEREFORE, for and in consideration of the premises and the payment set forth herein, Bank Sponsor and Buyer agree to the following terms and conditions:

AGREEMENTS:

1. Purchase of Mitigation Credits.

- a. Purchase. Bank Sponsor hereby agrees to sell to Buyer, and Buyer hereby agrees to buy from Bank Sponsor, 0.35 State Freshwater Herbaceous Mitigation Credits on the terms, and subject to the conditions, set forth herein (the "Purchased Credits").
- b. Purchase Price. Buyer agrees to pay to Bank Sponsor \$275,000.00 per Mitigation Credit ("the Per Credit Price"), for a total purchase price of \$96,250.00 (the "Purchase Price"). Buyer agrees to pay Bank Sponsor, by wire transfer in accordance with Exhibit A or as directed by Bank Sponsor, the Purchase Price in installments as follows:
 - i. The sum of \$9,625.00 no later than five (5) business days after the Effective Date equal to 10% of the Purchase Price (the "Deposit"); and
 - ii. The sum of \$86,625.00, equal to the remaining 90% of the Purchase Price, no later than five (5) days following Buyer's receipt of the permit referenced in Exhibit B to Buyer or six (6) months after the Effective Date, whichever comes first.

All amounts paid under this Agreement shall, when paid, be deemed to be fully earned by Bank Sponsor and non-refundable; this provision shall survive termination of this Agreement.

- c. Default. If Buyer fails to pay any portion of the Purchase Price when due, then: (i) RES shall not be required to perform hereunder and shall not be responsible for any breach, liability, or damages resulting from such non-performance; and (ii) RES may terminate this Agreement, pursue such remedies as may be available to it at law and in equity and, without limiting the foregoing, ownership of the Purchased Credits shall automatically revert to RES, and RES shall be free to sell the Purchased Credits to one or more third parties.

2. Ownership and Application of Purchased Credits.

- a. Ownership. As of the Effective Date, Buyer shall own the Purchased Credits, subject to Sections 1.c. and 2.d. of this Agreement.
- b. Application of Purchased Credits. At any point on or after the Effective Date, Buyer may request that RES apply the Purchased Credits to a permit by delivering a written notice to RES (an "Application Notice"). Each Application Notice shall include (i) Buyer's name and contact information; (ii) the Permitting Agency's name and contact information; (iii) Buyer's project name and location; (iv) Buyer's permit application number and date; and (v) a brief

description of the impacts mitigated by the Mitigation Credits (e.g., impact of [x] acres of wetlands). Upon request, Buyer shall promptly provide RES any additional information necessary to meet the requirements set forth in the Bank Instrument or required by the Permitting Agency. Upon receipt of an Application Notice and, if the Purchase Price has not been paid in full, payment of the portion of the Purchase Price that remains outstanding, RES shall promptly provide the Permitting Agency with the documentation required by the Bank Instrument to apply the Purchased Credits to the permit application specified by Buyer. Buyer is solely responsible for the accuracy of the information provided to RES in an Application Notice and any other information provided by Buyer to RES in connection with the Purchased Credits or the application of the Purchased Credits to a permit. RES shall have neither the duty to confirm the accuracy of the information provided by Buyer nor any liability for inaccurate information.

- c. **Exculpation of RES.** In no event will RES be responsible (i) if the Permitting Agency does not allow the Purchased Credits to be applied to a permit; (ii) for determining the nature or amount of mitigation required by Buyer for any project, for any permit, or under any applicable law; or (iii) for compliance with the terms and conditions of any permit ultimately issued to Buyer in connection with any project or otherwise.
- d. **Substitute Credits.** Notwithstanding anything to the contrary herein, RES may, in its discretion and in lieu of supplying the Purchased Credits, obtain substitute Mitigation Credits from mitigation bank or other sources ("**Substitute Credits**") and apply those Substitute Credits to the permit specified by Buyer in the Application Notice; **provided**, that such substitution does not adversely impact Buyer. If RES provides Substitute Credits in lieu of the Purchased Credits, ownership of the Purchased Credits shall automatically revert to RES, and RES shall be free to sell the Purchased Credits to one or more third parties.
- e. **Bank Closeout.** If all of the Purchased Credits have not been applied to a permit by the five-year anniversary of the Effective Date, and, as a result, RES is prevented from closing the Bank, Buyer will take any and all actions requested by RES to achieve Bank closeout.

