

WETLAND CREDIT AGREEMENT

THIS WETLAND CREDIT AGREEMENT (hereinafter referred to as “Agreement”) is made and entered into this _____ day of _____, 2011, (the “Effective Date”) by and between ECOLOGIC PLANNING, INC., an Illinois corporation, and SCHULTZ FARMS & GRAIN, INC., an Illinois corporation (hereinafter jointly referred to as “Sellers”) and the COUNTY OF McHENRY, a Public Agency (hereinafter referred to as “Purchaser”);

WITNESSETH:

WHEREAS, Purchaser has applied to the U. S. Army Corps of Engineers (hereinafter referred to as “USACOE”) for a permit under Section 404 of the Clean Water Act so as to allow the discharge of clean non-toxic fill material into wetland within the Lawrence Road over Lawrence Creek Project (0.149 ac./impact south of bridge at 3:1 ratio, 0.084 ac./impact north of bridge at 1.5:1 ratio, and 0.223 ac./impact to waters at 1.5:1 ratio for .5 of .223 ac. impact and 3:1 ratio for .5 of .223 ac. impact for a total of 1.10 acre/credits), in McHenry County, Illinois (hereinafter referred to as “Project”). The Project Number assigned by the USACOE is LRC 2010-402; and

WHEREAS, as a condition to the issuance of a permit by the USACOE (U.S. Army Corps of Engineers) Purchaser is required to compensate for said wetland impacts, and elects to do so through the purchase of wetland credits in the Sellers’ Kishwaukee Bottoms Wetland Mitigation Bank (hereinafter referred to as “Wetland Bank”); and

WHEREAS, the USACOE and IDOT have determined that Purchaser shall be required to purchase a total of 1.10 acres of certified wetland credit due to the proposed impacts to the wetlands resulting from the development of the Project; and

WHEREAS, the Project is located in the Kishwaukee River watershed and the Wetland Bank is also located in the same watershed, near the town of Marengo, in McHenry County, Illinois.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed as follows:

1) RECITALS: The recitals are hereby incorporated herein by this reference.

2) COMPENSATION: Purchaser shall, subject to the terms and conditions hereinafter provided, pay to the Sellers the sum of SIXTY-SIX THOUSAND AND ZERO DOLLARS (\$66,000.00 hereinafter referred to as the "Purchase Price") for 1.10 wetland credits in the Wetland Bank. The Purchase Price shall be paid in the following manner:

a) PAYMENT OF PURCHASE PRICE: Within thirty (30) working days of the executed Agreement, Purchaser shall pay Sellers the Purchase Price as stated herein, or \$66,000.00. All payments hereunder shall be made to ECOLOGIC PLANNING, INC. Upon payment of the Purchase Price, Sellers shall notify the USACOE that Purchaser has secured 1.10 acres of credit from the Wetland Bank.

b) INCREASE OR DECREASE IN REQUIRED AMOUNT OF CREDITS: Should the wetland credits required by the USACOE be increased or decreased from the time of Agreement execution to the time Purchase Price has been paid, the Agreement shall be modified to reflect an adjusted Purchase Price based on the same price per acre as originally set out in this Agreement, if Sellers have such credits available.

c) TERMINATION: If after one hundred and twenty (120) days after the Effective Date Purchaser has not received the Project Permit, then at any time thereafter until Purchaser receives the Project Permit either party may terminate this Agreement by written notice to the other party and the parties shall have no further obligations hereunder. If the Seller cancels the contract the Seller shall refund any money paid by the Purchaser.

3) SELLER'S PERFORMANCE INDEMNITY: In consideration of the Purchase Price, Sellers affirm that it has sufficient wetland credits released by the USACOE in the Wetland Bank to satisfy the wetland credits required by Purchaser and hereby does sell such credits to Purchaser. Purchaser shall have no obligation to perform any of the responsibilities of the Sellers, or satisfy any other obligations of Sellers now or hereafter as set forth by the USACOE in the development and maintenance of the Wetland Bank.

4) NOTICES: Any notices required or permitted hereunder shall be sufficiently given if delivered by overnight courier, by United States mail, return receipt requested, or by facsimile to the parties hereto as follows:

If to Seller:

Mr. Steve Weller
EcoLogic Planning, Inc.
4250 W. Tanglewood Rd.
Bloomington, IN 47404
Phone: (812) 935-7078
Fax: (812) 935-7079

If to Purchaser:

Mr. Joseph Korpalski, Jr., P.E.
County Engineer
McHenry County Division of Transportation
16111 Nelson Road
Woodstock, IL 60098
Phone: (815) 334-4962
Fax: (815) 334-4989

Any notice given pursuant hereto by overnight courier shall be effective as of delivery; any notice given pursuant hereto by First Class United States mail, return receipt requested, shall be effective as of the third business day following its posting, and any notice given pursuant hereto by facsimile shall be effective as of receipt of a confirmation by the sending party.

5) PRIOR AGREEMENTS: This Agreement shall supersede any and all prior understandings and agreements between the parties hereto, whether written or oral, with respect to the subject matter hereof and may be amended only by a written instrument executed by or on behalf of both Sellers and Purchaser.

6) APPLICABLE LAW: Sellers and Purchaser shall be contractually bound to this Agreement, which shall be governed by the laws of the state of Illinois and subject to the requirements of any applicable federal laws or regulations. Changes in federal, state, or local laws, which might have otherwise impacted this Agreement, shall not be enforced retroactively after execution of this Agreement. Each party shall be held harmless for damages sustained by the other party as a result of changes in federal, state, or local laws or their interpretation or enforcement.

7) SUCCESSORS AND ASSIGNS: This Agreement shall inure to the benefit of and be binding upon the successors and assigns of Sellers and Purchaser, as the case may be, and their respective successors and assigns. Neither party hereto shall assign any interest hereunder without the prior written approval of the other first hand.

8) CONTRACT ACCEPTANCE: This Agreement is null and void if not executed within thirty (30) days of the effective date on the first draft of Agreement or date first draft of

Agreement is sent to Purchaser. This time limitation may be extended upon written approval of the parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

PURCHASER:

COUNTY OF McHENRY

By: _____
County Board Chairman

SELLER:

ECOLOGIC PLANNING, INC.

By: _____
Steven A. Weller, President

SCHULTZ FARMS & GRAIN, INC.

By: _____
John E. Schultz, President