

AGREEMENT
BETWEEN THE GIRL SCOUTS OF NORTHERN ILLINOIS, INC. AND THE COUNTY OF MCHENRY
FOR WETLAND MITIGATION CREDITS
Millstream Road Bridge Replacements

THIS AGREEMENT made to become effective as of the twenty-first day of March 2023 by and between Girl Scouts of Northern Illinois, Inc., an Illinois nonprofit corporation (hereinafter “GS”) and McHenry County, a body of politic and corporate, (hereinafter “Buyer”).

WHEREAS, the Chicago District of the Army Corps of Engineers (hereinafter “COE”), United States Environmental Protection Agency, and United States Fish and Wildlife Services (hereinafter collectively “Federal Regulatory Agencies”) have entered into a January, 1997 Interagency Coordination Agreement on Wetland Mitigation Banking Within the Regulatory Boundaries of the Chicago District, Corps of Engineers (hereinafter “ICA”) providing for the issuance of general permits in northeast Illinois to establish wetland mitigation banks to mitigate for the filling, flooding, excavating or draining of specific water of the United States; and

WHEREAS, McHenry County, Illinois has adopted a Stormwater Management Ordinance (adopted January 20, 2004 and subsequently amended) regulating wetlands. The COE, McHenry County and any other governmental body having authority over destruction, mitigation or maintenance of wetlands (as they may be defined by such bodies) are collectively referred to herein as the “Regulatory Agencies”; and

WHEREAS, said ICA and the McHenry County Stormwater Management Ordinance both provide for the issuance of permits to the general public in northeast Illinois and certification of wetland mitigation banks owned by privately held Illinois corporations and authorization of the use of said wetland mitigation banks; and

WHEREAS, GS received a permit (LRC-1999-9271, previously 199900612) (the “Permit”) from the Department of the Army, Corps of Engineers, in cooperation with the United States Fish and Wildlife Service, Chicago Metro Office and the United States Environmental Protection Agency, Region 5 for the development of the Girl Scouts – Sybaquay Council Wetland Mitigation Bank (the “GS Mitigation Bank”) in McHenry County, Illinois; and

WHEREAS, Buyer has determined that there is a need to replace both County owned Millstream Road Bridge (056-3022) over the Kishwaukee River and Millstream Road Bridge (056-3023) over the South Branch Kishwaukee River, impacting 0.49 acres of COE jurisdiction wetlands; and

WHEREAS, Buyer desires to mitigate the impacts on the wetlands caused by the Millstream Road Bridge project through the purchase of 1.47 certified wetland mitigation credits (hereinafter “Credits”) from the GS Mitigation Bank in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutually binding covenants of the parties, it is agreed as follows:

1. GS has constructed and will monitor the GS Mitigation Bank in accordance with the standards and guidelines contained in the ICA and the Permit.

2. GS agrees to sell and Buyer agrees to purchase Credits as follows:

a.	Price Per Acre:	\$120,000.00
b.	Acres Impacted by Buyer	0.49 acres
c.	Credits needed	1.47
a*c	Total Purchase Price:	\$ 176,400.00
	Location:	GS Mitigation Bank

3. Buyer shall deposit with Land and Water Resources, Inc. (“LWR”), GS’ agent for the consummation of this transaction, the sum of 20 % of the Total Purchase Price upon the execution of this Agreement, to be held by LWR in a separate escrow account, as earnest money pursuant to the terms of this Agreement.

4. Buyer agrees to supply such additional information as requested by Regulatory Agencies as such may be necessary for the prompt and expeditious processing of Buyer’s application for destruction and/or impairment of existing wetlands and mitigation of such activity through the purchase of the Credits. Payment of the Total Purchase Price, less the deposit set forth above, shall be due and owing upon notice from COE that COE has authorized Buyer’s proposed activity in compliance with the terms of the ICA and from McHenry County that McHenry County has authorized Buyer’s proposed activity in compliance with the terms of the McHenry County Stormwater Management Ordinance (hereinafter “Approval Notices”).

5. By execution of this Agreement, GS and Buyer agree to comply with all rules and regulations of the Regulatory Agencies in connection with the Credits purchased pursuant to this Agreement including, but not limited to, the rules and regulations of the Nationwide Permit Program as promulgated by the COE. In addition, Buyer agrees to allow the Regulatory Agencies having jurisdiction, including COE or its authorized representative, to make periodic inspections of the Millstream Road Bridge project at any time deemed necessary in order to ensure that the activity being performed under the authority granted to Buyer is in accordance with the terms and conditions of the Regulatory Agencies, including COE rules, regulations and requirements. These obligations shall survive the closing and transfer of Credits.

