



**MITIGATION BANKING INSTRUMENT
AMENDMENT**

Roanoke River Wetlands and Stream Mitigation Bank
Franklin County, Virginia
Henry County, Virginia

Prepared for:

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This Addendum to the Roanoke River Wetland and Stream Mitigation Bank Mitigation Banking Instrument ("MBI") (approved in May 2011) is a regulatory authorization and approval of Roanoke River Wetlands and Stream Mitigation Bank, LLC's (hereinafter "the Sponsor") proposal to establish, operate, and maintain the Roanoke River Wetlands and Stream Mitigation Bank (hereinafter, the "Bank"), as specifically proposed and described herein. The Interagency Review Team ("IRT") has determined that this Bank, provided it conforms to all the MBI's terms and conditions, would be an environmentally acceptable source for purchase of compensatory mitigation credits by third-party permittees undertaking activities with specified categories of impacts within the service area of the Bank.

USACE approval of this instrument constitutes the regulatory approval required for the Roanoke River Wetland and Stream Mitigation Bank to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 C.F. R. 332.8(a)(1). This instrument is not a contract between the Sponsor or Property Owner and USACE or any other agency of the federal government. Any dispute arising under this instrument will not give rise to any claim by the Sponsor or Property Owner for monetary damages. This provision is controlling notwithstanding any other provision or statement in the Instrument to the contrary.

Additional regulatory authorizations may be required for wetland or stream impacts associated with establishment of the bank.

As more specifically identified herein, the IRT is composed of representatives of the U.S. Army Corps of Engineers ("Corps"), the U.S. Environmental Protection Agency ("EPA"), the U.S. Fish and Wildlife Service ("FWS"), the Virginia Department of Environmental Quality ("DEQ"), and the Virginia Marine Resources Commission ("VMRC"), as applicable.

All terms and conditions of the original MBI approved in May 2011 not specifically amended by this addendum remain in full force and effect.

I. MITIGATION BANK PURPOSE AND DESCRIPTION

B. Objectives: A primary objective of the Bank is to create a self-sustaining natural aquatic system that achieves the intended level of aquatic ecosystem functionality with minimal human intervention, including long-term site maintenance. The Sponsor's objectives of the Bank include improvements to wildlife habitat, water quality, flood conveyance and storage, and erosion control through the implementation of natural stream channel design, bank stabilization and bioengineering techniques, grade control and in-stream structures, the reestablishment and/or enhancement of riparian buffers, and the removal of detrimental land use activities (i.e., livestock exclusion) in riparian corridors.

Below is a summary of the proposed stream and riparian buffer mitigation work for the entire Bank. The linear footage and acres for the Bank Expansion Property are in parenthesis.

Stream restoration is proposed on approximately 5,576 (original) + 92 (Bank Expansion) linear feet of stream channel. The restoration of dimension, pattern, and profile of these stream reaches is proposed to improve the overall channel condition, stabilize channel banks, and re-establish hydraulic connectivity to flood prone areas. As depicted in the Bank Development Plan (Exhibit D, MBI), existing unstable E4, G4, and B4 stream types will be restored to stable B4 and C4 stream types. The slopes on these streams range from 1% to 30%.

Stream enhancement is proposed on approximately 5,317 (original) + 0 (Bank Expansion) linear feet of stream channel. In-stream structures, which provide grade control and aquatic habitat, are proposed to enhance the overall stream channel condition and stabilize channel banks. Bank grading and creating bankfull benches are proposed to provide access to floodplains and lower shear stress on the banks. Stream bank plantings are proposed to improve stream bank stability and provide shade for temperature regulation.

Stream preservation is proposed on approximately 4,393 (original) + 22,894 (Bank Expansion) linear feet of stream channel. These reaches exhibit stable pattern, profile and dimension with adequate riparian vegetation.

Riparian buffer preservation, and enhancement and/or re-establishment is proposed on approximately 1.7 acres (original) + 220.8 acres (Bank Expansion), and 153.9 acres (original) + 0 acres (Bank Expansion), respectively, which encompasses an area approximately 300 feet on either side of the stream channel, where appropriate. The goal is to provide overall health of the stream by filtering runoff, absorbing nutrients, and enhancing habitat for terrestrial and aquatic wildlife. In addition, the newly established riparian buffer will provide stream stability and restore the forest that once existed.

C. Location and Ownership of Parcel: The Bank Sponsor has sufficient and legal property interest in 419.82-acres of land in Henry and Franklin Counties, Virginia, as shown on the vicinity map (Exhibit A) and on the Master Plan dated July 29, 2014 (Exhibit B). The approved MBI, dated May 2011, contains 182.0 acres and the Bank Expansion with this amendment adds 237.82 acres, as shown on the location map (Exhibit A). Said parcels are

hereinafter referred to as the “Bank”. (2) The Bank Sponsor may elect to propose inclusion of additional lands in the Roanoke River watershed to be part of this MBI by proposing a Bank Development Plan for each new parcel as an amendment to this MBI.

The original Property encompasses approximately 358.9-acres, with 182.0-acres designated for the Bank, and is bisected by the Franklin and Henry County line. The Property is bounded by State Route 608 (Pawnee Lane / Fork Mountain Road) to the west and County Road 657 (Old Quarry Road) to the south. Parcels that fall within Franklin County are recorded in Deed Book 925, page 0706 and those that fall within Henry County are recorded in Deed Book 800, page 580. Table C-1 summarizes the property information and is included in Exhibit C.

The Bank Expansion Property encompasses approximately 392.95-acres, with 237.82-acres designated for the Bank, and is bisected by the Franklin and Henry County line. The Bank Expansion Property borders the existing Bank to the East. The additional parcels are recorded in Deed Book 265, page 0748, and Deed Book 771, page 1455 in Franklin County, Virginia.

Easements within the Property limits, including the Bank Expansion Property, include several overhead electric distribution lines, an Appalachian Power Company (APCO) transmission line, a buried cable utility line, a Lee Telephone Company easement, and a Plantation Pipe Line Company gas line. At the locations of the three culverts, VDOT maintains a drainage easement which extends approximately 25-feet upstream or downstream from the edge of the culvert. In addition, the entire Property has a Virginia Outdoors Foundation (VOF) easement which limits future development. Besides allowing agricultural and forestry practices, the easement also allows 1) wetland and stream bank restoration, or erosion control, pursuant to a governmental permit, 2) fencing along or within the buffer area, 3) construction and maintenance of stream crossings that do not obstruct water flow, and 4) creation and maintenance of foot or horse trails with unimproved surfaces. A plat depicting all known easements and the limits of the Bank is included in Exhibit C.

A title search of the property has been completed and results are included in Exhibit C.

D. Project Description: In accordance with this MBI, the Bank Sponsor will establish and/or maintain aquatic habitats and upland buffers (The “Bank”) in compliance with the provisions of this MBI and the Bank Development Plan (Exhibit D), and shall then maintain each phase of the Bank in such condition for ten (10) years. The Bank Sponsor shall be responsible for compliance with this MBI and the Bank Development Plan (BDP) until the Bank is closed in accordance with the Bank Closure Procedures or until all Credits are sold, whichever is later. The Bank area shall consist of a mixture of stream preservation, enhancement, and restoration; and riparian buffer preservation, enhancement, and re-establishment as described in Exhibit D.

E. Site Selection Factors: The Bank area has been evaluated in terms of the Virginia Offsite Mitigation Site Location Guidelines (dated February 12, 2008 or subsequent versions). The results of the evaluation are described in Exhibit E.

F. Baseline Conditions: The original Bank area is currently dominated by active livestock pastures, while the Bank Expansion property is dominated by hardwood forest, late succession regenerative growth, and pine stands. These features will be modified where appropriate so as to restore, enhance, or preserve existing stream functions on this site.

An on-site wetland and stream delineation was completed on the original property in July 2009 by Williamsburg Environmental Group, Inc. (WEG) and confirmed by the Corps in December 2009. The investigation identified 3.7 acres of non-tidal wetland and approximately 14,867 linear feet of non-tidal stream channel. Existing wetlands within the Bank site are classified as palustrine emergent (PEM) with small areas of palustrine forested (PFO).

An on-site wetland and stream delineation was completed on the Bank Expansion Property in October 2013 by WEG. The investigation identified 1.58-acres of non-tidal wetland and approximately 23,094 linear feet of non-tidal stream channel. This was confirmed by the Corps in the field in March 2014. Existing wetlands within the Bank Expansion Property are classified as palustrine forested (PFO).

The Bank Original Property is a mix of open and active farm pasture, mature hardwood forests, regenerative growth areas, and a few pine stands in the uplands. The farmed portion of the site is characterized by grassy knolls and steep slopes with small wooded areas centered on the existing stream channels. The vegetation along the riparian corridor over the majority of this area consists of pasture grasses with a mix of wetland herbaceous species in low-lying areas. The riparian buffer adjacent to some streams range from immature to mature. The mature areas generally have sufficient canopy coverage with scattered shrub and understory plant communities. Invasive species are also present in certain areas on the farmed portion of the site, specifically *Ailanthus altissima* (Tree-of-Heaven).

The Bank Expansion Property is characterized by mature bottomland and riparian hardwood forest; late-succession regenerative growth; forested and emergent wetlands; and few areas of pine stands in the uplands. The southern and eastern portion of the Expansion Property was harvested for timber eight-ten (8-10) years ago, while the northern and western portions have not been harvested for several decades. The elevation within the entire Bank ranges from 1,480 feet in the uplands in the north-eastern portion of the site to approximately 1,080 feet along the stream as it exits the southern portion of the site.

A baseline survey was completed in February 2010 for the stream channels designated as restoration or enhancement on the original property. The survey included profile data within restoration reaches and cross-section data in restoration and enhancement areas. Most stream channels are first order, originating on the Property while the largest streams (S1 and R3) are a third order stream. Detailed survey and geomorphological data for the restoration and enhancement reaches noted above are included in the BDP (Exhibit D, MBI).

G. Establishment and Use of Credits: In accordance with the provisions of this MBI and after IRT determination the Success Criteria contained herein have been satisfied, Mitigation

Credits (or "Credits" and as defined further herein) determined in accordance with Exhibit D of this MBI may serve as Mitigation in accordance with all applicable requirements for permits issued under Section 401 and 404 of the CWA, Section 10 of the Rivers and Harbors Act and Section 62.1-44.15:20-23 of the Code of Virginia. The sale, conveyance, or transfer of Credits includes all natural services, functions, and values associated with the resource from which Credits were derived. No Credit may be resold or used in any way in relation to another permit requirement, as compensation for another resource, or to satisfy the requirements of any other program. The preliminary number of Credits and the number of Credits available for initial release will be determined by the IRT based upon the approved concept plan. If the number of total Credits varies as a result of the approval of the mitigation site plan, the as-built plan, or subsequent monitoring reports, the number of Credits available will be adjusted accordingly in accordance with the terms and conditions contained herein.

