SPONSOR: HOTEL STREET CAPITAL, L.L.C.

BROKER: HSC – NOTB, LLC

31 Garrett Street

Warrenton, Virginia 20186

540-347-1000

November 3, 2022

Sheila Hoopmann

Albemarle County School Board

CIP Manager

shoopmann@k12albemarle.org

Building Services Dept.

2751 Hydraulic Rd.

Charlottesville, VA 22901

Re:

Project Name:  MOUNTAIN VIEW ELEMENTARY SCHOOL

Plan #:  WPO202200009

TMP: 09100-00-00-01300

Credits: 1.98

HUC: 02080204

Bank Sponsor HUC: 02080204

Dear Ms. Hoopman,

Enclosed is the Agreement for Purchase and Sale of Nonpoint Nutrient Offset Credits, per your request.

We have set a closing date of on or before January 15, 2023, on your nutrient offset credit purchase as set forth above and an automatic termination date of January 30, 2023, please let us know if you should need to extend either date.

Only return the Agreement for Purchase and Sale of Nonpoint Nutrient Offset Credits (pages l-

6), signed and dated. The samples and other documents are for information purposes.

Within 2 days after funds (payable to Hotel Street Capital, L.L.C.) are wired to our account, we will send you the completed and fully executed Exhibits A & B. (Samples enclosed).

Sincerely,

Thomas James Ross II

540-687-0171 (cell)

AGREEMENT FOR PURCHASE AND SALE OF NONPOINT NUTRTIENT OFFSET CREDITS

made as of the \_\_\_\_\_\_\_\_ day of November 2022 (the "Effective Date"), between

Hotel Street Capital, L.L.C., a Virginia limited liability company

31 Garrett Street

Warrenton, Va. 20186 ("Seller")

and

Albemarle County School Board

Building Services Dept.

2751 Hydraulic Rd.

Charlottesville, VA 22901

 ("Purchaser").

RECITALS

A. Seller is the owner and sponsor of an approved nonpoint nutrient offset generation bank entitled Rivanna River Nutrient Offset Credit Bank (the "Bank") consisting of 102.01 acres, more or less, located at the intersection of James Madison Highway, and Friendship Way in Fluvanna County, Virginia (**Bank HUC 02080204**). The Bank has been authorized by the Virginia Department of Environmental Quality ("VDEQ") to generate and transfer nonpoint source offsets in accordance with i) the Chesapeake Bay Watershed Nutrient Credit Exchange Program (VA Code 62.1-44.19:14 et seq.), ii) the Virginia storm water offset program (VA Code 62.1-44.15:35 et seq.), and iii) the Virginia Soil and Water Conservation Board's Guidance Document on Storm water Nonpoint Nutrient Offsets approved on July 23, 2009 to those regulated entities qualifying for nutrient offsets. The Bank is approved to generate 817.10 pounds of nitrogen reduction and 178.52 pounds of phosphorous reduction within the James River Watershed. Operation, management and maintenance of the Bank are subject to the requirements of the Nonpoint Nutrient Offset Generation Certification (Certificate No. James-039) approved by the VDEQ on September 5, 2018 and to the statutes, regulations and policies cited therein.

B. Purchaser has applied for a permit from the VDEQ with a site plan requirement to control **1.98** pounds of phosphorous each year as part of the following project:

Project Name:  MOUNTAIN VIEW ELEMENTARY SCHOOL

Plan #:  WPO202200009

TMP: 09100-00-00-01300

Credits: 1.98

HUC: 02080204

Bank Sponsor HUC: 02080204

Purchaser proposes to offset the annual nutrient control requirement by purchasing **1.98**

Nutrient Credits (the "Nutrient Credits") from Seller and Seller has such credits available for sale.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises and agreements contained herein and for the other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into this Purchase Agreement as a matter of contract and not mere recital.

2. Sale and Purchase. Seller agrees to sell, and Purchaser agrees to purchase **1.98** Nutrient Credits for a purchase price of **$24,750.00** in accordance with the terms and conditions set forth in this Agreement.

