




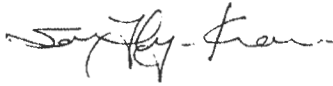
Interoffice Memorandum

CAPITAL PROJECTS ITEM 1

DATE: May 3, 2023

TO: Mayor Jerry Demings
-AND-
County Commissioners

THROUGH: Anne Kulikowski, Director
Administrative Services Department 

FROM: Sara Flynn-Kramer, Manager
Capital Projects Division 

CONTACT PERSON: Sara Flynn-Kramer, Manager

DIVISION: Capital Projects
Phone: 407-836-0048

SUBJECT: Conservation Credit Purchase Agreement by and between the Southern States Land and Timber LLC and Orange County

The Horizon West Regional Park Phase 1 project is a 41.04 acre site in western Orange County. The project will have a playground, pathways, restroom facility, and infrastructure for the park. The project impacts occupied sand skink habitat, which require 23.46 mitigation credits. The sand skink is a species listed as threatened under the Endangered Species Act. Impacts to occupied sand skink habitat require mitigation to offset potential impacts as part of the US Fish and Wildlife Service Section 10 Habitat Conservation Plan application process. The mitigation bank is permitted to provide a long-term conservation tract to maintain and/or enhance sand skink habitat and population levels for Florida.

The County is proposing to purchase conservation credits/sand skink mitigation credits from the Lake Wales Ridge Conservation Bank/ Southern States Land and Timber LLC. The Bank is located outside of Orange County. Other alternatives such as land acquisition, preservation and enhancement were investigated, but were determined not to be feasible. The Bank has a service area that includes the Horizon West Regional Park site.

The Capital Projects Division, Public Works Engineering Division and County Attorney's Office have reviewed the agreement and finds the terms acceptable.

Action Requested: Approval and execution of Conservation Credit Purchase Agreement by and between Southern States Land and Timber LLC and Orange County, Florida. District 1.

Attachment



OFFICE OF COMPTROLLER

**ORANGE
COUNTY
FLORIDA**

Phil Diamond, CPA
County Comptroller as
Clerk of the Board of County Commissioners
201 South Rosalind Avenue
Post Office Box 38
Orlando, FL 32802
Telephone: (407) 836-7300
Fax: (407) 836-5359

DATE: June 20, 2023

TO: Sara Flynn-Kramer, Manager
Capital Projects Division, BCC

FROM: Jennifer Lara-Klimetz, Assistant Deputy Clerk *NP for JLK*
Comptroller Clerk of BCC

SUBJECT: Request for Execution of Document, Administrative Services Department
Consent Item 1, Legislative File # 23-890, June 20, 2023

Enclosed is the Conservation Credit Purchase Agreement (1 original) which was approved by the Board of County Commissioners (BCC) at its regular meeting held on June 20, 2023.

Please forward the document to all required parties for signature.

Email copies of the fully-executed documents to ClerkofBCC@occompt.com and copy jennifer.mcGill@ocfl.net. Note: ClerkofBCC@occompt.com is **used only for County staff submission of pending documents.**

Please include in cover memo or subject line identification of the document by name, agenda item number, and date of BCC approval. Emailed copies must be in full-size PDF format. The document will be processed and filed for the record upon receipt.

If you are unable to return a copy of the fully-executed document before July 20, 2023, notify Jennifer Lara-Klimetz by email of the reason for the delay prior to that date.

If you have any questions, please do not hesitate to call.

jlk:np

Enclosure (1)

dl: Anne Kulikowski, Director, Administrative Services Department, BCC [email]
Carla Bell Johnson, Deputy County Administrator, BCC [email]
Pam Baumbach, Executive Assistant, Administrative Services Department, BCC [email]
Pending File



Southern States
Land & Timber LLC

Lake Wales Ridge Conservation Bank – Sullivan Road Tract

This CONSERVATION CREDIT PURCHASE AGREEMENT (“Agreement”) is made and entered into this 27th day of April, 2023 (the Effective Date) by and between Southern States Land and Timber LLC, having an address of 203 Main Street Franklin, Louisiana 70538 (the “Seller”) and Orange County, Florida, (the “Buyer”) having an address of 400 East South Street, IOc11, 5th Floor, Orlando, Florida 32801.