H. IRT Members: As of the date of the MBI and subject to execution of the MBI by a duly authorized representative of the participating agencies described below, the Interagency Review Team (IRT) consists of the following agencies, though the individual representatives may change:

1. Corps, Chair, represented by Vinny Pero; and
2. EPA, represented by Stephanie Kubico; and
3. FWS, represented by Jennifer Stanhope; and
4. DEQ, Chair represented by Sarah Woodford; and
5. Virginia Department of Game and Inland Fisheries ("VDGIF"), represented by Amy Ewing; and
6. Virginia Department of Forestry ("DOF") represented by Edward Zimmer.

Each entity represented on the IRT may replace its representative upon written notice to the IRT Chair(s), the other IRT members, and the Bank Sponsor.

I. Disclaimer: This MBI does not warranty the ultimate viability of the Bank as a mitigation mechanism. Furthermore, all parties acknowledge that the permitting and resource agencies have statutory responsibilities concerning natural, cultural, and historic resources that are independent and separate from the actions identified in this MBI. The parties understand that agency signature to this MBI has no effect on the need for consultation between the Corps and resource agencies or in the nature and extent of recommendations or conditions made in any future project consultation. Nor can this MBI be considered to circumscribe or to limit the extent of any potential consultative recommendation made by a resource agency in the future.

J. Exhibits: The following Exhibits are incorporated by reference to this Addendum:

1. "Exhibit A," Vicinity and Location Maps
2. "Exhibit B," Master Plan
3. "Exhibit C," Plat and Title Search for the Bank Expansion Property
4. "Exhibit G," Escrow Agreement for Maintenance and Monitoring Fund
5. "Exhibit H," Escrow Agreement for Long-Term Management Fund

6. "Exhibit I," Escrow Agreement for Catastrophic Event Fund
7. "Exhibit J," Declaration of Restrictions for the Bank Expansion Property
8. "Exhibit L," Crediting and Debiting Procedure for the Bank
9. "Exhibit Q," Long-Term Management Plan

II. DEFINITIONS

22. MITIGATION PERFORMANCE – The outcome of the IRT's application of success criteria to a mitigation site, to include whether the Sponsor has met or satisfied the goals and objectives the Sponsor set forth in this MBI.

IV. ESTABLISHMENT OF THE BANK

A. Scope of Approval: The approval to sell credits is contingent upon the Bank Sponsor's compliance with the conditions contained herein during all phases of establishing, monitoring, and maintaining aquatic habitats and associated uplands buffers, as described in Exhibit D. The BDP (Exhibit D) is incorporated into the MBI, and the Bank Sponsor is responsible for the implementation of the BDP (Exhibit D).

D. Financial Assurance Requirements:

2. The Bank Sponsor may, at its discretion, with written approval of the IRT, replace such entities with a different company, agent, or entity registered to do business in the Commonwealth of Virginia. The Bank Sponsor shall provide the IRT with notice of its desire to replace the entity and a draft of the new assurance for review. The provisions of the new assurance shall conform to the provisions of the former assurance.

The Bank Sponsor shall provide notice to the IRT through the Chair(s) at least 120 days in advance of any planned termination or revocation of any Financial Assurance. Financial Assurance must be maintained, renewed, extended or replaced, and approved by the IRT so that it remains effective until the IRT certifies that satisfaction has been met and the Financial Assurance can be released.

3. Amounts from sale of Mitigation Credits are to be placed in the following funds:

b. Long Term Management Fund: The IRT intends that Banks and their functions and values be self-sustaining and not require any more long-term maintenance and monitoring than similar areas occurring naturally. A sufficient percentage of all proceeds from sale of mitigation credits based on an itemized analysis of the funds necessary for long-term management shall be placed within a separate escrow account to be called the Long-Term Management Fund (Exhibit H). The itemized analysis of the necessary funds may include, but is not limited to, expected long-term management costs that are required after the initial 10-year monitoring period, such as posting, fencing, maintenance of structures, control of invasive species, and legal

defense of any easements or restrictive covenants recorded to protect the Bank property. This itemized analysis shall be based upon the MBI, the mitigation plan, and an accepted methodology and must be approved by the Chair(s) prior to approval of the MBI. The itemized analysis will state the required percentage of proceeds and/or the dollar amount required for this Fund.

This Long-Term Management fund may be funded through a single lump sum payment upon approval of the MBI, through an IRT approved schedule of payments to be completed within five (5) years of approval of the MBI, or with 0.95% of proceeds from the sale of mitigation credits as stated in the previous paragraph. The Long-Term Management Fund will be fully funded with \$76,622 no later than five (5) years after original MBI approval, and an additional \$28,502 no later than five (5) years after approval of the Bank Expansion Addendum for a total of \$105,124, and no additional cash proceeds shall be placed into the account.

These funds shall be placed in a federally insured financial institution in an interest bearing account. No Long-Term Management Fund monies shall be used to finance any expense or activity other than those specified in the Long-Term Management and Maintenance Plan for long-term maintenance and management of the Bank unless approved by the IRT.

c. **Catastrophic Event Fund.** The IRT intends that Banks and their functions and values be self-sustaining and not incur any more Catastrophic Events than similar acreages, functions and values that exist naturally. Accordingly, the Catastrophic Event Fund is intended to provide funds to remediate damage caused by catastrophic events to features (e.g., created, enhanced or restored wetlands or streams) that are not self-sustaining and that are likely more vulnerable to such damage because of their location, design and/or construction to ensure that they continue to provide adequate compensatory mitigation. A sufficient percentage of all proceeds from the sale of Credits to address potential catastrophic events shall be placed within a separate escrow account to be called the Catastrophic Event Fund (Exhibit I). The Catastrophic Event Fund will be funded with 1.34% of proceeds from sale of mitigation credits until the fund has reached \$148,212, at which point the Catastrophic Event Fund shall be deemed fully funded and no additional cash proceeds shall be placed into the account. These funds shall be placed in a federally insured financial institution in an interest bearing account separate from any other accounts. No Catastrophic Event Fund monies shall be used to finance work or activities other than those repairs to the bank necessitated by the events specified in Section IV.E unless approved by the IRT, acting through the Chair(s).

In the event of a catastrophic event, as determined by the IRT that affects the long term viability of the Mitigation Bank, the IRT may: (i) inform the Bank Sponsor, if said event occurs while the Bank Sponsor's maintenance period is

in effect, that it is responsible to implement corrections which may be funded by a release of an appropriate amount of said funds; (ii) inform the escrow agent that it may release a specific amount of funds to the Long-Term Steward of the Mitigation Bank to make necessary corrections and/or manage the Bank, or (iii) inform the escrow agent that it may release a specific amount of funds to an Agency represented on the IRT, or its designee, to effect the necessary corrections. Any unspent funds shall remain in this fund if not utilized for a Catastrophic Event. The Catastrophic Event Fund and the Long-Term Management Fund will be transferred to the designated Long-Term Steward of the land for use in addressing future Catastrophic Events or land management requirements once all monitoring has been completed, and all Credits from the Bank have been Debited.

F. Real Estate Provisions: The Bank Sponsor is responsible for providing sufficient legal protection by means of a Protection Document (i.e. conservation easement, declaration of restrictions, etc.) of the Bank to insure that all requirements of the MBI are fulfilled and the Bank is protected in perpetuity consistent with the terms and conditions set out in the MBI (through the "Protection Document"). The Protection Document must be approved in writing by the IRT before it is recorded. The Bank Sponsor shall provide a copy of the recorded Protection Document to the IRT prior to sale or transfer of any Credits. The Protection Document shall be recorded in the chain of title for the Bank lands and must, among other things, ensure the right of ingress and egress for the Bank Sponsor, IRT, and Long-Term Steward of the Bank Site. A template Declaration of Restrictions is attached in Exhibit J, and it is preferred that this be used as the Protection Document.

The IRT agrees that, if a Protection Document approved by the IRT is recorded over the property with a non-profit conservation organization or government conservation organization named as Easement Holder, credit yield for the proposed mitigation may be considered by the IRT to have increased value of up to 5%. The IRT will consider the nature of the Protection Document, the identity of the easement holder, potential facilitated implementation and enforcement, reduction in potential of future disturbance such as government taking or eminent domain actions, and other such factors. Any proposed changes in Credit composition must be proposed and justified in the MBI and approved by the IRT.

A copy of the recorded Protection Document shall be provided to the Corps and DEQ within thirty (30) days of recording. Notwithstanding anything in this MBI or any related documents or Agreements, such as the Bank Development Plan, in NO EVENT can any Credits be released or sold or debited or credited until the Chair(s) receives proof of recording of approved Protection Document on the portions of the Bank over which Credits are sought. Such Protection Documents may not be altered, amended, terminated or vacated without written approval of the Chairs of the IRT.

The Bank Sponsor, Easement Holder, or Long-Term Steward shall provide the Chair(s) with sixty (60) day advance notice before any action is proposed to be taken to modify the Protection Document, management plan, or long-term protection mechanism, EXCEPT THAT the Protection Document, management plan or long-term protection mechanism MAY NOT be

altered, amended, modified, vacated or terminated in whole or in part in any way without the express written approval of the IRT, acting through the Chair(s).

V. OPERATION OF THE BANK

A. Service Area: The Bank is established to provide Mitigation to compensate for impacts to Waters of the United States and/or State Waters, including wetlands, within the service area depicted on the excerpt of the most current version of the National Watershed Boundary Dataset as shown in Exhibit K. This service area shall include Hydrologic Units 03010101 (except Montgomery, Roanoke, and Botetourt Counties), 03010103, 03010104, and 03010105 within the State of Virginia. The Service Area of the Bank is depicted in Exhibit K. At the sole discretion of the IRT, acting through its Chair, the Bank may be used to compensate for impacts outside this Service Area on a case-by-case basis through project specific permit decisions.

