

Purchase Agreement for State Tax Credits

September 15, 2018

This Purchase Agreement for State Tax Credits ("Agreement") is dated as of _____, 2018 by and between **The Sherwin-Williams Company**, an Ohio corporation, with its principal place of business at 101 Prospect Avenue, NW, Cleveland, OH 44115 ("Investor"), and **Pinellas County**, a political subdivision of the state of Florida ("Owner"), with its principal place of business at 400 S. Ft. Harrison Avenue, Clearwater, FL 33756.

In consideration of the mutual promises of the parties hereto and other valuable consideration, the receipt of which is mutually acknowledged, the parties agree as follows:

Projects: **Dansville North Historic Landfill Site, 126th Avenue North Dump and Dansville South Historic Landfill Site – Largo, Florida**

Voluntary cleanup of three Brownfield sites which qualify for Tax Credits as described below.

Tax Credits: Florida Voluntary Cleanup Tax Credit Certificates in the total amount of **\$338,831.47** issued in Calendar Year 2018 ("Tax Credit Certificates"), as follows:

<u>VCTC Appl. #</u>	<u>Certificate #</u>	<u>Tax Credit Amount</u>	<u>Issue Date</u>
694	707	\$172,502.18	August 4, 2017
690	680	\$ 51,399.19	July 13, 2017
695	712	\$114,930.10	August 4, 2017

Statutory Authority: Section 376.30781 of the Florida Statutes

Owner: Pinellas County

Administering Agency: Florida Department of Environmental Protection, Division of Waste Management ("FDEP")

Investment Structure: The Owner has expended costs integral to the rehabilitation of the Project sites. Such costs, as certified by an independent CPA, have qualified for Tax Credits under the statute, and the FDEP has issued Florida Voluntary Cleanup Tax Credits as described above. Owner agrees to sell such Tax Credit Certificates, and Investor will purchase the Tax Credit Certificates, in the amount and in the manner described herein.

Investor will have no interest in or liability arising from the Projects, other than the right to use the Tax Credits so transferred.

Purchase Price: **\$311,724.95** or \$0.92 for each dollar of total tax credit shown on the Tax Credit Certificates. Such Purchase Price shall be adjusted to reflect the actual amount shown on the new Tax Credit Certificates, provided such actual amount is within \$20,000 of the anticipated total amount shown above.

Due Diligence: Investor is entitled to, and Owner agrees to provide, certain due diligence materials for each Tax Credit Certificate including but not limited to a copy of the Applicant's Affidavit, the CPA Certification, and the Technical Professional Certification from the VCTC application to the FDEP (collectively, the "Due Diligence Materials"). Such Due Diligence Materials shall be provided by Owner to Investor upon execution of this Agreement. Investor represents that it will proceed diligently with its due diligence review and will act in good faith to complete this transaction in a timely manner, and will either accept or reject the terms no later than 10 days after Investor's receipt of all the Due Diligence

Materials.

Transaction Expenses:

Each party will pay for its own legal and other expenses incurred in this transaction, if any. Both parties acknowledge that Clocktower Tax Credits, LLC ("Clocktower") acted as broker in bringing the parties together in this transaction. Clocktower was engaged by Owner and Owner shall pay Clocktower a fee for brokering this transaction.

Transfer Procedure:

If Investor agrees to proceed with the purchase after review of the Due Diligence Materials as described above, then Investor shall give notice of its acceptance in writing to Owner, with a copy to Clocktower.

Owner shall then surrender the Tax Credit Certificates to FDEP and authorize FDEP to issue new tax credit certificates ("New Certificates") to Investor, as described in Exhibit A, in accordance with the transfer provision of the Statute and FDEP Rules.

Owner shall use certified mail or a courier service to submit the Tax Credit Certificates and transfer instructions to the FDEP. Owner shall send a copy of the submitted transfer instructions to Investor and Clocktower.

The FDEP is expected to deliver the New Certificates to Investor within 45 days of its receipt of the transfer instructions. Investor shall promptly inspect the New Certificates to confirm that they are issued correctly. Investor shall send copies of the New Certificates to Clocktower with notice that they have been received in good order.

Investor shall deliver the Purchase Price to Owner (by check, ACH or wire) within 5 days of receipt of the New Certificates, issued in good order. Owner shall promptly acknowledge receipt of funds, with copy to Clocktower.

In the event that any of the New Certificates are issued incorrectly, Investor and Clocktower will work with FDEP to issue a corrected certificate within 10 business days.

Investor shall have the option to terminate this Agreement if Owner fails to submit to FDEP the request to transfer the Tax Credit Certificates on or before August 31, 2018 or if FDEP fails to issue New Certificates by September 30, 2018.

Upon receipt of their respective funds and the New Certificates in correct form and amount, all parties will be satisfied and no further actions are required, subject to the provisions of this Agreement which survive the sale.

