

**Sub-Grant Agreement for the
State Wildlife Grant
for the Purchase of Hegewisch Marsh
Within the Lake Calumet Area**

ement") is made as of _____, 2003 (the "**Effective Date**") by and among the Illinois Department of Natural Resources ("**IDNR**") and the City of Chicago, Illinois ("**City**") acting through its Department of Planning and Development ("**DPD**") concerning the acquisition of Hegewisch Marsh in part, with federal aid funds from the U.S. Fish and Wildlife Service ("**USFWS**") provided under the FFY02 State Wildlife Grant program (P.L. 107-63) ("**SWG**") and the Wildlife Conservation and Restoration Program (P.L. 106-553) ("**WCRP**"). Each of the parties hereto is individually defined as a "**Party**" and are collectively defined as the "**Parties**".

RECITALS:

- A. The City is a municipal corporation organized under the provisions of Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois; and
- B. IDNR is an agency of the State of Illinois created by state law and authorized to cooperate with units of local government to acquire real property for the protection of natural resources and the enhancement of recreation; and
- C. The IDNR was awarded State Wildlife Grant T-1-L-1 from the USFWS for the purchase of Hegewisch Marsh within the Lake Calumet Area.
- D. The City, IDNR and other state agencies have previously executed an intergovernmental agreement (IGA) with an effective date of November 30, 2001 (the "**Lake Calumet Area IGA**"). The Lake Calumet Area IGA is intended to facilitate the recovery, restoration, development and redevelopment of the Lake Calumet Area; and
- E. The Lake Calumet Area IGA contemplates acquisition of open space and natural areas under the Lake Calumet Area IGA as an additional intergovernmental agreement concerning funding and procedures under the SWG and WCRP; and
- F. The City intends to purchase real estate in the area known as Hegewisch Marsh as shown in figures 1 & 2 and as more fully described by the attached legal description (figure 3) consisting of 102 acres, more or less, for wetland and wetland conservation purposes; and
- G. The City and IDNR will cooperate in the use of their respective resources and authority to fulfill the public purposes described in this Agreement; and
- H. The City, as subgrantee under the Calumet Open Space Reserve grant (T-1-L-1) is subject to all the terms and conditions of said grant the same as the IDNR, the grantee.

consideration of the premises and of the covenants and agreements stated below, the City and IDNR hereby agree as follows:

AGREEMENT:

1. **Incorporation of Recitals.** The recitals stated above are incorporated in this Agreement by reference and are made a part of this Agreement.

2. **IDNR**
 - a. IDNR hereby agrees to provide the City funds up to \$1,663,796.00 only from funds received through the USFWS SWG and WCRP federal aid grant programs directly to the City for its use to fulfill the terms of this Agreement. Funds from the Calumet Open Space Reserve grant between the IDNR and the USFWS (T-1-L-1) will be used for direct costs related to the purchase of Hegewisch Marsh as allowed by the USFWS. If federal funds are not received from the federal aid grant program, IDNR's obligation to provide funding under this agreement ceases and the sub grant agreement is immediately terminated.

 - b. All of the funds paid to the City under this Agreement will be funds from the United States Government.

3. **City**
 - a. The City will use funds provided under this agreement for direct costs of land acquisition and not for staff, overhead, equipment or any other purpose.

 - b. The City will use its expertise in land acquisition, including authority it has to acquire properties in judicial sales, to acquire real property in the Hegewisch Marsh area (figure 1 & 2). The City will follow realty standards that meet the requirements of the IDNR and USWFS; including, but not limited to, Uniform Appraisal Standards (UAS) for Federal Land Acquisitions.

 - c. The City agrees to accept all restrictions placed on this property as a result of using Federal funds including but not limited to 43 CFR Part 12.

 - d. The City agrees to record the following federal interest notice with the deed of the property as a matter of public record and provide a recorded copy of the deed with said notice to the IDNR.
NOTIONS: This real estate was acquired with the assistance of Federal funds administered by the United States Fish and Wildlife Service. Federal regulations permanently restrict changes in its ownership or use notwithstanding any inconsistent state law.