F. Schedule of Credit Availability: Upon submittal of all appropriate documentation by the Bank Sponsor, and subsequent approval by the IRT, acting through the Chair(s), the IRT Chair(s) will provide in writing the release of Credits to the Bank Sponsor in accordance with Corps regulations (33 CFR 332.8(g)(2) and (o)(8) and the following schedule:

1. Up to fifteen percent (15%) of anticipated Credits (excluding Credits derived from Stream Buffer Preservation) per phase/site plus 100% of Stream Buffer Preservation and 100% of Adjustment Factor Credits for livestock exclusion and watershed preservation may be available for Debiting upon implementation of the following:
 - (a) Approval of this MBI and the Bank Development Plan described in Exhibit D;
 - (b) Implementing (including funding) Financial Assurances necessary to secure the initial release of credits (Exhibit F) as well as establishing Escrow Accounts for the Monitoring and Maintenance, Long-Term Management, and Catastrophic Event Funds (Exhibits G-I);
 - (d) Securing the Property interests necessary for the Mitigation Bank (e.g. fee simple acquisition, easement, necessary or appropriate property interests) in its entirety (not just one or more phases of the bank site);
 - (e) A copy of the approved and recorded Protection Document that protects the site in perpetuity is provided to the IRT (Exhibit J);
 - (f) A schedule is submitted to the IRT that shows that the initial (i.e., Phase I) physical and biological improvements will be completed no later than the first full growing season following initial Debiting from the Bank;
 - (g) A Long-Term Management and Maintenance Plan approved by the IRT acting through the Chair(s) (Exhibit Q); and
 - (h) An electronic version of this MBI, the BDP, and associated exhibits is submitted to the IRT Chair(s) and/or uploaded to the Corps Regional Internet Bank Information Tracking System (RIBITS); and
 - (i) An updated title insurance policy that indicates no new encumbrances have been placed on the Property.

The first phase of the bank site should be large enough to offset this initial Credit release. The first phase shall begin construction within one year of the first sale or transfer of the initially released Credits. No additional releases of Credits will take place until a sufficient amount of compensatory mitigation meets success criteria to offset all debits from this initial release of Credits.

2. Wetland Credits beyond the initial release of Credits (typically 15%) can be released by the IRT, (acting through the Chair(s)) on the following schedule: 75% of potential Credits (90% cumulative) shall be released upon meeting the success criteria in Exhibit M, Section V 4.(a), (b), (c), (d), and (h) for intended forested wetlands. The remaining Credits for intended forested wetland areas (10% or 100% cumulative), shall be released at Monitoring Year 5 upon meeting success criteria (g) for wetlands.
3. Stream Buffer Enhancement/Restoration/Reestablishment Area: For those Credits associated with buffer area enhancement/restoration/reestablishment activities (as defined in Section II), release of Credits beyond the initial 15% will adhere to the following schedule:
 - a. Construction release:
 - o 10% (25% cumulative) upon completion of all initial physical and biological improvements made pursuant to the mitigation plan
 - b. After year 1 (the first year) following completion of construction:
 - o 65% of total credits (90% cumulative) derived from the area meeting success standards in Exhibit M, Section 3 a-c and subject to IRT approval, acting through the Chair(s) of the first year monitoring report
 - c. The final 10% of total credits (100% cumulative) shall be released when all success criteria (3a-d in Exhibit M) are met.
4. Stream Restoration and Enhancement: For those credits associated with stream restoration and enhancement activities (defined in Section II), release of credits beyond the initial 15% will adhere to the following schedule:
 - a. Construction release:
 - o 10% (25% cumulative) upon completion of all initial physical and biological improvements made pursuant to the mitigation plan
 - b. After Year 1 following completion of construction:
 - o if a bankfull event has not occurred this year and all success criteria are met and channel is stable, 10% credit release (35% cumulative)
 - o if a bankfull event has occurred this year, channel is stable and all success criteria are met, 25% credit release (50% cumulative).
 - c. After year 2 following completion of construction:

- if a bankfull event has not occurred and all success criteria are met and channel is stable, 10% credit release (up to 45% cumulative)
- if a bankfull event has occurred this year, channel is stable and all success criteria are met, 25% credit release (up to 75% cumulative).
- d. After year 3 following completion of construction:
 - if a bankfull event has not occurred and all success criteria are met and channel is stable, 10% credit release (up to 55% cumulative)
 - if a bankfull event has occurred this year, channel is stable and all success criteria are met, 25% credit release (up to 100% cumulative).
- e. After year 4:
 - if a bankfull event has not occurred and all success criteria are met and channel is stable, 10% credit release (up to 65% cumulative)
 - if a bankfull event has occurred this year, channel is stable and all success criteria are met, 25% credit release not to exceed the remaining available credits (up to 100% cumulative).
- f. No additional credits will be released after Year 4 until a bankfull event occurs. For each additional monitoring year, no more than 25% of total credits will be released not to exceed the remaining available credits if a bankfull event occurs that year, the channel is stable, and all success criteria are met.

VII. AUTHORITIES OF THE INTERAGENCY REVIEW TEAM (IRT)

A. The agencies represented on the IRT provide regulatory oversight of the Sponsor's activities related to establishing and carrying out provisions of this MBI. Where this document refers to an action by the IRT, it is intended that the IRT acts through its chairs.

B. The agencies represented on the IRT will review and provide comments on all project plans, proposed additions of land to the Bank, annual monitoring reports, credit review reports, contingency plans, and necessary permits for the Bank. Comments, if any, on the final construction documents for each phase as described in Exhibit D, additions of land to the Bank, monitoring reports, Credit review reports, contingency plans, and permits for Mitigation Bank construction and operation will be reviewed within thirty (30) calendar days from the date that the Corps provides a complete submittal to the IRT. The Corps Chair shall coordinate such review with members of the IRT so that comments can be provided within the ninety (90) day comment period.

C. The Corps Chair or the Corps RIBITS Administrator will update the credit ledger for the bank in RIBITS, within thirty (30) days of receiving reports or credit ledgers, unless the Bank Sponsor updates the Bank ledger in RIBITS.

D. The agencies represented on the IRT will review and approve reports on evaluation of Success Criteria prior to approving Credits within each phase of the Bank.

E. The agencies represented on the IRT may conduct compliance inspections, as necessary to verify Credits available in the Mitigation Bank, assess site conditions, and recommend corrective measures (if any) to the Bank Sponsor, until the terms and conditions of the BDP have been determined to be fully satisfied or until all Credits have been sold, whichever is later.

VIII. OTHER PROVISIONS

C. Dispute Resolution: Resolution of disputes regarding this MBI shall be in accordance with the Department of the Army and Environmental Protection Agency regulations entitled "Compensatory Mitigation for Aquatic Resources" (33 CFR Parts 325 and 332 and 40 CFR Part 230). Disputes related to satisfaction of Success Criteria may be subject to independent review from government agencies or academia that is not part of the IRT. The IRT will evaluate such review and conclusions or recommendations and determine whether the success criteria are met.

D. Validity, Modification, and Termination of the MBI: This MBI will become valid on the latter date of either the Bank Sponsor's signature or the signature of the representative of the Corps and DEQ.

This MBI may only be amended or modified with the written approval of all signatory parties. In the event the Bank Sponsor determines that modifications must be made in the BDP to ensure successful establishment of the Bank, the Bank Sponsor shall submit a written request for such modification to the IRT for approval. The IRT will not unreasonably withhold or delay such approval. Documentation of implemented modifications shall be made consistent with this agreement.

Any proposed modification to the Bank or Bank site, including but not limited to addition of lands to the Bank, establishment of additional Bank sites, additions of different types of mitigation Credit resources (e.g. stream or wetland Credits), or alteration of success criteria will require IRT review and likely amendment of the approved MBI to comply with Corps regulations at 33 CFR 332.8(g) and will likely require use of the most current approved MBI template in use in Virginia.

Any of the IRT members may terminate his/her participation upon written notification to all signatory parties without invalidating this MBI. Participation of the IRT member seeking termination will end thirty (30) days after such written notification.

This MBI (or any approved mitigation plans under an Umbrella Mitigation Bank Instrument) may be considered null and void by the IRT if the physical improvements identified in the mitigation plan (excluding the recordation of real estate instruments) have not been completed within five (5) years of the last date of signature or approval. The Bank Sponsor may reinstate the process by submitting a new prospectus (or mitigation plan for a Bank Site under an Umbrella Banking Instrument) consistent with the latest MBI template approved for use in Virginia.

E. Specific Language of MBI Shall Guide Interpretation of Exhibits: Any documents executed in accordance with this MBI shall be consistent with the terms herein. The parties agree that MBI exhibits and associated documents will be interpreted in accordance with the terms, conditions, and requirements of MBI.

K. Binding: This MBI shall be immediately valid upon execution by the Bank Sponsor and the Corps, even though it may not, at that time or in the future, be executed by the other potential parties to this MBI. The execution of this MBI by EPA, DEQ, or the USFWS, or other agency, city or county shall grant the executing agency's approval to the proposed Mitigation Bank, under the terms and conditions contained in this MBI, even though all or any of the other potential parties have not signed the MBI. Execution does not signify the agencies' approval of the use of Credits from this Bank in connection with any specific permit or project.

L. Transfer of Mitigation Responsibility: For projects in the service area of this Mitigation Bank that require Department of the Army authorization pursuant to Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, or the Virginia Water Protection Permit Regulations (9 VAC 25-210), if such authorizations require compensatory mitigation, credits from this Mitigation Bank may be used to satisfy those compensatory mitigation requirements if the Bank Sponsor and the Permittee reach a mutually acceptable financial agreement, subject to Corps and/or DEQ written approval on a case-by-case basis. **Notwithstanding anything in this Agreement, the Corps and DEQ have sole discretion over how many and what type of Credits are required for permits issued by such agency and whether Credits from this Bank are acceptable as mitigation.**

Upon approval of a proposal by the Permittee to secure mitigation bank Credits through a contract with this Mitigation Bank to satisfy all or part of the compensatory mitigation requirements for that Department of the Army and/or DEQ permit, a fully executed contract between the Bank Sponsor and the Permittee shall act to transfer to this Mitigation Bank the responsibility for the required compensatory mitigation to be provided, in perpetuity, by the Mitigation Bank in accordance with the permit.

IN WITNESS WHEREOF the Sponsor and the various IRT agencies have executed this Instrument on the date herein below last written.


Bank Sponsor, Authorized Agent

8-19-17
Date

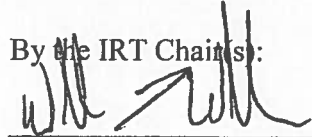

Land Owner(s)

8-18-17
Date

IN WITNESS WHEREOF the Sponsor and the various IRT agencies have executed this Instrument on the date herein below last written.

INTERAGENCY REVIEW TEAM

By the IRT Chair(s):



U.S Army Corps of Engineers, Norfolk District

By: William T. Wallen

Its: Chief, Regulatory Branch

8/3/2017

Date

IN WITNESS WHEREOF the Sponsor and the various IRT agencies have executed this Instrument on the date herein below last written.