3. Miscellaneous.

- a. **Buyer Rights.** For the avoidance of doubt, this Agreement does not give the Buyer (i) rights to any monies generated by the Bank, or (ii) rights of ownership or use of the real property associated with the Bank or any other property interests of RES or its affiliates.
- b. **Confidentiality.** Neither this Agreement nor the terms hereof may be furnished to any third party without the written consent of all parties, except as may otherwise be required by law or a court of competent jurisdiction; provided, that the foregoing shall not prohibit the parties from providing this Agreement or the terms hereof to their attorneys, consultants, professional advisors, and current and prospective investors and primary lenders. Buyer acknowledges and agrees that Bank Sponsor may, as part of the process for transferring the Purchased Credits, disclose the information provided by Buyer in an Application Notice to the regulatory authorities. This paragraph shall survive any termination of this Agreement.
- c. **Governing Law and WAIVER OF JURY TRIAL.** This Agreement and all matters arising out of or relating to this Agreement are governed by the laws of Texas, without giving effect to any conflict of laws provisions thereof. Either party may only institute any legal suit, action, or proceeding arising out of or relating to this Agreement in the federal or state courts located in Houston, Texas. **EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY: (A) CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE AFOREMENTIONED COURTS; (B) WAIVES ANY OBJECTION TO THAT CHOICE OF FORUM BASED ON VENUE OR TO THE EFFECT THAT THE FORUM IS NOT CONVENIENT; AND (C) WAIVES ANY RIGHT TO TRIAL BY JURY.**
4. **Counterparts and Authorization.** This Agreement may be signed by facsimile or electronic PDF signature, which signature shall be deemed to constitute an original signature and be binding as such. This Agreement may be executed in identical counterparts, each of which when so executed and delivered will constitute an original, but all of which taken together will constitute one and the same instrument. The parties each separately represent that the person signing this Agreement is duly authorized to sign this Agreement.
- d. **Force Majeure.** No party shall be liable or responsible to the other party, or deemed to have breached this Agreement, for any failure or delay in satisfying its obligations hereunder if such failure or delay is attributable to any of the following: strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, orders, laws, regulations, or restrictions, adverse determinations from the Permitting Agency or any other governmental authority,

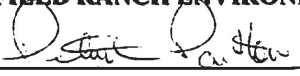
or any other causes which are beyond the reasonable control of the responsible party.

- e. **Consequential Damages.** Notwithstanding anything to the contrary herein, no party shall be liable for any lost or prospective profits or any other indirect, consequential, special, incidental, punitive, or other exemplary losses or damages, whether based in contract, warranty, indemnity, negligence, strict liability, or other tort or otherwise, regardless of the foreseeability or the cause thereof. Each party expressly agrees that the affiliates, members, partners, and shareholders of any defaulting or breaching party hereunder are not jointly, solidarily, or severally liable for any costs, expenses, losses, or damages arising from such party's breach or default under this Agreement.
- f. **Notice.** All notices sent by one party to the other pursuant to this Agreement shall be in writing, addressed as set forth on the signature page of this Agreement, and either (i) sent by email with confirmed receipt, or (ii) delivered or sent (A) in person; (B) by U.S. Mail, postage prepaid and certified with return receipt requested; or (C) by nationally recognized overnight delivery service, shipping prepaid. Either party may change its email address or physical address by notifying the other party in writing of the change.
- g. **Interpretation.** The Parties expressly agree that this Agreement was jointly drafted and that each Party had opportunity to negotiate its terms and to obtain assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall not be construed against or in favor of any Party but shall be construed in a neutral manner.
- h. **Survival.** Notwithstanding anything to the contrary herein, Section 1.c. and Article 3 shall survive any termination of this Agreement.
- i. **General.** Buyer's rights under this Agreement shall not be assigned or apportioned, either voluntarily or by operation of law, without the prior written consent of Bank Sponsor. This Agreement constitutes the entire agreement and understanding between the parties with respect to the purchase and sale of the Purchased Credits, and supersedes and replaces any prior agreements and understandings, whether oral or written, between them with respect to such matters. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of either party. This Agreement may not be changed, amended or modified except by an instrument in writing signed by both parties. The unenforceability, invalidity, or illegality of any provision hereof shall not render any other provision unenforceable, invalid, or illegal. This Agreement is not intended to create, and it shall not create, any partnership, joint venture, or similar arrangement between Buyer and Bank Sponsor. No party's failure or delay in exercising any of its rights hereunder will constitute a waiver of such rights unless expressly waived in writing.

