

COUNTY OF KANE

Christopher J. Lauzen
Kane County Board Chairman



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DOCUMENT VET SHEET

for
Christopher J. Lauzen
Chairman, Kane County Board

Name of Document: Wetland Mitigation Agreement with V3 Wetland Restoration

for Jericho Road over Blackberry Creek, Kane County

Section #04-00329-00-BR

Submitted by: Carl Schoedel

Date Submitted: April 5, 2013

Examined by: Pat Jaeger
(Print name)

[Signature]
(Signature)

04-08-13
(Date)

[Signature]
MAY 13, 2013

RECEIVED
MAY 14 2013
KANE COUNTY BOARD

Post on the Web: YES NO Atty. Initials [Signature]

Comments:

Chairman signed: YES NO 5/21/13
(Date)

Document returned to: sent County Clerk
(Name/Department)

**BLACKBERRY CREEK HEADWATERS CONSERVATION AREA WETLAND
BANK CREDIT PURCHASE AGREEMENT**

THIS CREDIT PURCHASE AGREEMENT (hereinafter the "Agreement") is entered into as of this 14th day of May, 2013, by and between V3 Wetland Restoration, L.L.C., of 7325 Janes Avenue, Woodridge, an Illinois limited liability company (hereinafter referred to as the "Seller") and the County of Kane, of 719 South Batavia Avenue, a body corporate and politic of the State of Illinois (hereinafter referred to as the "Buyer"). The Buyer and the Seller are hereinafter sometimes collectively referred to as the "Parties" and sometimes individually as a "Party").

WHEREAS, the Chicago District of the United States Army Corps of Engineers (hereinafter the "COE"), the United States Environmental Protection Agency (hereinafter the "EPA"), and the United States Fish and Wildlife Service (hereinafter the "FWS") have entered into an Interagency Coordination Agreement on Wetland Mitigation Banking within the Regulatory Boundaries of the Chicago District of the COE (said Interagency Coordination Agreement is hereinafter referred to as the "ICA"). The COE, the EPA and the FWS are hereinafter collectively referred to as the "Federal Regulatory Agencies". The ICA is incorporated into this Agreement by reference; and

WHEREAS, the ICA provides for the issuance of permits by the COE in northeast Illinois to establish wetland mitigation banks owned by privately held Illinois business entities, to mitigate the filling, flooding, excavating or draining of waters of the United States; and

WHEREAS, the County of Kane has passed a Stormwater Ordinance requiring mitigation of wetlands filled, flooded, excavated or drained that are not otherwise regulated by the Federal Regulatory Agencies. The Buyer and the Federal Regulatory Agencies are hereinafter collectively referred to as the "Regulatory Agencies"; and

WHEREAS, the Seller has received from the COE a charter for the Blackberry Creek Headwaters Conservation Area Wetland Mitigation Bank in Kane County (hereinafter "Blackberry Creek Mitigation Bank") in accordance with the ICA and the COE permit issued in connection with said ICA, (United States Army Corps of Engineers [hereinafter the "USACOE"] Permit No. 200400088, (hereinafter the "Permit"). The Permit is incorporated into this Agreement by reference; and

WHEREAS, the Buyer has undertaken a road construction project Section 04-00329-00-BR, Jericho Road over Blackberry Creek, (hereinafter the "Project") that requires the filling, flooding, excavating and/or draining of wetlands regulated by one or all of the Regulatory Agencies and the mitigation of the impact thereof; and

WHEREAS, the Buyer is impacting 0.22 acres of wetland for the Project which must be mitigated at a ratio of 2 to 1; and

WHEREAS, the Buyer desires to purchase certain wetland mitigation credits as otherwise described herein below in this Agreement, from the Blackberry Creek Mitigation Bank (hereinafter the "Credits") in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the above stated preambles and for other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Buyer and the Seller mutually covenant, agree and bind themselves as follows, to wit:

1. The Parties acknowledge and agree that the preambles as set forth hereinabove are incorporated into and made a part of this Agreement.

2. The Seller represents that it has constructed and agrees to continue to operate and monitor the Blackberry Creek Mitigation Bank in strict accordance with the terms of the ICA and the Permit.

3. The Seller agrees to sell and Buyer agrees to purchase Credits as follows:

- a) Total Credits Purchased: 0.44 acres
 - i) Acres Impacted: 0.22 acres
 - ii) Ratio: 2 to 1
- b) Price Per Acre: \$80,000.00
- c) Total Purchase Price \$ 35,200.00
- d) Agency Permit No.: LRC – 2009- 211
- e) Mitigation Bank: Blackberry Creek Wetland Mitigation Bank

4. The Seller represents that the Seller has, pursuant to the Permit, at least 0.44 acres of wetland mitigation credits available for sale from the Blackberry Creek Wetland Mitigation Bank.

5. It is understood and acknowledged by the Parties that this Agreement constitutes an irrevocable commitment by Buyer to purchase and an irrevocable commitment by Seller to sell the Credits from the Blackberry Creek Wetland Mitigation Bank, in the number of acres and at the purchase price set forth above. It is also understood that the Credits stated above are for the Fox River Water Shed only.

6. The payment of the purchase price for the Credits by the Buyer shall be due and owing upon execution of this Agreement.

7. By execution of the Agreement, the Seller agrees to comply with all rules and regulations of the Regulatory Agencies in connection with the Credits purchased pursuant to this Agreement, the operation of the Blackberry Creek Wetland Mitigation Bank, the requirements of the COE, the terms of the Permit and the terms of the ICA.

8. For purposes of this Agreement, the offer by the Seller to sell the Credits to the County shall remain in effect until June 30, 2013. The Seller shall notify the Buyer in writing of the transfer of the Credits to the Buyer, within ten (10) days thereof.

9. The rights of the Parties under this Agreement shall not be assigned, conveyed, transferred, pledged, encumbered or in any way restricted without consent of the non-assigning Party.

10. All notices to the parties pursuant to this Agreement shall be personally delivered, sent by facsimile transmission or sent by certified mail, return receipt requested, to the following addresses:

If to Seller: V3 Wetland Restoration, L.L.C.
7325 Janes Avenue
Woodridge, Illinois 60517
Attention: Dave Lambert
Phone: (630) 729-6148
Fax: (630) 724-1211

If to Buyer: Kane County Division of Transportation
c/o Kane County Engineer
41W011 Burlington Road
St. Charles, Illinois 60174
Attention County Engineer
Phone: (630) 584-1170
Fax: (630) 584-5265

If any such notice is given by personal delivery, said notice shall be effective upon the date of delivery. If any such notice is sent by facsimile transmission, said notice shall be effective as of the first business day following proper transmission of said notice. If any such notice is sent by certified mail, said notice shall be effective on the third business day following the date of mailing. The Parties may change the address to which notices are to be sent under this Agreement by written notice to the other Party.

11. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors, representatives and permitted assigns.

12. Venue for any dispute arising under the terms of this Agreement shall be in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois


IN WITNESS WHEREOF, the parties have executed this Agreement to become effective as of the day and year first written above.

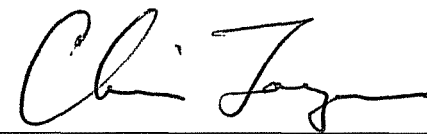
SELLER:

BUYER:

V3 Wetland Restoration, L.L.C.

The County of Kane

By: 
Name: ADAM C. LAMBERT
Title: SECRETARY

By: 
Christopher J. Lauzen
Chairman, Kane County Board

ATTEST:

John Cunningham
Kane County Clerk