INTERAGENCY REVIEW TEAM

By the IRT Chair(s):



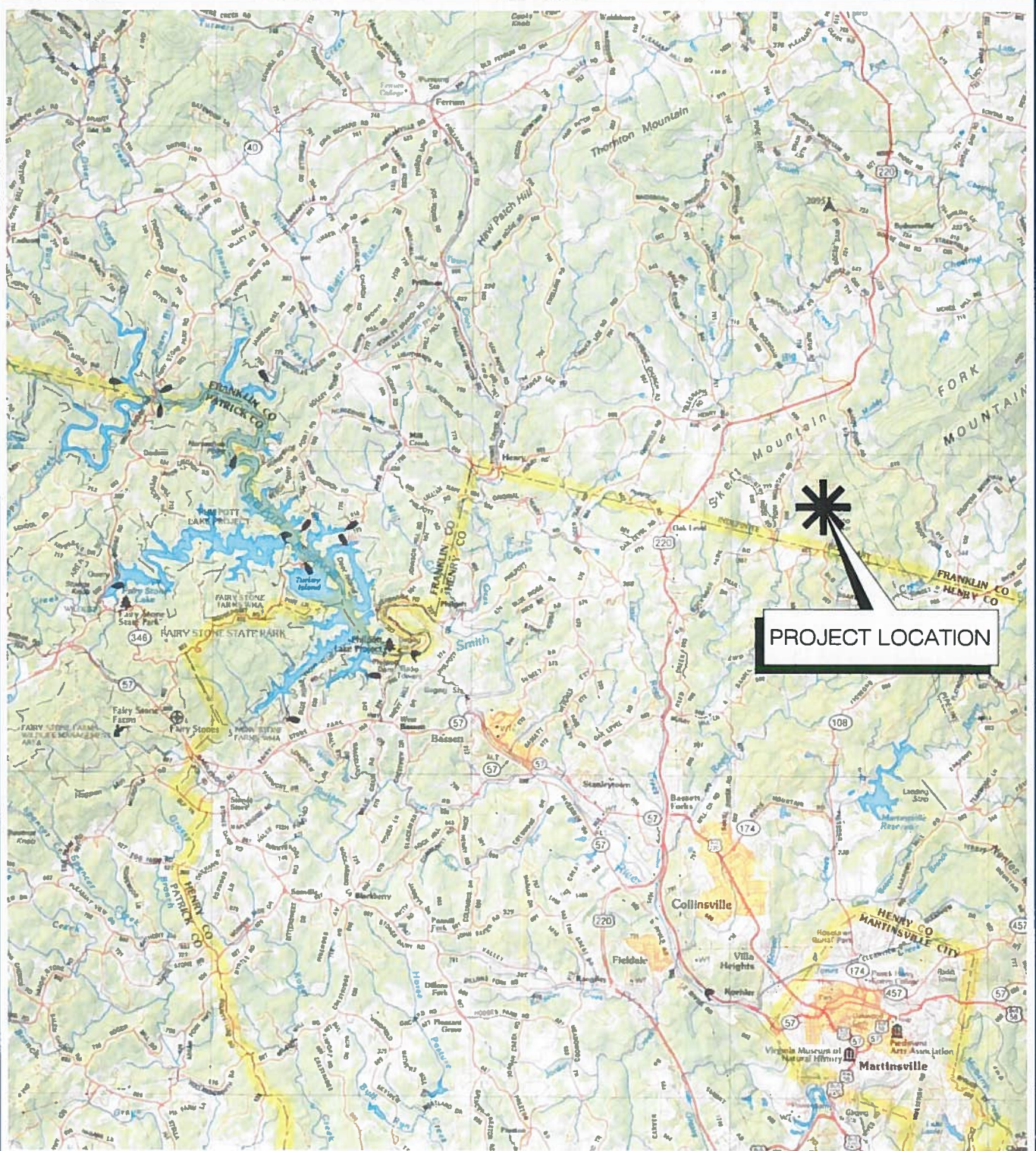
Virginia Department of Environmental Quality

08/16/2017
Date

By: DAVID L. DAVIS

Its: Dir., Ofc. of Wetlands & Stream Protection

Exhibit A
Vicinity and Location Maps



2.4 MILES 1.2 0 MILES 2.4 MILES
SCALE: 1 INCH = 2.4 MILES



**WILLIAMSBURG
ENVIRONMENTAL
GROUP, INC.**

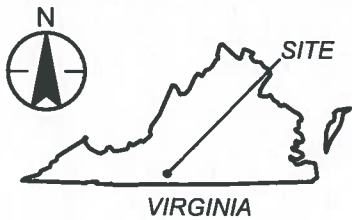
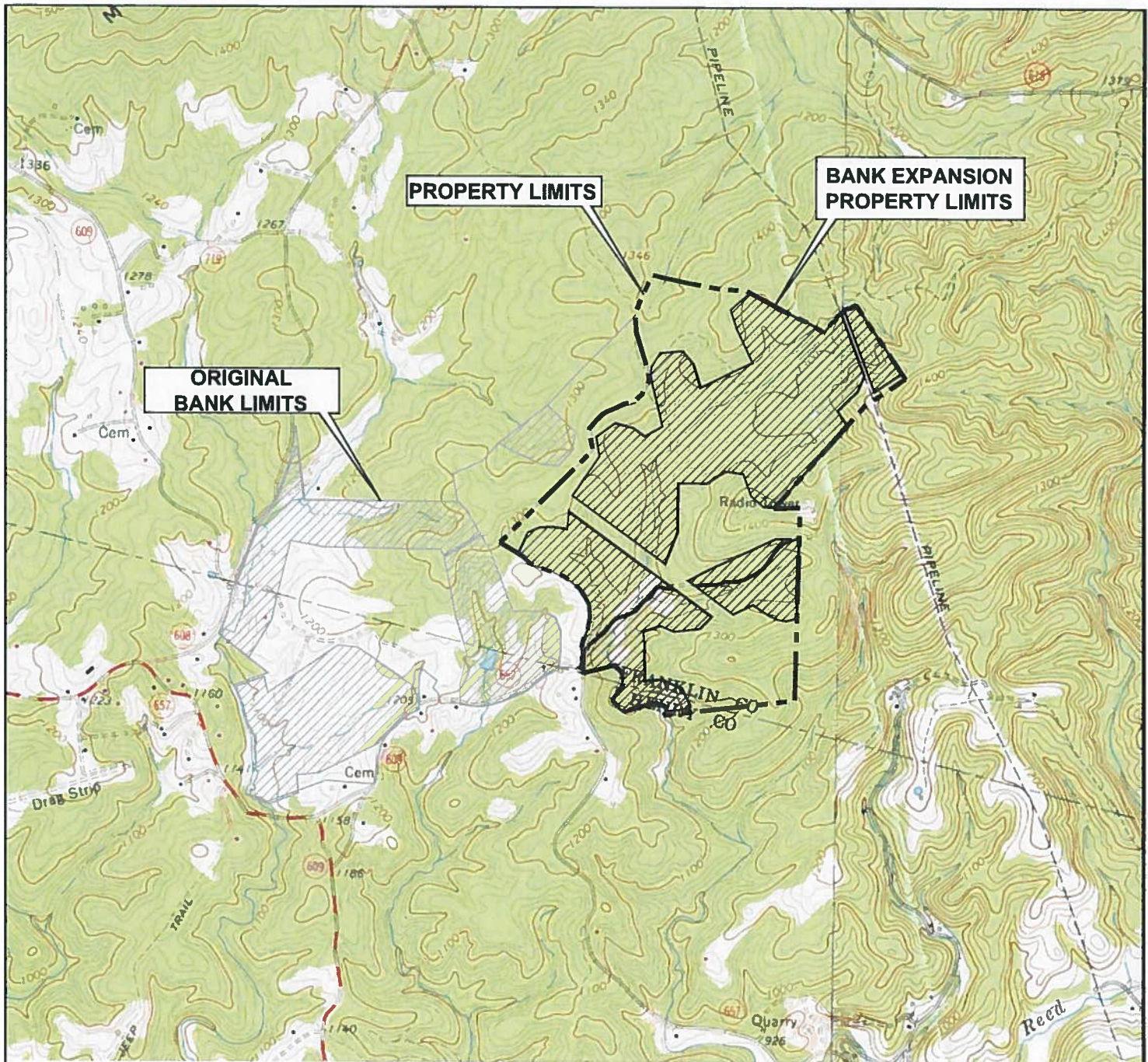
FIGURE 1

PROJECT VICINITY MAP
ROANOKE RIVER WETLANDS AND STREAM
MITIGATION BANK - ADDITIONAL PARCELS

SOURCE: VIRGINIA ATLAS AND GAZETTEER,
DeLORME MAPPING CO., 2005.

FRANKLIN CO., VA
AND HENRY CO., VA

MAY 2014



Latitude: 36° 48' 37.9" N
Longitude: 79° 53' 41.5" W

Image courtesy of the U.S.G.S. 7.5 Minute Series Topographic Map, Bassett, VA Quadrangle and Snow Creek, VA, 1965 (Revised 1978).



1011 Boulder Springs Drive, Suite 225
Richmond, VA 23225
PHONE: (804) 267-3474 FAX: (804) 267-3470

FOR:

ROANOKE RIVER WETLANDS AND
STREAM MITIGATION BANK
FRANKLIN AND HENRY CO.
VIRGINIA

JOB NUMBER:
203441891

DRAWN BY:
MAC

CHECKED BY:

APPROVED BY:

MK

FIGURE:

EXHIBIT A-2
SITE LOCATION MAP

DATE:
2016-08-11

FILEPATH: U:\203441891\07_cad\41891_locvic_20160811.dwg|slook|Aug 11, 2016 at 12:50|Layout: Loc and Vic Maps

Exhibit B
Master Plan

Exhibit C
Plat and Title Search &
Property Assessment & Warranty
Checklist

Property Assessment & Warranty Checklist (If items are applicable to this Bank):

- ☒ *Submittal and approval of the instrument confirming Sponsor or Bank Ownership of Bank lands or necessary interests in Bank land; may include land owner's grant, to the Bank Sponsor or Long-Term Steward of interests and access rights to the land. This instrument should demonstrate that the Bank Sponsor has the right to perform and protect in perpetuity all work, functions and values under the MBI. Such instrument must be recorded in the Bank land chain of title and must identify contact information for the Bank Sponsor or Long-term Steward. (file name = ExhC-Deed_of_Easement 2014)*
- ☐ *Protective document recorded by the landowner(s). (will use Exhibit J Declaration of Restrictions)*
- ☐ *N/A An executed conservation easement that includes a legal description prepared by a registered surveyor incorporating the conservation easement area and the proper recording fee. (will use Exhibit J Declaration of Restrictions)*
- ☒ *A title insurance policy insuring the Bank (title binder with filename = ExhC-Title Binder - 20140730)*
- ☒ *A 50-year ownership history of the Bank lands including copies of all documents that affect any interest in the Bank lands, including but not limited to easements, licenses, encumbrances, encroachments, mineral rights. (covered under the title insurance policy)*
- ☒ *Subordination of any property interest (e.g., mineral rights, mortgages, easements) which interferes with or is in conflict with establishment and protection of the mitigation Bank and/or Protection Document. (file name = ExhC-Subordination_Agreement_2014)*
- ☒ *A written statement and warranty from the owner of the Bank lands that there are no easements, encumbrances, or transfers of the property, in whole or in part, not disclosed in the title search. (covered under the title insurance policy)*
- ☐ *N/A A written statement from the owner of the Bank lands identifying any monies received, or expected to be received, for natural resources protection, enhancement, or restoration within the proposed Bank lands from federal or state agencies, grants, or non-profits. Acceptance and use of such funds does not prevent the approval of a mitigation Bank, however, credits may be adjusted accordingly as Credits will not be given under the MBI for functions, services or values that have already been considered as the basis for compensation or mitigation under any other program .*
- ☐ *N/A If the owner of the Bank lands is not an individual, documentation that the person executing the Protection Document has the authority to convey land on behalf of the company. (not necessary because owner of the additional lands is two individuals, both whom will sign documents)*

This information is necessary to determine if the bank sponsor has authority to enter into the wetland mitigation banking agreement and conservation easement, and to determine if there are defects in the property which would interfere with the establishment and protection of the mitigation bank. When the mitigation banking agreement and conservation easement are signed, they will be recorded by the DEQ with the county register of deeds.