Recitals

Seller is the Sponsor the Lake Wales Ridge Conservation Bank – Sullivan Road Tract (“Conservation Bank”) in Polk County, Florida, Permit No. 04EF2000-2015-CPA-0046 approved by the U.S. Fish and Wildlife Service (the “Service”). Buyer desires to buy from Seller conservation credits to meet the compensatory mitigation requirements of U.S. Fish and Wildlife Service Permit No. TBD, to be issued, and Seller agrees to sell such conservation mitigation credits to Buyer, under the terms and conditions set out in this Agreement.

Payment of Deposit and Purchase Price: Buyer shall pay to Seller a forty percent (40%) non-refundable deposit, due 06/30/2023, applicable to the Purchase Price, in exchange for a reservation period which will expire on 12/10/2023. Final balance will then be due from

Buyer to Seller on 12/10/2023. If Buyer wishes to forego paying a Deposit, Buyer may pay the full purchase Price up front.

Payment Method: All payments shall be made to Southern States Land & Timber, LLC. Buyer shall pay the Deposit(s), Purchase Price, and or/ Balance of Purchase by wire transfer, Automated Clearing House (ACH) transfer or Cashier's Check. In no instance shall Credits be transferred by Seller prior to Seller having received full payment of the Purchase Price. The wiring instructions are attached to this contract.

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Agreement

NOW, THEREFORE, Seller and Buyer agree as follows:

1. **SELLER'S SERVICES:**

- A. Seller shall perform or has performed restoration to Sand Skink habitat Conservation (the "credits").
- B. In consideration of the sum of \$434,010.00 Seller: (1) sells to Buyer 23.46 Credits to meet the compensatory mitigation requirements of the Permit; and (2) assumes Buyer's responsibility to perform the conservation mitigation specified in Paragraph A above in accordance with the terms and conditions of the Interagency Agreement approving the Mitigation Bank.

2. **WARRANTY:**

- A. Seller's Warranty: Seller represents and warrants that it has the authority and approval from the U.S. Fish and Wildlife Service pursuant the Lake Wales Ridge – Sullivan Road Tract Conservation Banking Instrument. Seller shall be responsible for the development and maintenance for the Credits and the Conservation Bank in accordance with the requirements of the Conservation Banking Instrument.
- B. Buyer's Warranty: (1) Buyer represents and warrants that the U.S. Fish and Wildlife Service and/or Buyer have calculated and determined the appropriate number of credits that are necessary to compensate for the impacts to the and take of habitat attributed to the Permit; that Seller is relying on Buyer with respect thereto; and that Seller has made no representations or warranties to Buyer with respect to the necessary number

of acres or credits for Buyer's needs; and (2) Buyer acknowledges and agrees that it does not have and shall not hereafter have:

(a) any rights to any monies generated by or related to the Conservation Bank (whether the surface or the subsurface of the Conservation Bank); or (b) any rights of ownership, use, or otherwise in the Conservation Bank.

3. **ASSIGNMENT:**

This Agreement and the credits the subject here of are not assignable.

IN WITNESS WHEREOF, the Seller and the Buyer have executed this Credit Sale Agreement this _____ day of _____, 2023.

SELLER:

Southern States Land and Timber LLC

By: _____
Aaron Landry
Director of Environmental Services

BUYER:

Orange County, Florida
By: Board of County Commissioners

By: Jerry L. Demings
for Jerry L. Demings
Orange County Mayor



ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: Jennifer Horn-Kleinetz
Deputy Clerk

Wiring Instructions for Payments

Regions Bank
Birmingham, Alabama

Routing [REDACTED]
Account [REDACTED]

Customer Name: Southern States Land & Timber LLC