

RESOLUTION 22-01

A RESOLUTION TO APPROVE PURCHASE OF ADDITIONAL STORMWATER MITIGATION STREAM CREDITS FOR TDEC REQUIREMENTS FOR THE NORTHERN SEGMENT OF THE BUCKNER LANE WIDENING PROJECT

WHEREAS, the City of Spring Hill has committed to widen Buckner Lane as part of the I-65 Interchange project; and

WHEREAS, a portion of Aenon Creek in the northern segment of the project needs to be realigned and mitigated during the construction phase of the widening; and

WHEREAS, it is required to use existing City credits for mitigation, or to purchase credits if the City does not have any, to obtain the Corps of Engineers and TDEC permits; and

WHEREAS, the City has reserved 137.3 functional feet stream credits required by Corps of Engineers through Headwaters Reserve, LLC at a cost of \$2,000 per credit, as approved by Resolution 21-224; and

WHEREAS, TDEC is requiring an additional 31.5 functional feet stream credits which the City can reserve through Headwaters Reserve, LLC at a cost of \$2,000 per credit; and

WHEREAS, funding for the reserve of the stream credits in the amount of \$63,000 would be in the Impact Fee Fund.

NOW, THEREFORE BE IT RESOLVED, the City of Spring Hill Board of Mayor and Aldermen approve the purchase of additional stormwater mitigation stream credits for TDEC requirements for the northern segment of the Buckner Lane widening project.

Passed and Adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 3rd day of January, 2022.



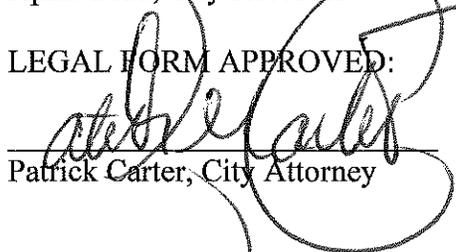
Jim Hagaman, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney



REQUEST: *Approval of Resolution 22-01*
SUBMITTED BY: Missy Stahl, CIP Manager
DATE: January 3, 2021
RE: To approve purchase of additional stormwater mitigation credits for TDEC requirements for the northern segment of the Buckner Lane widening project

PURPOSE:

To approve Resolution 22-01 to approve the purchase of additional stormwater mitigation stream credits for TDEC requirements for the northern segment of the Buckner Lane widening project

BACKGROUND:

The City of Spring Hill is currently in the process of acquiring ROW and easements along the northern segment (Buckner Road to the north corner of Wades Grove) of the Buckner Lane widening project. Aenon Creek will need to be aligned as part of the construction phase. In order to impact an existing creek, a permit is required from the Corps of Engineers and TDEC. Mitigation credits are needed to obtain the permit.

The City does not have any existing credits and the BOMA approved to purchase 137.3 credits for the Corps of Engineers by Resolution 21-224. TDEC is requiring an additional 31.5 credits. These credits can be reserved through Headwaters Reserve, LLC for a cost of \$2,000 per credit.

FINANCIAL IMPACT:

Funding for the purchase of the additional credits would be from Impact Fees Fund utilizing available fund balance in the amount of \$63,000.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 22-01 to approve the purchase of additional stormwater mitigation stream credits for TDEC requirements for the northern segment of the Buckner Lane widening project



December 23, 2021

Mayor Jim Hagaman
City Mayor, City of Spring Hill
199 Town Center Parkway
Spring Hill, TN 37174

Delivered via electronic mail to: Doug.Hart@kimley-horn.com

Dear Ms. Caskie:

Subject: Duck River Mitigation Bank, LRN-2021-00085
Credit Reservation Letter for City of Spring Hill

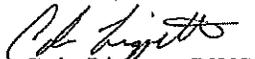
Headwaters Reserve, LLC is pending an initial credit release for the Duck River Mitigation Bank located in Bedford County, Tennessee. Per an email exchange with Kimley-Horn, the consultant representing the City of Spring Hill, the City is requesting to reserve an additional 31.5 functional feet (FF) stream credits to their previously reserved 137.3 credits for pending Corps and TDEC permits for the Buckner Lane Widening Project located in the City of Spring Hill in the Lower Duck Watershed (HUC – 06040003) and within the Duck River Mitigation Bank's Service Area. Headwaters Reserve, LLC will have sufficient FF stream credits available upon the initial credit release for the Duck River Mitigation Bank upon approval of the Mitigation Banking Instrument currently under review. Headwaters will reserve these credits for 30 days from the date of the initial credit release. The price is \$2,000 per FF credit or a total of \$63,000.