☒ *Documents affecting the Bank lands, including the Protection Document must grant the Long-Term Steward enforcement authority concurrent with commencement of his/her/its responsibilities.*

☒ *If the Bank Sponsor is a company, documentation that the person signing the MBI has the authority to sign. (No. 10 from JPA – Contractor Certification). (file name = ExhC-Certificate_of_Incumbancy-signed.)*

CERTIFICATION: I am hereby requesting approval of a mitigation Bank by the IRT, DEQ, VMRC, U.S. Army Corps of Engineers, and/or Local Wetlands Boards for the activities I have described herein. I agree to allow the duly authorized representatives of any regulatory or advisory agency to enter upon the premises of the Bank lands at reasonable times to inspect and photograph site conditions, review proposals to approve the Bank and after Bank establishment, to determine compliance with the MBI.

In addition, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Bank Sponsor

Date

Notary Seal

Exhibit G

**ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC
MAINTENANCE AND MONITORING FUND**

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is made and entered into as of the _____ day of _____, 20__ by and among ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC, a Virginia limited liability company ("Sponsor") whose address is 5209 Center Street, Williamsburg, VA 23188, and KAUFMAN & CANOLES, P.C. ("Escrow Agent") whose address is 4801 Courthouse Street, Suite 300, Williamsburg, VA 23188, and this Escrow Agreement contains the agreements among the parties specifically described herein, and governs distribution of escrow funds associated with the Mitigation Banking Instrument as described below:

STATEMENT OF PURPOSE

Sponsor has entered into the Roanoke River Wetlands and Stream Mitigation Banking Instrument ("MBI") with the Interagency Review Team ("IRT"), which consists of the U.S. Army Corps of Engineers, Norfolk District ("Corps"); the Environmental Protection Agency ("EPA"); the U.S. Fish and Wildlife Service ("FWS"); the Virginia Department of Environmental Quality ("DEQ"), the Virginia Department of Game and Inland Fisheries ("VDGIF"), the Virginia Department of Conservation and Recreation ("DCR"), and the Virginia Department of Forestry ("VDOF"), represented by its Chair, the Corps, dated as of _____, 2010, governing the design, construction, monitoring, maintenance and use of a wetlands and stream mitigation bank on a parcel of land consisting of approximately 419.82 acres (182.0 acres original + 237.82 acres Bank expansion) located in Franklin and Henry Counties, Virginia, as more particularly described in the Mitigation Banking Instrument (the "Property"). The Sponsor desires to have the Escrow Agent hold certain funds in escrow and distribute said funds resulting from the sale of Mitigation Credits as required and detailed under the Mitigation Banking Instrument and pursuant to the terms of this Escrow Agreement.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Appointment.** The Sponsor hereby appoints the law firm of Kaufman & Canoles, P.C. as Escrow Agent hereunder, and by its execution thereof, Kaufman & Canoles, P.C. agrees to accept such appointment.
2. **Mitigation Sale Proceeds.** Sponsor shall cause Eight Percent (8%) of funds from any mitigation sales relating to the Property to be disbursed, delivered and deposited in a maintenance and monitoring fund escrow with the Escrow Agent as required by Section IV.D. of the Mitigation Banking Instrument. The Escrow Agent agrees to immediately deposit said funds in an escrow account at a federally insured depository institution, and to

hold and disburse said funds, and any interest earned thereon (together the "Mitigation Sales Proceeds") as hereinafter provided.

3. Notification of Receipt of Mitigation Sales Proceeds. Upon receipt of any Mitigation Sales Proceeds, Escrow Agent shall provide written confirmation to the Sponsor of receipt of such funds. The Sponsor shall forward copies of this confirmation to the Corps and DEQ

4. Release of Funds. The Escrow Agent may only disburse funds in accordance with a written and signed request of the Sponsor or the Long-Term Steward (if applicable), and the IRT.

5. Notification of Disbursement of Funds from Escrow Account. The Sponsor, the IRT, acting through its Chair, and/or the Long-Term Steward defined in the Mitigation Banking Instrument (if one has been designated) shall only request that Escrow Agent disburse said funds in accordance with the criteria established in Sections IV.D of the Mitigation Banking Instrument as necessary. The Escrow Agent agrees that it shall only honor requests for disbursements that are made in writing or via electronic mail. A copy of each request for disbursement shall be simultaneously sent by the Sponsor, IRT, or Long-Term Steward to the Escrow Agent.

Upon receiving written approval from the IRT Chair, including email approval, for any requested disbursement, the Escrow Agent shall release said funds requested by the Sponsor, the IRT, or the Long-Term Steward (if one has been designated) within five (5) days of receiving said approval.

6. Instructions. Escrow Agent is instructed and directed by the parties to comply with Section IV.D and E and Section VI. F, H, I, and J. of the Mitigation Banking Instrument and by its execution hereof agrees to comply with Section IV.D and E and Section VI. F, H, I, and J of the Mitigation Banking Instrument.

7. Duties of Escrow Agent/Exculpation. The Sponsor agrees that in performing any of its duties under this Agreement, that Escrow Agent shall not be liable to the Sponsor for any loss, costs or damage that it may incur as a result of its service as Escrow Agent hereunder, except for any loss, costs or damage arising out of its willful default or gross negligence. Accordingly, the Escrow Agent shall not incur any liability with respect to (a) any action taken or admitted to be taken in good faith with respect to any questions relating to its duties and responsibilities, or (b) to any action taken or admitted to be taken in reliance upon any document, including any written notice of instruction provided for in this Escrow Agreement, not only as to its due execution and validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believes to be genuine, believes to have been signed or presented by a proper person or persons and, in good faith believes to conform with the provisions of this Escrow Agreement. All requests for disbursement requires written approval by the IRT, so disbursements made without such approval are by definition willful or negligent and cannot

provide exculpation to the Escrow Agent. Note that this Agreement does not affect Sponsor's responsibility, obligation and liability under the MBI.

8. Indemnification. The Sponsor hereby agrees to indemnify and hold harmless the Escrow Agent and any and all of its partners, agents and/or employees acting hereunder, against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees and costs, which may be imposed upon or incurred by Escrow Agent in connection with its service as Escrow Agent, unless such losses, claims, damages, liabilities and expenses are the result of Escrow Agent's willful default or gross negligence.

9. Disputes. In an event of dispute between the Sponsor and the IRT, the Escrow Agent shall comply with the IRT, and the Sponsor agrees to defer to the IRT. With regard to disputes not involving the IRT, where circumstances warrant, the Escrow Agent may pay or interplead into the custody of any court of competent jurisdiction all money or Property held by it under the terms of this Escrow Agreement, together with such legal pleadings as it deems appropriate and immediately thereupon it shall be discharged from all duties and responsibilities hereunder.

10. Amendment. This Agreement may not be altered or amended except by a writing signed by all parties hereto.

11. Termination. Escrow Agent reserves the right to terminate this Escrow Agreement upon sixty (60) days written notice to Sponsor. Escrow Agent shall tender all money or property held by it under the terms of the Escrow Agreement to a successor escrow agent designated by Sponsor. Should Sponsor fail to designate a successor escrow agent within ninety (90) days of notice of termination from Escrow Agent, Sponsor agrees that Escrow Agent may (i) designate a successor escrow agent and tender all money or property held by it under the terms of the Escrow Agreement to the said designated successor escrow agent, or (ii) interplead all money or property held by it as permitted by paragraph 8 above.

12. Miscellaneous.

a. Severability. In the event that any provisions or portions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions hereof shall not be affected thereby.

b. Headings. The headings, subheadings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

c. Assignability. This Agreement may not be assigned by any party without the express written consent of all parties hereto.

d. Successors/Assigns. This Agreement shall be binding upon the parties, their agents, successors, permitted assigns, executors, heirs, administrators, and personal representatives and any other person or entity claiming a right on or through their behalf.

e. Governing Law. This Agreement shall be subject to and governed by the laws of the Commonwealth of Virginia.

f. Counterparts. This Agreement may be executed in separate counterparts, and taken together shall have the same effect as if all signatures were contained on the same page. Facsimile signatures shall be given the same effect as originals.

g. Defined Terms. Capitalized terms used in this Escrow Agreement and not otherwise defined shall have the meanings given them in the Mitigation Banking Instrument.

13. Revocation, Modification/Termination. In accordance with regulations at 33 CFR 332.3(n)(5), the Escrow Agent shall provide notice to the IRT through the Chair(s) at least 120 days in advance of any planned termination or revocation of financial assurances. Revocation or termination of financial assurances is subject to approval by the IRT.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be duly executed and sealed as of the day and year first above written.

SPONSOR:

ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC
a Virginia limited liability company

By: _____

ESCROW AGENT:

KAUFMAN & CANOLES, P.C.

