



September 8, 2020

Mr. Neil Lovekin  
Township Manager  
East Marlborough Township  
721 Unionville Road  
Kennett Square, PA 19348

*RE: Revolving Water Fund – Pilot Pay-for-Success Transaction*

Dear Mr. Lovekin:

I write on behalf of i2CF2, LLC, d/b/a the Revolving Water Fund (the “RWF”), a conservation-finance vehicle developed in partnership with The Nature Conservancy, Stroud Water Research and others (“Partners”), to set forth the terms of a “Pay-for-Success” transaction, more fully described below, pursuant to which (a) the RWF agrees to fund the implementation of certain conservation projects designed to help meet East Marlborough Township’s (“Township”) Total Maximum Daily Load (“TMDL”) and/or Pollution Reduction Plan (“PRP”) obligations, and (b) in exchange, Township agrees to pay the RWF a contract payment as specified in Schedule A (the “Municipal Payment”) in the event that a pre-agreed success metric is satisfied (the “PFS Transaction”).

In furtherance of the PFS Transaction, the Township and the RWF hereby agree as follows:

1. The RWF and its Partners shall contribute certain funds (the “Project Capital”), which shall be used to implement one or more agricultural conservation projects designed to improve water quality in the Township’s Urban Area (the “Projects”). The proposed Projects, which are listed in Schedule A hereto, have been selected by the RWF, in consultation with the Township and its engineers, based on factors such as modeled load reductions, useful life, conservation benefits and estimated costs of the Projects and the ability to leverage additional public, private and philanthropic funds;
2. The RWF shall contract with one or more Partners including any of their delegates, the “Service Providers”) to plan, implement and maintain the Projects, as more fully specified below;
3. Prior to receiving any Project Capital from the RWF, the Service Providers shall have entered into agreements with the owners of the property upon which the Projects are

- to be implemented (the “Landowner Agreements”), establishing the Service Providers’ rights to (a) implement the Projects on the landowners’ properties, (b) inspect the condition of the Projects from time to time, (c) operate and maintain the Projects for a period of not less than five (5) years, and (d) conduct such other activities as the RWF shall from time to time deem necessary;
4. The RWF shall calculate the pollution-reduction value of the Projects in terms of Environmental Impact Units (“EIUs”), using the EIU Calculator designed through a Conservation Innovation Grant from National Resource Conservation Service, and issue a report to the Township documenting, among other things, the EIUs that are generated by the Projects (the “Environmental Impact Report”);
  5. In consultation with the Township and/or its engineers, the RWF shall convert the Environmental Impact Report into an appendix (the “Appendix”) suitable for inclusion in an application by the Township to Pennsylvania Department of Environmental Protection (“PADEP”) for credit toward the Township’s TMDL and/or PRP obligations (the “Application”);
  6. Within three (3) months after Township’s receipt of the Appendix, and with the RWF’s assistance, the Township shall submit the Application (or an amendment to a pending permit application) to PADEP for credit toward the Township’s TMDL and/or PRP obligations;
  7. In the event that PADEP provides the Township credit toward its TMDL and/or PRP obligations for the pollution reductions resulting from the Projects (the “Success Trigger”), the Township shall tender the Municipal Payment (as specified in Schedule A hereto) to the RWF within three (3) months after the occurrence of the Success Trigger, provided however that, should PADEP provide the Township with credit for only a portion of the pollution reductions resulting from the Projects, compared to the reductions specified in the Appendix, then the Municipal Payment shall be reduced on a *pro rata* basis to account for the portion of the pollution reductions for which the Township did not receive credit;
  8. The cost of operating and maintaining the Projects for the initial five (5) years (the “Initial Term”) has been included in the Municipal Payment. The Township shall pay the RWF the amount set forth in Schedule A (the “O&M Payment”) every five (5) years thereafter, upon the corresponding anniversary of the Municipal Payment (each such five-year period, a “Renewal Term”), for a total of three five (5) year Renewal Terms, unless the Township shall notify the RWF and PADEP prior to the expiration of the Initial Term or any Renewal Term that it no longer intends to rely upon the Projects to meet its TMDL and/or PRP obligations, in which case Township shall have no obligation to make that or any subsequent Renewal Payments. The RWF covenants that it will use and apply the O&M Payments to monitor, operate and maintain the Projects. In addition, the RWF shall use the Municipal Payment, less expenses reasonably incurred by the RWF, to fund implementation of future agricultural restoration projects;

9. Upon the expiration of Original Term and all three (3) Renewal Terms set forth in Paragraph 8 above (the "Total Term"), which expiration shall occur twenty (20) years from the date of Municipal Payment, if so requested by the Township, the RWF shall use its best efforts to reach an agreement with the Township on a new arrangement that will either extend the utility of the Projects or implement additional Projects as necessary to maintain the level of pollution reductions achieved through this PFS Transaction.
  
10. The Township further agrees to cooperate in efforts by the RWF to collect data and analyze the cost of the Township's stormwater management compliance using the RWF as compared with alternative means of TMDL and/or PRP compliance, it being understood that such data collection and analysis could be helpful in expanding the Township's investment in the RWF and/or convincing additional municipalities to rely upon the RWF to meet their water quality and/or quantity needs.

If the forgoing terms are acceptable to East Marlborough Township, we ask that you please execute this Letter Agreement and return it to me.

Very truly yours,

Ashley M. Allen  
Managing Member, i2CF2, LLC

ACCEPTED AND AGREED:

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Neil Lovekin, Township Manager  
East Marlborough Township

**SCHEDULE A**

ENVIRONMENTAL IMPACT UNIT	Full-Service delivery of specified pounds of sediment
LBS OF SEDIMENT	31,788 pounds (15.89 tons)
LOCATION	Red Clay Creek Watershed, HUC 304, East Marlborough Township, Chester County, PA.
PURCHASE DATE	Within 90 days of occurrence of Success Trigger
ENVIRONMENTAL IMPACT UNIT PRICE	\$8.61 per pound sediment
GUARANTEED MINIMUM PURCHASE	As submitted to and approved by PADEP in East Marlborough Township's Pollution Reduction Plan
TIME DURATION ON PURCHASE	5 years
ADDITIONAL OPTION PERIOD	Each 5-year subsequent option period requires additional maintenance fee of \$0.55 per pound of sediment (total payment of \$17,483 for 31,788 pounds)
CLOSING	On or before September 15, 2020
<b>Total Contract Cost for 1<sup>st</sup> 5 years:</b>	<b>\$273,695.00</b>