 - e. The City agrees not to encumber, sell or convey any interest in the property prior to the written approval of the IDNR and the USFWS, as identified in 43 CFR Part 12.

 - f. The City agrees to register the property as an Illinois Land and Water Reserve (LWR) by December 31, 2008 and comply with the terms and conditions of the executed LWR registration agreement.

 - g. The City will provide non-federal aid funds in the amount of no less than \$1,663,796.00 to be used for the direct costs related to the purchase of the property. Such funds may not include funds provided to the City pursuant to any previously existing agreement with the Department.

 - h. The City will maintain and operate the property in accordance with the terms and conditions of the Calumet Open Space Reserve (T-1-L-1) grant agreement between the IDNR and the USFWS and

the LWR registration.

- i. Upon reasonable notice, the City shall make available to the IDNR and the USFWS all records and activities related to the property.
 - j. Upon reasonable notice, the City shall make accessible to the IDNR and the USFWS the property for site inspection.
4. **Consultation.** The City will regularly consult with IDNR and USFWS on all matters related to this Agreement including but not limited to: (i) determinations that the real property to be acquired by the City complies with the requirements of the SWG and WCRP programs; and (ii) the management and restoration issues of the real property to be acquired. No real property may be acquired under this Agreement if IDNR determines that such acquisition does not comply with the SWG and WCRP programs.
5. **Term.** This Agreement shall commence on the Effective Date above and be in effect through December 31, 2008.
6. **Representatives.** Immediately upon execution of this Agreement, the following individuals will represent the parties as primary contacts in all matters under this Agreement:

Illinois Department of Natural Resources
Attn: Director
1 Natural Resources Way
Springfield, Illinois 62702
(217) 782-6302 (Main No.)
(217) 785-9236 (Fax No.)

Department of Planning and Development
Attn: Commissioner
City Hall, Room 1000
121 N. LaSalle Street
Chicago, Illinois 60602
(312) 744-4190 (Main No.)
(312) 744-2271 (Fax No.)

7. **Additional Provisions.**
- a. **Governing Law.** This Agreement will be governed by and construed in accordance with the internal laws of the State of Illinois, and the United States of America without regard to the principles of conflicts of law thereof.
 - b. **Amendments.** This Agreement may not be modified or amended except by an agreement in writing signed by the Parties.
 - c. **Parties In Interest/No Third Party Beneficiaries.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the respective successors and permitted assigns of the Parties hereto. This Agreement shall not run to the benefit of, or be

enforceable by, any person or entity other than a Party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of IDNR or the City, shall be deemed or construed by any of the Parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving IDNR or the City.

- d. **Titles and Headings.** Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.
- e. **Construction of Words.** The use of the singular form of any word herein shall also include the plural, and vice versa. The use of the neuter form of any word herein shall also include the masculine and feminine forms, the masculine form shall include feminine and neuter, and the feminine form shall include masculine and neuter.
- f. **Exhibits.** Any exhibits to this Agreement will be construed to be an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.
- g. **Counterparts.** This Agreement may be executed in any number of counterparts and by different Parties hereto in separate counterparts, with the same effect as if all Parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.
- h. **Further Assurances.** The Parties shall perform such acts, execute and deliver such instruments and documents, and do all such other things as may be reasonably necessary to accomplish the transactions contemplated in this Agreement.
- I. **Severability.** If any provision of this Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to Other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein. In such event, the Parties shall negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the Parties' intent in entering into this Agreement.
- j. **Time.** Time is of the essence in the performance of this Agreement.
- k. **Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each Party hereto agrees to submit to the jurisdiction of the appropriate courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.
- 1. **No Personal Liability.** No elected or appointed official or employee or agent of IDNR or the City shall be individually or personally liable in connection with this Agreement.
- m. **Assignment.** This Agreement, or any portion thereof, shall not be assigned.

- n. **Consents.** Whenever the consent or approval of one or more Parties to this Agreement is required hereunder, such consent or approval will not be unreasonably withheld.

hereunto set our hands and seals this ____ day of _____, 2003.

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CITY OF CHICAGO, ILLINOIS,
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