[Signature Page Follows]

The parties have executed this Agreement effective as of the Effective Date.

BLUEFIELD RANCH ENVIRONMENTAL MITIGATION BANK, LLC

By: 

Name: Peter K. Partlow

Date: November 15, 2023

Address: 1400 16th Street, Suite 320
Denver, CO 80202

Phone: 689-240-6325

Email: ppartlow@res.us

CITY OF DORAL

By: 

Name: Barbara Hernandez, City Manager

Date: 11/20/2023

Address: 8401 NW 53rd Terrace
Doral, FL 33166

Phone: 305.00

Email: barbie.hernandez@cityofdoral.com

EXHIBIT A

Wire Instructions for RES Bluefield, LLC

Account Title: RES Bluefield LLC

Account Number: 1312057100

Account Routing: 113008465

ACH & Wire information is as follows:

****Domestic Wires:**

Bank Name: Woodforest National Bank

Routing Number: 113008465

Bank Address: 25231 Grogan's Mill Rd., The Woodlands, TX 77380

****International Wires:**

Bank Name: Woodforest National Bank

SWIFT: WONAUS44

Bank Address: 25231 Grogan's Mill Rd., The Woodlands, TX 77380

For direct coordination, please call Lauren Jennison with Bank Sponsor at (941) 284-7992.

EXHIBIT B

Buyer Information:	City of Doral
Permitting Agency:	South Florida Water Management District
Permit Application Number and Date:	230505-38532
Project Name & Location:	NW 66 th Street Roadway Improvements located in the City of Doral, Florida
Brief Description of Impacts to be Mitigated by the Credits:	0.35 State Freshwater Herbaceous Credits

RESOLUTION No. 23-198

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, REPEALING RESOLUTION No. 23-99; AUTHORIZING THE CITY MANAGER TO EXECUTE THE WETLAND MITIGATION CREDIT SUPPLY AGREEMENT WITH BLUEFIELD RANCH ENVIRONMENTAL MITIGATION BANK, LLC ("BANK SPONSOR"), WHICH HAS ESTABLISHED A MITIGATION BANK KNOWN AS THE BLUEFIELD RANCH MITIGATION BANK (THE "BANK") AUTHORIZED BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, PERMIT No. 56-00002-M AND THE UNITED STATES ARMY CORPS OF ENGINEERS, PERMIT No.SAJ-2000-02935; AUTHORIZING THE CITY MANAGER TO PROCESS THE PAYMENT OF \$96,250.00 IN WETLAND MITIGATION CREDITS ASSOCIATED WITH THE DESIGN AND PERMITTING PHASE OF THE NW 66 STREET/NW 102 AVENUE/NW 99 AVENUE WIDENING PROJECT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the vacant parcel referenced by Folio No. 35-3017-001-0660 is located at the southeast corner of the NW 102nd Avenue and NW 66th Street intersection; and

WHEREAS, the parcel was recently purchased by the Miami-Dade County ("County") Department of Solid Waste Management, and currently the County does not have plans to develop the parcel; and

WHEREAS, during recent years, the City constructed NW 66th Street from NW 97th Avenue to NW 102nd Avenue, and NW 102nd Avenue from NW 66th Street to NW 74th Street, providing much needed interconnection in the region; and

WHEREAS, Lennar (the "Developer") also completed the right-of-way improvements along NW 66th Street between NW 107th Avenue and NW 102nd Avenue, and the developments south of the vacant parcel along NW 102nd Avenue are in the

process of completing the right-of-way improvements along NW 102nd Avenue and improving the eastern half of the right-of-way; and

WHEREAS, as part of the ongoing development of the parcel located at the southwest corner of the NW 97th Avenue and NW 66th Street intersection, the Developer is required to construct the eastern half of the missing portion on NW 99th Avenue south of NW 66th Street, and the southern half of NW 66th Street between NW 99th Avenue and NW 97th Avenue, to provide a full right-of-way according to the typical section of the area; and