3. Payment of Purchase Price. Purchaser shall pay the Purchase Price to Seller on or before the date of Closing (as hereinafter defined) by making a wire transfer of immediately available federal funds to an account at a financial institution designated in writing by Seller.

4. Seller's Representation 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. Compliance with Laws. Seller will comply with all applicable laws and regulations relating to the sale of the Nutrient Credits, the Bank, and the Nonpoint Nutrient Offset Generation Certification.

c. Credit Availability. As of the date of Closing, Seller shall have the Nutrient Credits available for Purchaser.

5. Purchaser's Representations and Warranties. Purchaser hereby makes the following representations and warranties.

a. Authorizations, Executions and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Purchaser, constitutes the valid and binding agreement of Purchaser and is enforceable in accordance with its terms.

b. As Is Where Is Sale. Purchaser acknowledges and agrees that Purchaser is purchasing the Nutrient Credits "AS IS, WHERE IS," at Closing. The Seller has not made and does not make any representations or warranties, either express or implied, with respect to the Nutrient Credits, other than as expressly set forth in Paragraph 4, and in entering into this Agreement, Purchaser 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. This Paragraph shall survive Closing and delivery of the Nutrient Credits.

6. Closing. Closing on the purchase and sale of the Nutrient Credits pursuant to this Agreement ("Closing") shall be held at a location mutually agreeable to Purchaser and Seller (or by mail) on or before **January 1, 2023**, unless Seller consents in writing to a later date, TIME BEING OF THE ESSENCE TO THIS AGREEMENT.

7. Seller's Deliveries.

a. At Closing, Seller shall deliver to Purchaser a signed Bill of Sale, Affidavit, and OCR Water Quality Enhancement Fee Form substantially in the form of Exhibits A, B, and C attached hereto and incorporated herein by this reference, evidencing the sale to Purchaser of the Nutrient Credits from the Bank.

b. Not more than thirty (30) calendar days following the Closing, Seller shall deliver, or cause to be delivered, to Purchaser a copy of Seller's Ledger entry, or other documentation, recording the sale of the Nutrient Credits to Purchaser as provided herein and debiting the Nutrient Credits sold to Purchaser against the outstanding Nutrient Credits in the Bank in accordance with the Nonpoint Nutrient Offset Generation Certification.

8. Closing Costs. Seller shall pay the cost of preparing the Bill of Sale and Affidavit and any taxes and costs customarily paid by Sellers and Seller's attorney's fees. Purchaser shall pay any taxes customarily paid by Purchaser, Purchaser's attorney's fees and all other costs of Closing, if any.

9. Default.

a. By Purchaser. If Purchaser defaults in performing any of Purchaser's obligations under this Agreement, and if such default continues for a period of ten (10) days after Seller has provided written notice to Purchaser of such default, Seller may terminate this Agreement by providing written notice to Purchaser whereupon this Agreement shall terminate and Purchaser and Seller shall have no further obligations hereunder. Seller agrees that it waives any and all other rights and remedies against purchaser and all other claims for damages against purchaser arising from Purchaser's default under the terms of this Agreement.

b. By Seller. If Seller defaults in performing any of Seller's obligations under this Agreement, and if such default continues for a period of ten (10) days after Purchaser has provided written notice to Seller of such default, Purchaser's sole remedy shall be either to (i) terminate this Agreement by providing written notice thereof to Seller and receive a refund of any amounts paid to Seller, in which event neither party shall have any further rights or obligations hereunder, except as expressly provided herein, or (ii) seek specific performance of Seller's obligation to sell the Nutrient Credits to Purchaser. Purchaser hereby expressly waives any right it may have to damages (compensatory, consequential or otherwise), as well as any other remedies the Purchaser may have, as a result of such default.

10. Effect of Condemnation, Regulatory Action or Force Majeure.

1. Condemnation. If the Bank property or any part thereof is taken prior to Closing

pursuant to eminent domain proceedings, or if such proceedings are commenced prior to Closing, and as a result Seller determines that it will be unable to transfer the Nutrients Credits to Purchaser at Closing as specified in this Agreement, then Seller may terminate this Agreement by providing written notice to Purchaser at any time prior to Closing, and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

b. Regulatory Action.