By: _____

Exhibit H

**ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC
LONG TERM MANAGEMENT FUND**

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is made and entered into as of the _____ day of _____, 20__ by and among ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC, a Virginia limited liability company ("Sponsor") whose address is 5209 Center Street, Williamsburg, VA 23188, and KAUFMAN & CANOLES, P.C. ("Escrow Agent") whose address is 4801 Courthouse Street, Suite 300, Williamsburg, VA 23188, and this Escrow Agreement contains the agreements among the parties specifically described herein, and governs distribution of escrow funds associated with the Mitigation Banking Instrument as described below:

STATEMENT OF PURPOSE

Sponsor has entered into the Roanoke River Wetlands and Stream Mitigation Banking Instrument ("MBI") with the Interagency Review Team ("IRT"), which consists of the U.S. Army Corps of Engineers, Norfolk District ("Corps"); the Environmental Protection Agency ("EPA"); the U.S. Fish and Wildlife Service ("FWS"); the Virginia Department of Environmental Quality ("DEQ"), the Virginia Department of Game and Inland Fisheries ("VDGIF"), the Virginia Department of Conservation and Recreation ("DCR"), and the Virginia Department of Forestry ("VDOF"), represented by its Chair, the Corps, dated as of _____, 2010, governing the design, construction, monitoring, maintenance and use of a wetlands and stream mitigation bank on a parcel of land consisting of approximately 419.82 acres (182.0 acres original + 237.82 acres Bank expansion) located in Franklin and Henry Counties, Virginia, as more particularly described in the Mitigation Banking Instrument (the "Property"). The Sponsor desires to have the Escrow Agent hold certain funds in escrow and distribute said funds resulting from the sale of Mitigation Credits as required and detailed under the Mitigation Banking Instrument and pursuant to the terms of this Escrow Agreement.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Appointment.** The Sponsor hereby appoints the law firm of Kaufman & Canoles, P.C. as Escrow Agent hereunder, and by its execution thereof, Kaufman & Canoles, P.C. agrees to accept such appointment.
2. **Mitigation Sale Proceeds.** Sponsor shall cause 0.95% of funds from any mitigation sales relating to the Property to be disbursed, delivered and deposited in a long term management fund escrow with the Escrow Agent as required by Section IV.D. of the Mitigation Banking Instrument. The Escrow Agent agrees to immediately deposit said funds in an escrow account at a federally insured depository institution, and to hold and disburse

said funds, and any interest earned thereon (together the "Mitigation Sales Proceeds") as hereinafter provided.

3. Notification of Receipt of Mitigation Sales Proceeds. Upon receipt of any Mitigation Sales Proceeds, Escrow Agent shall provide written confirmation to the Sponsor of receipt of such funds. The Sponsor shall forward copies of this confirmation to the Corps and DEQ

4. Release of Funds. The Escrow Agent may only disburse funds in accordance with a written and signed request of the Sponsor or the Long-Term Steward (if applicable), and the IRT.

5. Notification of Disbursement of Funds from Escrow Account. The Sponsor, the IRT, acting through its Chair, and/or the Long-Term Steward defined in the Mitigation Banking Instrument (if one has been designated) shall only request that Escrow Agent disburse said funds in accordance with the criteria established in Sections IV.D of the Mitigation Banking Instrument as necessary. The Escrow Agent agrees that it shall only honor requests for disbursements that are made in writing or via electronic mail. A copy of each request for disbursement shall be simultaneously sent by the Sponsor, IRT, or Long-Term Steward to: the Escrow Agent.

Upon receiving written approval from the IRT Chair, including email approval, for any requested disbursement, the Escrow Agent shall release said funds requested by the Sponsor, the IRT, or the Long-Term Steward (if one has been designated) within five (5) days of receiving said approval.

6. Instructions. Escrow Agent is instructed and directed by the parties to comply with Section IV.D and E and Section VI. F, H, I, and J. of the Mitigation Banking Instrument and by its execution hereof agrees to comply with Section IV.D and E and Section VI. F, H, I, and J of the Mitigation Banking Instrument.

7. Duties of Escrow Agent/Exculpation. The Sponsor agrees that in performing any of its duties under this Agreement, that Escrow Agent shall not be liable to the Sponsor for any loss, costs or damage that it may incur as a result of its service as Escrow Agent hereunder, except for any loss, costs or damage arising out of its willful default or gross negligence. Accordingly, the Escrow Agent shall not incur any liability with respect to (a) any action taken or admitted to be taken in good faith with respect to any questions relating to its duties and responsibilities, or (b) to any action taken or admitted to be taken in reliance upon any document, including any written notice of instruction provided for in this Escrow Agreement, not only as to its due execution and validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believes to be genuine, believes to have been signed or presented by a proper person or persons and, in good faith believes to conform with the provisions of this Escrow Agreement. All requests for disbursement requires written approval by the IRT, so disbursements made without such approval are by definition willful or negligent and cannot provide exculpation to the Escrow Agent. Note that this Agreement does not affect

Sponsor's responsibility, obligation and liability under the MBI.

8. Indemnification. The Sponsor hereby agrees to indemnify and hold harmless the Escrow Agent and any and all of its partners, agents and/or employees acting hereunder, against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees and costs, which may be imposed upon or incurred by Escrow Agent in connection with its service as Escrow Agent, unless such losses, claims, damages, liabilities and expenses are the result of Escrow Agent's willful default or gross negligence.

9. Disputes. In an event of dispute between the Sponsor and the IRT, the Escrow Agent shall comply with the IRT, and the Sponsor agrees to defer to the IRT. With regard to disputes not involving the IRT, where circumstances warrant, the Escrow Agent may pay or interplead into the custody of any court of competent jurisdiction all money or Property held by it under the terms of this Escrow Agreement, together with such legal pleadings as it deems appropriate and immediately thereupon it shall be discharged from all duties and responsibilities hereunder.

10. Amendment. This Agreement may not be altered or amended except by a writing signed by all parties hereto.

11. Termination. Escrow Agent reserves the right to terminate this Escrow Agreement upon sixty (60) days written notice to Sponsor. Escrow Agent shall tender all money or property held by it under the terms of the Escrow Agreement to a successor escrow agent designated by Sponsor. Should Sponsor fail to designate a successor escrow agent within ninety (90) days of notice of termination from Escrow Agent, Sponsor agrees that Escrow Agent may (i) designate a successor escrow agent and tender all money or property held by it under the terms of the Escrow Agreement to the said designated successor escrow agent, or (ii) interplead all money or property held by it as permitted by paragraph 8 above.

12. Miscellaneous.

a. Severability. In the event that any provisions or portions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions hereof shall not be affected thereby.

b. Headings. The headings, subheadings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

c. Assignability. This Agreement may not be assigned by any party without the express written consent of all parties hereto.

d. Successors/Assigns. This Agreement shall be binding upon the parties, their agents, successors, permitted assigns, executors, heirs, administrators, and personal representatives and any other person or entity claiming a right on or through their behalf.

e. Governing Law. This Agreement shall be subject to and governed by the laws of the Commonwealth of Virginia.

Exhibit I

**ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC
CATASTROPHIC EVENT FUND**

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is made and entered into as of the _____ day of _____, 20__ by and among ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC, a Virginia limited liability company ("Sponsor") whose address is 5209 Center Street, Williamsburg, VA 23188, and KAUFMAN & CANOLES, P.C. ("Escrow Agent") whose address is 4801 Courthouse Street, Suite 300, Williamsburg, VA 23188, and this Escrow Agreement contains the agreements among the parties specifically described herein, and governs distribution of escrow funds associated with the Mitigation Banking Instrument as described below:

STATEMENT OF PURPOSE

Sponsor has entered into the Roanoke River Wetlands and Stream Mitigation Banking Instrument ("MBI") with the Interagency Review Team ("IRT"), which consists of the U.S. Army Corps of Engineers, Norfolk District ("Corps"); the Environmental Protection Agency ("EPA"); the U.S. Fish and Wildlife Service ("FWS"); the Virginia Department of Environmental Quality ("DEQ"), the Virginia Department of Game and Inland Fisheries ("VDGIF"), the Virginia Department of Conservation and Recreation ("DCR"), and the Virginia Department of Forestry ("VDof"), represented by its Chair, the Corps, dated as of _____, 2010, governing the design, construction, monitoring, maintenance and use of a wetlands and stream mitigation bank on a parcel of land consisting of approximately 419.82 acres (182.0 acres original + 237.82 acres Bank expansion) located in Franklin and Henry Counties, Virginia, as more particularly described in the Mitigation Banking Instrument (the "Property"). The Sponsor desires to have the Escrow Agent hold certain funds in escrow and distribute said funds resulting from the sale of Mitigation Credits as required and detailed under the Mitigation Banking Instrument and pursuant to the terms of this Escrow Agreement.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Appointment.** The Sponsor hereby appoints the law firm of Kaufman & Canoles, P.C. as Escrow Agent hereunder, and by its execution thereof, Kaufman & Canoles, P.C. agrees to accept such appointment.
2. **Mitigation Sale Proceeds.** Sponsor shall cause 1.34% of funds from any mitigation sales relating to the Property to be disbursed, delivered and deposited in a catastrophic event fund escrow with the Escrow Agent as required by Section IV.D. of the Mitigation Banking Instrument. The Escrow Agent agrees to immediately deposit said funds in an escrow account at a federally insured depository institution, and to hold and disburse

said funds, and any interest earned thereon (together the "Mitigation Sales Proceeds") as hereinafter provided.

3. Notification of Receipt of Mitigation Sales Proceeds. Upon receipt of any Mitigation Sales Proceeds, Escrow Agent shall provide written confirmation to the Sponsor of receipt of such funds. The Sponsor shall forward copies of this confirmation to the Corps and DEQ

4. Release of Funds. The Escrow Agent may only disburse funds in accordance with a written and signed request of the Sponsor or the Long-Term Steward (if applicable), and the IRT.

5. Notification of Disbursement of Funds from Escrow Account. The Sponsor, the IRT, acting through its Chair, and/or the Long-Term Steward defined in the Mitigation Banking Instrument (if one has been designated) shall only request that Escrow Agent disburse said funds in accordance with the criteria established in Sections IV.D. of the Mitigation Banking Instrument as necessary. The Escrow Agent agrees that it shall only honor requests for disbursements that are made in writing or via electronic mail. A copy of each request for disbursement shall be simultaneously sent by the Sponsor, IRT, or Long-Term Steward to the Escrow Agent.

Upon receiving written approval from the IRT Chair, including email approval, for any requested disbursement, the Escrow Agent shall release said funds requested by the Sponsor, the IRT, or the Long-Term Steward (if one has been designated) within five (5) days of receiving said approval.

6. Instructions. Escrow Agent is instructed and directed by the parties to comply with Section IV.D and E and Section VI. F, H, I, and J. of the Mitigation Banking Instrument and by its execution hereof agrees to comply with Section IV.D and E and Section VI. F, H, I, and J of the Mitigation Banking Instrument.