6. Neither GS nor Buyer shall have any obligation to perform their respective promises pursuant to the terms of this Agreement unless the Approval Notices have been issued on or before December 15, 2023. Buyer shall file with the COE and McHenry County such documentation necessary to determine whether or not to issue the Approval Notices.

7. The closing of the sale of the Credits shall occur within fourteen (14) days after the issuance of the Approval Notices, but in any event, not later than December 15, 2023. At the closing, GS shall convey to Buyer the Credits free of liens, encumbrances and restrictions except as expressly provided for herein, e.g. the provisions of Section 5 above. The delivery of Credits to the Buyer shall be evidenced by the issuance of a certificate of Credit sale issued by GS, with a copy of the applicable GS credit ledger attached (the "Certificate"). GS shall file with the COE promptly following the closing a Mitigation Bank Credit Sales Form, as attached to the ICA as Appendix D and in the form attached hereto as Exhibit A, if applicable, and with McHenry County such documentation as it may require to document the sale of Credits. The Total Purchase Price, less the earnest money deposit set forth above, shall be paid at the closing.

8. The rights of Buyer under this Agreement shall not be assigned, conveyed, transferred, pledged, encumbered or in any way restricted without prior written consent of GS and, to the extent required under rules, regulations and policies then in effect, without prior written approval of COE, McHenry County or other Regulatory Agencies, as the case may be.

9. 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 address:

If to GS: Land and Water Resources, Inc.
9575 West Higgins Road, Suite 801
Rosemont, Illinois 60018
Attention: Mr. John H. Ryan
Fax: 847-939-5214
Phone: 847-692-7170
Email: jryan@lawrinc.com

With copy to: Girl Scouts of Northern Illinois
200 New Bond St.
Sugar Grove, IL 60554
Attn: Kari Rockwell
Phone: 815-353-6420
Email: Krockwell@girlscoutsni.org

If to Buyer: McHenry County Division of Transportation
16111 Nelson Road
Woodstock, IL 60098
Attn: Joyce DeLong
Phone: 815.334.4980
Fax: 815-334-4989
Email: JJDeLong@McHenryCountyIL.gov

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.

10. All payments shall be made out to Girls Scouts of Northern Illinois. Payments shall be sent to Land and Water Resources, Inc.

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

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

GS:

BUYER:

GIRL SCOUTS OF NORTHERN ILLINOIS

MCHENRY COUNTY

By: _____

Fiona Cummings
Chief Executive Officer

By: _____

Michael Buehler
County Board Chairperson

Project Name: MCDOT Millstream Road Bridge Project

Permit #: MCDOT Section 18-00482-00-BR; LRC-2020-759

EXHIBIT A
Mitigation Bank Credit Sales Form



Mitigation Bank Credit Sales Form

1. Mitigation Bank Name: Girl Scouts Sybaquay Council Mitigation Bank
2. Mitigation Bank Phase(s) to be Debited (if applicable): NA
3. Mitigation Bank Corps Permit Number: 199900612
4. Names and Entity/Institution Purchasing Bank Credits: _____
 - a. Address: _____
 - b. Telephone: _____ Fax: _____
5. Sales Credit Applied to US Army Corps of Engineers Permit Authorization:
 - a. Permit Number: _____
 - b. Acreage Impacted: _____
 - c. Credits Purchased in Acres: _____
6. Sales Credit Applied per Other Agency Requirement (if applicable):
 - a. Agency Name: _____
 - b. Telephone: _____ Fax: _____
 - c. Permit Number: _____
 - d. Acreage Impacted: _____ Isolated Y/N: _____
 - e. Credits Purchased in Acres: _____
7. Uncertified Credit Sale: _____ Certified Credit Sale: _____

Statement of Verification:

The undersigned certifies and verifies under penalty of perjury pursuant to 29 U.S.C. §1746 that payment for wetland mitigation credits has been received by Land and Water Resources, Inc. as described above and requests that said credits be deducted from the above named bank ledger (and phase, if appropriate) under the aforementioned U. S. Army Corps of Engineers Permit Number.

BANKER: _____ DATE: _____