1. If Seller is unable to transfer the Nutrients Credits to Purchaser as provided

in this Agreement because of the action or order of any municipality or 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 Purchaser at any time prior to Closing, and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

1. If Purchaser is prevented by any municipality or regulatory agency from

The acquisition of the Nutrient Credits from Seller as provided in this Agreement, or if Purchaser's nonpoint nutrient offset plan is not approved by any municipality or regulatory agency, Purchaser may terminate this Agreement by providing written notice to Seller at any prior to Closing, and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

c. Force Majeure. If Seller is unable to transfer the Nutrient Credits to Purchaser as provided in this Agreement because of damage to or loss of the Bank property resulting from fire, flood, storm, drought or other natural disaster, or from any other cause that is not the fault of Seller and is beyond Seller's reasonable ability to prevent or control, Seller may terminate this Agreement by providing written notice to Purchaser at any time prior to Closing, and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

11. Indemnification. Seller shall be solely responsible for compliance with the Nonpoint Nutrient Offset Generation Certification and with all statutes, regulations and requirements applicable to the operation, management and maintenance of the Bank, and for ensuring the payment of all taxes owed by the Bank or assessed against the Bank property ("Bank Regulatory Requirements"). Seller shall indemnify, defend and hold harmless Purchaser and Purchaser's authorized successors and assigns from and against any action, order, investigation or proceeding initiated by any government agency and arising from or based upon Seller's failure to comply with any Bank Regulatory Requirement. Seller's duty to indemnify Purchaser under this Paragraph 11 shall survive Closing.

12. Credit Not Real Estate. The Sale and conveyance of the Nutrient Credits to Purchaser in accordance with this Agreement shall not constitute the conveyance or transfer of any right, interest or ownership in real property or in the Bank, nor shall such sale and conveyance impose upon Purchaser any obligation, duty or liability arising from or incident to ownership of or interest in real property. Purchaser shall have no right of access to Bank property.

13. Miscellaneous.

a. No Joint Venture. This Agreement is made solely for the purposes set forth herein and no joint venture, partnership or other relationship between purchaser and Seller is created hereby.

b. No Third-Party Beneficiary. This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and authorized assigns. This Agreement does not create or convey any rights, benefits or interests on behalf of any other person.

c. Assignment. This Agreement may be assigned prior to Closing only by written agreement of both parties, and any assignee shall assume the rights and obligations of its assignor.

d. Entire Agreement. This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations and

e. Agreements, Written or Oral. Each provision contained in this Agreement shall be severable from all other provisions hereof and the invalidity of any such provision shall not affect the enforceability of the other provisions of this Agreement. This Agreement may be modified only by a written instrument duly executed by both Seller and Purchaser.

f. Choice of Laws. This Agreement shall be construed, performed and enforced under the laws of the Commonwealth of Virginia.

g. Counterparts. This Agreement may be executed in one or more counterparts by the Parties. All counterparts shall collectively constitute a single agreement.

h. Notices. All notices shall be in writing and sent by hand, facsimile transmission, overnight delivery service or certified mail, return-receipt requested, to the following addresses:

## If to the Purchaser;

**Sheila Hoopmann**

**Albemarle County School Board**

**CIP Manager**

**shoopmann@k12albemarle.org**

**Building Services Dept.**

**2751 Hydraulic Rd.**

**Charlottesville, VA 22901**

**If to Seller**:

**Hotel Street Capital, L.L.C.**

**Attn: Thomas James Ross II**

**31 Garrett Street**

**Warrenton, Virginia 20186**

**Telephone: (540) 347-1000 Email: tjross@mrwlawfirm.com**

Notices shall be deemed received (i) if hand delivered, when received, (ii) if given

by facsimile, when transmitted to the facsimile number specified above during normal business hours and confirmation of complete receipt is received during normal business hours (provided a copy of the same is sent by overnight delivery service on the same day), (iii) if given by overnight delivery service, the first business day after being sent prepaid by such overnight delivery service, (iv) email or (v) if given by certified mail, return receipt requested, postage prepaid, two (2) days after posting with the United States Postal Service. Either party may change its address by notifying the other party in a manner described above.