WHEREAS, the Public Works Department (“PWD”) approached the County to request the dedication of the right-of-way from their recently purchased parcel with the intent to improve the corridors adjacent and around the vacant parcel and provide a full right-of-way roadway according to the typical sections of the area, and County’s Solid Waste Department agreed to dedicate the remaining 35 feet of Right-of-Way to the City; and

WHEREAS, in order to provide a complete infrastructure and roadway network along these corridors and design the needed improvements, the PWD requested a proposal from Kimley-Horn for the provision of consultant services for the design and permitting of the roadway improvements, and Work Order No. 1 for Kimley-Horn was approved by the Mayor and the City Councilmembers via Resolution No. 21-100, which was subsequently amended by a First Amendment via Resolution No. 23-73; and

WHEREAS, the widening and construction of the improvements will impact existing wetlands that require mitigation; and

WHEREAS, as part of the design and permitting process the South Florida Water Management District (“SFWMD”) has imposed a requirement on the City, as a condition to granting the City its permit, that certain mitigation efforts must be undertaken with respect to impacted wetlands and that mitigation credits may be purchased from Bluefield Ranch Environmental Mitigation Bank, LLC (“Bank Sponsor”), to satisfy the wetland mitigation requirements of that permit; and

WHEREAS, the Bank Sponsor has established a mitigation bank known as the Bluefield Ranch Mitigation Bank (the “Bank”) authorized by the SFWMD Permit # 56-00002-M and the United States Army Corps of Engineers Permit No. SAJ- 2000-02935 (the “Permitting Agencies”) pursuant to a mitigation banking instrument (“Bank Instrument”); and

WHEREAS, the Bank Sponsor is authorized to operate the Bank and to sell and transfer mitigation credit and/or acres, as described in the Bank Instrument (“Mitigation Credit”) in accordance with and the Bank Instrument; and

WHEREAS, the Bank Sponsor has been notified by the City’s consultant that the City expects a SFWMD requirement of thirty-five hundredths of one (0.35) Bank Sponsor herbaceous state wetland mitigation credit pursuant to its SFWMD Environmental Resource Permit Application; and

WHEREAS, the total cost associated with the wetland mitigation credit is \$96,250.00; and

WHEREAS, City Staff respectfully requests authorization from the Mayor and City Councilmembers for the City Manager to execute the Mitigation Credit Supply

Agreement with Bluefield Ranch Environmental Mitigation Bank, LLC., in substantially the form attached hereto as Exhibit "A", to pay the required \$96,250.00 in wetland mitigation credits; and

WHEREAS, the payment is a requirement of the South Florida Water Management District; and

WHEREAS, on June 14, 2023, the City Council approved Resolution No. 23-99, which authorized the City Manager to enter into an agreement and pay wetland mitigation credits for the same permits addressed in this resolution, however, since that time there has been a change in the banks, and a reduction in the total cost associated with the wetland mitigation credit, therefore Resolution No. 23-99 requires to be repealed, and replaced by the instant resolution; and

WHEREAS, funding for this request is available in the current Fiscal Year Public Works Transportation Fund "Improvement Street" Account No. 101.8000500.500633.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

Section 2. Repeal. Resolution No. 23-99 is hereby repealed in its entirety.

Section 3. Approval. The Mitigation Credit Supply Agreement in the amount of \$96,250.00, substantially in the form attached hereto as Exhibit "A", is hereby approved.

Section 3. Authorization. The City Manager is authorized to execute the aforementioned agreement in substantially the form attached hereto as Exhibit "A," and expend budgeted funds on behalf of the City in furtherance hereof.


Section 4. Implementation. The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Puig-Corve who moved its adoption. The motion was seconded by Councilmember Porras and upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Oscar Puig-Corve	Yes
Councilwoman Digna Cabral	Yes
Councilman Rafael Pineyro	Yes
Councilwoman Maureen Porras	Yes

PASSED AND ADOPTED this 8 day of November, 2023.



CHRISTI FRAGA, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



VALERIE VICENTE, ESQ. for
NABORS, GIBLIN & NICKERSON, P.A.
CITY ATTORNEY