Headwaters Reserve, LLC requires a 10% nonrefundable deposit to reserve credits. Upon signature of the attached Purchase Agreement and receipt of deposit, Headwaters Reserve, LLC will reserve the 31.5 FF credits for 30 days from the date of the initial credit release. The 10% deposit for the requested 31.5 FF stream credits is \$6,300. In the event that the Duck River Mitigation Bank MBI gets denied, the 10% deposit will be refunded in full to City of Spring Hill.

Headwaters Reserve, LLC appreciates the opportunity to provide mitigation services for the City of Spring Hill. If you need anything further, please do not hesitate to contact me.

Sincerely,

Headwaters Reserve, LLC


Cole Liggett, PWS
Manager



**STREAM AND WETLAND CREDIT PURCHASE AGREEMENT
DUCK RIVER MITIGATION BANK**

THIS AGREEMENT is made and entered into this 23rd day of **December 2021** by and between **Headwaters Reserve, LLC**, (hereinafter referred to as "Seller") and **City of Spring Hill** (hereinafter referred to as "Purchaser");

WITNESSETH:

WHEREAS, the Seller is the record owner and holder of certain stream and wetland bank credits pending approval by a Mitigation Banking Instrument, to be executed by the Nashville District Corps of Engineers (COE) and Tennessee Department of Environment and Conservation (TDEC), which agree that the Seller shall provide streams and wetlands which will be better managed, of greater function and value than individual onsite stream and wetland mitigation, and protected in perpetuity, and

WHEREAS, the Purchaser desires to purchase 31.5 of said stream functional foot credits and the Seller desires to sell said credits, upon the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and in order to consummate the purchase and the sale of the Seller's credits aforementioned, it is hereby agreed as follows:

1. PURCHASE AND SALE:

Subject to the terms and conditions hereinafter set forth, at the closing of the transaction contemplated hereby, the Seller shall sell, convey, transfer, and deliver to the Purchaser certificates representing Stream or Wetland Bank Credits, and the Purchaser shall purchase from the Seller such credits in consideration of the purchase price set forth in this Agreement. The transaction contemplated by this Agreement shall be in accordance with the USACE and/or TDEC permit.

2. AMOUNT AND PAYMENT OF PURCHASE PRICE.

The total consideration and method of payment thereof are fully set below:

(a) Consideration and Payment

As total consideration for the purchase and sale of the **31.5 Credits**, pursuant to this Agreement, the Purchaser shall pay to the Seller the sum of **Sixty-Three Thousand dollars (\$63,000.00)**, such total consideration, minus amount of deposit, to be referred to in this Agreement as the "Purchase Price" is to be delivered to Seller within 30 days of receipt of required permits and release of credits by the Corps of Engineers.

(b) In order to hold the specified number of credits, a non-refundable deposit in the amount of **10%** of the purchase price shall be paid upon execution of this purchase agreement in the amount of **Six Thousand Three Hundred Dollars (\$6,300.00)**. Seller will reserve said credits for a maximum of 30 days from date of initial credit release by the Corps of Engineers. After that time period, the buyer can renew the purchase agreement otherwise this agreement will be voided. In the event that the Duck River Mitigation Bank MBI gets denied, the 10% deposit will be refunded in full to **City of Spring Hill**.

3. REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller hereby warrants and represents:

(a) Organization and Standing.

Seller is a limited liability corporation duly organized, validly existing and in good standing under the laws of the State of Tennessee and has the corporate power and authority to carry on its business as it is now being conducted.



(b) Restrictions on Credits.

- i. Seller is the lawful owner of the pending Stream and Wetland Bank Credits, free and clear of all security interests, liens, encumbrances, equities and other charges.
- ii. The credits referenced by this agreement relate only to USACE Permit **LRN-2020-00916** and TDEC Permit **NRS21.305** for proposed stream functional loss of **31.5** functional feet associated with the discharge of fill material into streams for the Buckner Lane Widening Project located in the City of Spring Hill in the Lower Duck Watershed (HUC – 06040003),

4. GENERAL PROVISIONS

(a) Entire Agreement.

This Agreement constitutes the entire Agreement and supersedes all prior agreements and understandings, oral and written, between the parties with respect to the subject matter hereof.

(c) Successors and Assigns.

Seller and Purchaser, and the respective partners, successors, executors, administrators, assigns and legal representatives of each are bound by this Agreement to the other party to this Agreement and to the partners, successors, administrators, assigns and legal representatives of such other party in respect of all covenants, agreements and obligations of this Agreement.

(d) Governing Law.

This agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of Tennessee. The parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in Bedford County, State of Tennessee. In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.

IN WITNESS WHEREOF, this Agreement has been executed by each of the individual parties hereto on the date first above written.

Signed, sealed and delivered:

Seller – Headwaters Reserve, LLC.

Buyer – City of Spring Hill

By: _____
Cole Liggett, Manager

By: 
Jim Hagaman, City Mayor