Owner Representations:

Owner represents that it is familiar with the rules and regulations relating to the issuance of the Tax Credits, and that it has engaged adequate legal representation with respect to the requirements under state and federal regulations, and the transfer of the Tax Credits to Investor.

Owner represents that it will proceed diligently in effecting the transfer thereof, and will act in good faith and in accordance with the rules and regulations of FDEP.

In the event that the Florida Department of Revenue disallows any portion of the Tax Credits for reasons related to the credit generation and not the Investor, then the Owner shall repay Investor that portion of the Purchase Price relating to such disallowed Tax Credits.

Owner acknowledges that it currently controls the Projects and will control the allocation of Tax Credits related to such Projects, and expects to do so through the completion of the transaction contemplated herein. Owner acknowledges that no agreement exists, written or otherwise, which would adversely affect its ability to enter into this Agreement, and to timely complete the transaction contemplated herein.

**Investor
Representations:**

Investor is purchasing the Tax Credits for its own account, for investment purposes only and not with a view to the resale or distribution thereof except to an entity affiliated with the Investor. Investor acknowledges that the statute prohibits any subsequent transfer of the Tax Credit Certificates except through merger or acquisition.

Investor acknowledges that the Tax Credits have not been registered under the Securities Act of 1933, as amended (the "Act") or any state securities laws and are being offered and sold in reliance upon exemptions from such registration.

Investor has not relied upon any representations or other information (whether oral or written) other than as contained in any documents so furnished to it by Owner or contained herein.

Investor is an "accredited investor" as that term is defined in Rule 501 of Regulation D, promulgated by the Securities and Exchange Commission, under the Act.

Investor has the financial wherewithal readily available to purchase the Tax Credit Certificates as contemplated herein and represents that no agreement exists, written or otherwise, which would adversely affect its ability to enter into this Agreement, and to timely complete the transaction contemplated herein.

Investor agrees to indemnify and hold Owner harmless for any loss or damage incurred as a result of Investor's bad faith, misrepresentation, or fraud, but in no event shall the amount of this indemnity exceed the Purchase Price.

**Submissions &
Reporting:**

Owner shall provide all such material as is necessary to file with the Florida Department of Revenue to claim the Tax Credits, including but not limited to the Tax Credit Certificates.

Notices:

All written notices shall be sent to each party at the following addresses:

Owner: Teri Hasbrouck, Environmental Program Coordinator
Pinellas County Board of Commissioners
Real Estate Management
509 East Ave. S.
Clearwater, FL 33756
Email: THasbrouck@pinellascounty.org

Investor: Brian M. Power
The Sherwin-Williams Company
101 Prospect Ave., NW
Cleveland, OH 44115
Email: brian.m.power@sherwin.com

Clocktower: Jeff Jacobson
Clocktower Tax Credits, LLC
2 Mill & Main Place; Suite 295
Maynard, MA 01754
Email: JJacobson@ClocktowerTC.com

Entire Agreement; Successors; Venue: This Agreement sets forth the entire agreement of the parties and may not be modified except in writing executed by the parties hereto or their authorized representatives. This Agreement shall inure to the benefit of and be legally binding upon the parties hereto and their respective legal representatives, successors and assigns. This Agreement shall be governed by Florida law.

Counterparts: This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument; and any party or signatory hereto may execute this Agreement by signing any such counterpart and delivering an electronic or facsimile version to the other party.

Miscellaneous: No failure or delay by a party in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

In consideration of Investor's interest described herein, Owner grants to Investor the exclusive right to complete such transaction, and shall not engage in any discussion about the sale or transfer of the Projects' Tax Credits, or its interest in them, until the earliest to occur of:

- (a) Investor completing the transaction contemplated herein,
- (b) Investor informing Owner in writing of its decision not to proceed with the transaction, or
- (c) September 30, 2018.

INVESTOR:

THE SHERWIN-WILLIAMS COMPANY
FEIN: 34-0526850

By: 
Name: Lawrence J. Boron
Its: Vice President - Taxes and Assistant Secretary

OWNER:

Accepted this 15 day of September, 2018

PINELLAS COUNTY
FEIN: 59-6000800

By: 
Name: Mark S. Woodward
Its: County Administrator

APPROVED AS TO FORM:

By: 
County Attorney

Purchase Agreement for State Tax Credits

EXHIBIT A

**FL VCTC Certificate Transfer Request
Required Transferee Information**

Transferee Name: The Sherwin-Williams Company

Transferee FEIN: 34-0526850

Transferee Mailing Address: 101 Prospect Ave., NW
Cleveland, OH 44115

Transferee Contact Name: Brian M. Power

Transferee Contact Phone Number: (216) 566-2640

Delivery Address for New Certificate: Craig A. Dedo
The Sherwin-Williams Company
101 Prospect Ave., NW
Cleveland, OH 44115

Contact Phone Number for Delivery: (216) 566-2560