7. Duties of Escrow Agent/Exculpation. The Sponsor agrees that in performing any of its duties under this Agreement, that Escrow Agent shall not be liable to the Sponsor for any loss, costs or damage that it may incur as a result of its service as Escrow Agent hereunder, except for any loss, costs or damage arising out of its willful default or gross negligence. Accordingly, the Escrow Agent shall not incur any liability with respect to (a) any action taken or admitted to be taken in good faith with respect to any questions relating to its duties and responsibilities, or (b) to any action taken or admitted to be taken in reliance upon any document, including any written notice of instruction provided for in this Escrow Agreement, not only as to its due execution and validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believes to be genuine, believes to have been signed or presented by a proper person or persons and, in good faith believes to conform with the provisions of this Escrow Agreement. All requests for disbursement requires written approval by the IRT, so disbursements made without such approval are by definition willful or negligent and cannot provide exculpation to the Escrow Agent. Note that this Agreement does not affect

Sponsor's responsibility, obligation and liability under the MBI.

8. Indemnification. The Sponsor hereby agrees to indemnify and hold harmless the Escrow Agent and any and all of its partners, agents and/or employees acting hereunder, against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees and costs, which may be imposed upon or incurred by Escrow Agent in connection with its service as Escrow Agent, unless such losses, claims, damages, liabilities and expenses are the result of Escrow Agent's willful default or gross negligence.

9. Disputes. In an event of dispute between the Sponsor and the IRT, the Escrow Agent shall comply with the IRT, and the Sponsor agrees to defer to the IRT. With regard to disputes not involving the IRT, where circumstances warrant, the Escrow Agent may pay or interplead into the custody of any court of competent jurisdiction all money or Property held by it under the terms of this Escrow Agreement, together with such legal pleadings as it deems appropriate and immediately thereupon it shall be discharged from all duties and responsibilities hereunder.

10. Amendment. This Agreement may not be altered or amended except by a writing signed by all parties hereto.

11. Termination. Escrow Agent reserves the right to terminate this Escrow Agreement upon sixty (60) days written notice to Sponsor. Escrow Agent shall tender all money or property held by it under the terms of the Escrow Agreement to a successor escrow agent designated by Sponsor. Should Sponsor fail to designate a successor escrow agent within ninety (90) days of notice of termination from Escrow Agent, Sponsor agrees that Escrow Agent may (i) designate a successor escrow agent and tender all money or property held by it under the terms of the Escrow Agreement to the said designated successor escrow agent, or (ii) interplead all money or property held by it as permitted by paragraph 8 above.

12. Miscellaneous.

a. Severability. In the event that any provisions or portions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions hereof shall not be affected thereby.

b. Headings. The headings, subheadings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

c. Assignability. This Agreement may not be assigned by any party without the express written consent of all parties hereto.

d. Successors/Assigns. This Agreement shall be binding upon the parties, their agents, successors, permitted assigns, executors, heirs, administrators, and personal representatives and any other person or entity claiming a right on or through their behalf.

e. Governing Law. This Agreement shall be subject to and governed by the laws of the Commonwealth of Virginia.

f. Counterparts. This Agreement may be executed in separate counterparts, and taken together shall have the same effect as if all signatures were contained on the same page. Facsimile signatures shall be given the same effect as originals.

g. Defined Terms. Capitalized terms used in this Escrow Agreement and not otherwise defined shall have the meanings given them in the Mitigation Banking Instrument.

13. Revocation, Modification/Termination. In accordance with regulations at 33 CFR 332.3(n)(5), the Escrow Agent shall provide notice to the IRT through the Chair(s) at least 120 days in advance of any planned termination or revocation of financial assurances. Revocation or termination of financial assurances is subject to approval by the IRT.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be duly executed and sealed as of the day and year first above written.

SPONSOR:

ROANOKE RIVER WETLANDS AND STREAM MITIGATION BANK, LLC
a Virginia limited liability company

By: _____

ESCROW AGENT:

KAUFMAN & CANOLES, P.C.

By: _____

Exhibit J

Prepared by/after recording return to:
Kaufman & Canoles, P.C.
4801 Courthouse Street, Suite 300
Williamsburg, VA 23188
(757) 259-3800

Henry County Tax Map No.: Portion of 242655000
Franklin County Tax Map Nos.: Portion(s) of 1190006700; 1190002900; 1190003000

DECLARATION OF RESTRICTIONS

OF

ROANOKE RIVER WETLANDS AND STREAM MIGITATION BANK, LLC

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this ____ day of _____, 20____, by **DANNY L. THOMPSON** and **MARTHA H. THOMPSON**, husband and wife (the "Owners"), to be indexed as Grantors, provides as follows:

Recitals:

WHEREAS, Danny L. Thompson and Martha H. Thompson are the owners of certain property more fully described on **EXHIBIT A** attached hereto ("Parcel 1"); it being a portion of the same property conveyed to Danny L. Thompson and Martha H. Thompson, husband and wife, by deed dated February 19, 2013 from Hopkins, L.L.C., said deed recorded in the Clerk's Office of the Circuit Court of Franklin County, Virginia ("Franklin County Clerk's Office") in Deed Book 1028, page 1756, and the Clerk's Office of the Circuit Court of Henry County, Virginia (the "Henry County Clerk's Office"), as Instrument Number 130000622;

WHEREAS, Danny L. Thompson and Martha H. Thompson are the owners of certain property more fully described on **EXHIBIT B** attached hereto ("Parcel 2"); it being a portion of the same property conveyed to Danny L. Thompson and Martha H. Thompson, husband and wife, by deed dated January 10, 2013 from James W. Elliott, Special Commissioner, said deed recorded in the Franklin County Clerk's Office in Deed Book 1026, page 2761;

WHEREAS, Danny L. Thompson and Martha H. Thompson are the owners of certain property more fully described on **EXHIBIT C** attached hereto ("Parcel 3" and together with Parcel 1 and Parcel 2, collectively, the "Property"); it being the same property conveyed to Danny L. Thompson and Martha H. Thompson, husband and wife, by deed dated April 12, 2013 from Benton Bray Blackard and Dathne Blackard Barbour, Co-Administrators C.T.A. of the Estate of Benton S. Blackard and Co-Trustees of the Benton S. Blackard Trust, said deed recorded in the Franklin County Clerk's Office as Instrument Number 130003046;

WHEREAS, Owners desire to comply with the conditions of the Mitigation Banking Instrument (the "MBI") between Roanoke River Wetlands and Stream Mitigation Bank, LLC and the Interagency Review Team ("IRT"), which consists of the U.S. Army Corps of Engineers (the "Corps") U.S. Environmental Protection Agency ("EPA") the U.S. Fish and Wildlife Service ("FWS"), the Virginia Department of Environmental Quality ("DEQ"), Virginia Department of Conservation and Recreation ("DCR"), the Virginia Department of Forestry ("VDOF"), and the Virginia Department of Game and Inland Fisheries ("DGIF"), dated May 2011, by imposing these restrictive covenants on portions of the Property that may consist of preserved wetlands and streams, restored wetlands and streams, enhanced wetlands and streams, created wetlands, uplands, riparian buffers, and areas to be converted into wetlands.

WHEREAS, Owners desire to impose restrictive covenants in perpetuity expressing Owners' intent to preserve 237.82 acres of the Property (the "Mitigation Area") as shown on the plat attached as EXHIBIT D, and as described as the Roanoke River Wetlands and Stream Mitigation Bank in perpetuity as detailed below. These covenants are imposed by the Owners freely and voluntarily.

WHEREAS, the Property may contain land, functions, values and services that serve as compensation and mitigation for impacts to state waters and Waters of the U. S. that were permitted by the Corps and the DEQ;

WHEREAS, on account of the fact that the Property may serve as compensation for such above- referenced impacts, the Corps and the DEQ are third-party beneficiaries under this Declaration of Restrictive Covenants; and

NOW THEREFORE THIS DECLARATION WITNESSETH: Owners do hereby declare, covenant and agree, for themselves and their successors and assigns, that said Mitigation Area shall hereafter be held, leased, transferred and sold subject to the following conditions and restrictions which shall run with the land and be binding in perpetuity and forever on all parties and persons claiming under them.

Covenants and Restrictions:

1. **Covenants.** The Mitigation Area shall be preserved in perpetuity in its natural state, by prohibiting the following activities:

1.1 Destruction or alteration of the area shown on EXHIBIT D, except:

a) Alteration necessary to construct the Mitigation Area and associated improvements, such as dams, outlet structures and spillways, nature trails, and interpretive stations, proposed to be built by Roanoke River Wetlands and Stream Mitigation Bank, LLC, or its successors and/or assigns, for the Roanoke River Wetlands and Stream Mitigation Bank as approved in the MBI;

b) Alterations necessary to ensure the success of the Roanoke River Wetlands and Stream Mitigation Bank including monitoring, reconstruction or maintenance of the constructed Mitigation Area as approved by the IRT;

c) With approval of the IRT, alterations to construct structures such as walkways, boardwalks, foot trails, wildlife observation or management structures, benches, observation decks, picnic tables, fence posts (spaced in a manner so that neither the posts nor the fence itself prevents the natural movement of water), fish ladders, and ecological, biological, hydrological or chemical monitoring, observation or management equipment including, without limitation, monitoring wells, water control weirs or interpretive stations, or other structures approved by the IRT, provided that

(i) Any such structures permit, and do not impede, the natural movement of water, and

(ii) Such facilities are constructed and maintained in accordance with all applicable federal and state laws;

d) Addition of signs constructed in public right of ways by or on behalf of the Virginia Department of Transportation or other governmental agencies;

e) Removal of vegetation (where not precluded by federal or state law) when approved by the IRT and conducted for

(i) Removal of noxious or invasive plants, or

(ii) Public safety purposes

f) Planting of native species of wetlands plants by hand for aesthetic landscaping or screening purposes and where not prohibited by the MBI; and

g) Alteration as reasonably necessary to comply with state or federal law or appropriate court order.

1.2 Construction, maintenance or placement of any structures or fills including but not limited to buildings, building pads, mobile homes, other than those which currently exist.

1.3 Ditching, draining, diking, damming, filling, excavating, grading, plowing, flooding/ponding, mining or drilling, placing of trash and yard debris or removing/adding topsoil, sand, or other materials (except as may be necessary on a case-by-case basis with prior written approval by the IRT), other than any authorized under the MBI.