14. Automatic Termination. This Agreement shall automatically terminate and become null and void in the event if has not been executed on behalf of Purchaser and returned to the Seller, no later than 5:00p.m., local time Warrenton, Virginia time on **January 30, 2023.**

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed on their behalf by their duly authorized representatives as of the dates indicated below.

SELLER:

Hotel Street Capital, L.L.C.

a Virginia limited liability company

BY: Grayson Love & Company, LLC, Manager

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: Thomas James Ross II

Its: Managing Member

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PURCHASER:

**Albemarle County School Board**

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_+

its\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BILL OF SALE**

Nonpoint Nutrient Offset Credits

**BILL OF SALE**, made as of \_\_\_\_\_\_\_\_\_\_\_\_, 2022, by **Hotel Street Capital, L.L.C.**, a Virginia limited liability company ("Seller") and **Albemarle County School Board** ("Purchaser").

**WHEREAS**, Seller, as the owner of the Rivanna River Nutrient Offset Credit Bank,

that was approved by the VDEQ on September 5, 2018 (Certificate No. James-039) and Purchaser have entered into that certain Agreement for Purchase and Sale of Nutrients Mitigation Credits, dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Purchase Agreement", the terms of which are incorporated herein by reference and made part hereof), with respect to the sale by Seller and purchase by Purchaser of Compensatory Nutrients Mitigation Credits held in Seller's Nonpoint Offset Bank in Fluvanna County, Virginia (HUC **02080204)**.

**NOW THEREFORE**, for and in consideration of the payment of the Purchase Price (as defined in the Purchase Agreement) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers and sets over to Purchaser, its successors and assigns **1.98** Nutrient Credits ("Credits") as such are described in the Purchase Agreement.

**TO HAVE AND TO HOLD** all such Nutrient Credits hereby sold and transferred to Purchaser and its successors and assigns forever.

**IN WITNESS WHEREOF**, Seller has caused this Bill of Sale to be executed by its duly authorized representative as of the date first above written.

HOTEL STREET CAPITAL, L.L.C.

a Virginia limited liability company

by Grayson Love & Company, LLC, its Managing Member

 By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Thomas James Ross II

Its: Managing Member

Project Name:  MOUNTAIN VIEW ELEMENTARY SCHOOL

Plan #:  WPO202200009

TMP: 09100-00-00-01300

Credits: 1.98

HUC: 02080204

Bank Sponsor HUC: 02080204

**AFFIDAVIT OF PHOSPHOROUS OFFSET SALE**

**Hotel Street Capital, L.L.C.**, a Virginia Limited liability company ("Seller"), hereby certifies the following:

1. Seller, is the owner of the Rivanna River Nutrient Offset Credit Bank, Certificate

No.James-039 approved by the VDEQ on September 5, 2018 (the "Bank") and pursuant to that certain Agreement for Purchase and Sale of Nutrient Mitigation Credits, dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Purchase Agreement"), the terms of which are incorporated herein by reference and made a part hereof) between Seller and **Albemarle County School Board** ("Purchaser"), Seller agreed to sell **1.98** pounds of nonpoint source phosphorus offsets (the Nutrient Credits) to Purchaser and retire the associated ratio of nonpoint source nitrogen offsets at the offset generating facility relating to:

 Project Name:  MOUNTAIN VIEW ELEMENTARY SCHOOL

Plan #:  WPO202200009

TMP: 09100-00-00-01300

Credits: 1.98

HUC: 02080204

Bank Sponsor HUC: 02080204

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1. Seller and Purchaser, as of the date hereof, have closed the transaction contemplated by

the Agreement and the Seller has sold to Purchaser the phosphorous offset credits.

WITNESS the following signature:

HOTEL STREET CAPITAL, L.L.C.

a Virginia limited liability company

By: GRAYSON LOVE & COMPANY, LLC, Managing Member

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Thomas James Ross II, Managing Member

STATE OF VIRGINIA

COUNTY OF FAUQUIER:

Sworn and subscribed before me this\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2022, by Thomas James Ross II, Managing Member of Grayson Love & Company, LLC, Manager of HOTEL STREET CAPITAL, L.L.C., a Virginia limited liability company.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

My Commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_