1.4 Permitting livestock to graze, inhabit or otherwise enter the preservation area.

1.5 **Harvesting, cutting, logging, and pruning of trees and plants, or using fertilizers and spraying with biocides other than what is authorized by the MBI (except as may be necessary on a case-by-case basis with prior approval by the IRT).**

1.6 **Utilizing a non-reporting Nationwide Permit or State Program General Permit under Section 404 of the Clean Water Act or state general permits under VWPP regulations to impact any Water of the U.S., or any State Waters on the Property. Notification shall be required for the use of any Nationwide Permit, State Program General Permit, Regional Permit, or state general permit under VWPP regulations.**

1.7 **Further subdividing the area shown on Exhibit C.**

2. **Restrictions.** The Property (as defined above, and intended here to refer specifically to the lands surrounding the Mitigation Area) shall be restricted as follows:

2.1. **No livestock shall be permitted upon the Property, including without limitation the grazing, pasturage, storing, running or other activities requiring or involving the presence of livestock on the Property.**

2.2. **The Owners, their successors and or assigns may obtain relief from the provisions of this paragraph restricting the activities of livestock outside the Mitigation Area upon erection and maintenance of a fence preventing livestock from entering into the Mitigation Area.**

3. **Amendment.** This Declaration and the covenants contained herein shall not hereafter be altered in any respect without the express written approval and consent of the Owners or their successor in interest and the IRT. The Owners or their successor may apply to the IRT for vacation or modification of this declaration; however, after recording, these restrictive covenants may only be amended or vacated by a recorded document signed by the signatory members of the IRT and the Owners or their successor in interest.

4. **Notice.** The Corps and DEQ shall be provided with a 60-day advance written notice of any legal action concerning these restrictive covenants or of any action to extinguish, void or modify the restrictive covenants in whole or in part. These restrictive covenants are intended to survive foreclosure, bankruptcy, condemnation or judgments affecting this Property.

5. **Compliance Inspections and Enforcement.** The IRT, and its authorized agents and the designated Long Term Steward of the Mitigation Bank, shall have the right to enter and go on the Property to inspect the Mitigation Area and take actions necessary to verify compliance with these restrictive covenants. The restrictive covenants herein shall be enforceable by any proceeding at law or in equity or administrative proceeding by the IRT, including the Corps or DEQ or citizens. Failure by any agency (or owner) to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the rights to do so thereafter.

6. **Provision.** Should an easement, right, or lease on or to the Property not shown on the survey or listed in Exhibit A or Exhibit B, and prior in time and recording to these restrictive covenants, or unrecorded, be exercised in such a manner that it conflicts with or voids the prohibited uses of the Mitigation Area set out in these restrictive covenants, then the Bank Sponsor of the Bank shall be responsible for providing alternative conservation mitigation in such amounts and of such service and function as the Corps, DEQ, IRT or any enforcer of these restrictive covenants shall determine in accordance with the Clean Water Act and/or Sections 62.1-44.15:20-23 of the Code of Virginia.

7. **Eminent Domain**

7.1 If any Property is condemned or taken pursuant to governmental action or other exercise of the power of eminent domain (a "Taking"), or if Bank Sponsor or Owner of the property receives notice of a potential Taking, Bank Sponsor will notify IRT in writing.

7.2 Bank Sponsor has the obligation to pursue an award for the value of any Lost Mitigation (as defined in subsection (c)). If Bank Sponsor or Owner of the property receives an award or any type of compensation from or related to the Taking that represents the value of any Lost Mitigation, then Bank Sponsor will use that award, net of the cost and expense incurred by Bank Sponsor or Owner of the Property to pursue the award, to replace the Lost Mitigation, in accordance with instructions and approval of the IRT.

7.3 For purposes of this Section, "Lost Mitigation" means those Functions and Values (as hereafter defined) lost in the Taking for which credits have been sold by Bank Sponsor at the time of the Taking. "Functions and Values" means preservation, enhancement and restoration of streams, wetlands and other aquatic resources.

7.4 It is the intention of Bank Sponsor and IRT that (i) this section requires Bank Sponsor to replace lost Functions and Values only when Bank Sponsor has, as of the time of the Taking, sold the credits derived from the lost Functions and Values and (ii) Bank Sponsor's obligation under those circumstances is limited to the award Bank Sponsor or Owner of the property receives for the value of the lost Functions and Values, net of the cost and expense incurred by Bank Sponsor or Owner of the Property to pursue the award.

8. **Litigation in Court.** In any state court action, Corps reserves the right to be represented by the U.S. Department of Justice and/or to remove a legal action affecting jurisdictional waters of the U.S. to the United States Federal District court in the district where the land lies.

9. **Separability Provision.** The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or

any portion thereof shall not affect the validity or enforceability of any other provision thereof.

10. Consent of Lender and Trustee.

10.1 The Lyons State Bank is the noteholder of obligations which are secured by, among other things, a deed of trust dated March 12, 2013, from Danny L. Thompson and Martha H. Thompson to Dale Profitt, trustee, recorded in the Franklin County Clerk's Office in Deed Book 1029 at page 1925 and recorded in the Henry County Clerk's Office as Instrument Number 130001961, which said deed of trust grants a lien on Parcel 1 and Parcel 2.

10.2 The Lyons State Bank is the noteholder of obligations which are secured by, among other things, a deed of trust dated April 15, 2013, from Danny L. Thompson and Martha H. Thompson to Dale Profitt, trustee, recorded in the Franklin County Clerk's Office in Deed Book 1031, page 1476 as Instrument Number 130003047, which said deed of trust grants a lien on Parcel 3.

10.3 The trustees of the above-described deeds of trust joins in execution of this Declaration for purposes of agreeing to subordination of the liens of the aforesaid deeds of trust to the terms and conditions of this Declaration.

Remainder of page intentionally blank.

WITNESS the following signature the day and year first above written.

_____(SEAL)
DANNY L. THOMPSON

STATE OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

The foregoing document was acknowledged before me this ____ day of _____,
2014, by DANNY L. THOMPSON, who is personally known to me or produced a valid form
of proof of identification.

Notary Public

My commission expires: _____

My registration number is _____

_____(SEAL)
MARTHA H. THOMPSON

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing document was acknowledged before me this ____ day of _____, 2014, by MARTHA H. THOMPSON, who is personally known to me or produced a valid form of proof of identification.

Notary Public

My commission expires: _____

My registration number is _____

TRUSTEE:

By: _____ (SEAL)

Name: _____

STATE OF _____,
CITY/COUNTY OF _____, to-wit:

The foregoing document was acknowledged before me this _____ day of
_____, 2014, by _____ as trustee, who is personally
known to me or produced a valid form of proof of identification.

Notary Public

My commission expires: _____

Registration Number: _____

EXHIBIT A

Parcel 1

The land referred to herein below is situated in the County of Franklin and the County of Henry, Commonwealth of Virginia, and is described as follows:

ALL that certain tract or parcel of real estate belonging, situate and being mostly in the Snow Creek Magisterial District of Franklin County, Virginia and partially in the Reed Creek Magisterial District of Henry County, Virginia, containing 197.0273 acres, more or less, as shown on that certain plat of survey by Larry G. Rakes, L.S., a copy of said survey being of record in the Office of the Clerk of the Circuit Court of Franklin County, Virginia, in Deed Book 768, page 960 and in Deed Book 1028, page 1759, being of record in the Office of the Clerk of the Circuit Court of Henry County, Virginia, a part of Instrument #130000622.

EXHIBIT B

Parcel 2

The land referenced to herein below is situated in the County of Franklin, Commonwealth of Virginia, and is described as follows:

ALL that certain tract or parcel of real estate thereunto belonging, situate and being in the Snow Creek Magisterial District of Franklin County, Virginia, lying near County Route 618, containing 83 acres, more or less, nevertheless this being a conveyance in gross by the boundary and not by the acre.

TOGETHER WITH a perpetual right of way easement for access over the 68 acre parcel of land presently owned by Danny L. Thompson and Martha H. Thompson, which was conveyed to the said Danny L. Thompson and Martha H. Thompson by Deed of record in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Deed Book 925, page 706, to and from the presently existing State Road.

EXHIBIT C

Parcel 3

ALL that certain tract or parcel of real estate belonging, situate and being mostly in the Snow Creek Magisterial District of Franklin County, Virginia, containing 97.702 acres, more or less, as shown on that certain plat of survey by J.A. Gustin, L.S., dated April 22, 1985, a copy of said survey recorded in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Deed Book 1031, page 1470.

TOGETHER WITH a perpetual right of way easement for access to the above described property over Parcel 2 of land presently owned by Danny L. Thompson and Martha H. Thompson, which was conveyed to the said Danny L. Thompson and Martha H. Thompson by Deed of record in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Deed Book 1026, page 2761, and over that 68 acre parcel of land presently owned by Danny L. Thompson and Martha H. Thompson by Deed of record in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Deed Book 925, page 706, to and from the presently existing State Road to provide access to the above described property.

EXHIBIT D

Plat Showing Mitigation Bank Easement Containing 237.82 Acres in Favor of
Roanoke River Wetlands and Stream Mitigation Bank, LLC
Located in Franklin and Henry Counties, Virginia

Exhibit L

Crediting and Debiting Procedure for the Bank

I. Impact Debit Values

The U.S. Army Corps of Engineers ("Corps") and the Virginia Department of Environmental Quality ("DEQ") shall determine the appropriate and specific number of Mitigation Credits necessary to be Debited against the Bank to achieve no net loss of Functions and values during the permit process based upon their use of methods determined to be appropriate by said agencies, of the impact areas and the status of this Bank

II. Mitigation Credit Creation

A. Pre- Construction

Mitigation Credits shall be created by development of a Mitigation area in substantial conformance with the Mitigation Site Plan described in Exhibit D (BDP) of the Banking Instrument. The number of Credits created by this Mitigation Bank shall initially be based upon the Bank Development Plan.

Stream credits are derived using the USM or current stream assessment and credit methodology. Credits may then be adjusted by the IRT if as-built conditions differ substantially from the areas projected in the Mitigation Site Plan projections as determined by the IRT acting through the IRT Chair(s). Adjustments may include changes in the number of available Credits, credit composition, or minimum credit ratios associated with use of the Bank. Each acre of land area within the Bank described in Exhibit B shall be designated by the Mitigation Site Plan as to which types of land forms, as classified by the Cowardin System, shall be restored or created by grading and/or water impoundment. The number of Credits created by this plan shall be based on community or cover type and the use of the Unified Stream Methodology.

The exact number of Credits created is determined by the Mitigation Site Plan and adjusted based upon final as-built conditions. The number of Credits is estimated to be: zero (0) wetland credits and 20,866 (original) + 6,767 (Bank expansion) stream credits.

The IRT agrees that if a conservation easement approved by the IRT is recorded over the property with a Long-Term Steward approved by the IRT named as easement holder, credit composition will be revised so that 5% less land area is required to generate a mitigation credit than would be required under a restrictive covenant. *The conservation organization must meet the following criteria:*