

Dane County Contract Cover Sheet

Res 387

Revised 01/2023

Dept./Division	Land & Water Resources		
Vendor Name	WI DNR	MUNIS #	3457
Brief Contract Title/Description	A memorandum of understanding with WI DNR to allow the agencies to implement a wetland restoration project on county parkland at Cherokee Marsh Wildlife Area that will serve as NRCS agricultural wetland mitigation bank.		
Contract Term	Ongoing		
Contract Amount	\$0		

Contract # Admin will assign	15053
Type of Contract	
<input type="checkbox"/>	Dane County Contract
<input checked="" type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Grant
<input type="checkbox"/>	Other

Department Contact Information		Vendor Contact Information	
Name	Kyle Minks	Name	Nathan Dhuey
Phone #	608.669.1864	Phone #	608.640.0241
Email	minks.kyle@countyofdane.com	Email	nathan.dhuey@wisconsin.gov
Purchasing Officer			

Purchasing Authority	<input type="checkbox"/> \$12,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$12,000 – \$43,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input type="checkbox"/> Over \$43,000 (\$25,000 Public Works) (Formal RFB/RFP required)	RFB/RFP #
	<input type="checkbox"/> Bid Waiver – \$43,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$43,000 (N/A to Public Works)	
	<input checked="" type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	

MUNIS Req.	Req #	Org:	Obj:	Proj:	
	Year	Org:	Obj:	Proj:	
		Org:	Obj:	Proj:	

Budget Amendment	
<input type="checkbox"/>	A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly.

Resolution Required if contract exceeds \$100,000 (\$40,000 PW)	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works)	Res #	387
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.		Year
	<input checked="" type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.		

CONTRACT MODIFICATIONS – Standard Terms and Conditions		
<input type="checkbox"/> No modifications.	<input type="checkbox"/> Modifications and reviewed by:	<input checked="" type="checkbox"/> Non-standard Contract

APPROVAL	
Dept. Head / Authorized Designee	
Hicklin, Laura	Digitally signed by Hicklin, Laura Date: 2023.03.16 15:46:01 -05'00'

APPROVAL – Contracts Exceeding \$100,000	
Director of Administration	Corporation Counsel

APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached			
DOA:	Date In: 3/16/23	Date Out: _____	<input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management

Goldade, Michelle

From: Goldade, Michelle
Sent: Tuesday, March 21, 2023 1:59 PM
To: Hicklin, Charles; Rogan, Megan; Gault, David; Lowndes, Daniel
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #15053
Attachments: 15053.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles	Read: 3/22/2023 8:32 AM	Approve: 3/22/2023 8:32 AM
	Rogan, Megan	Read: 3/21/2023 2:04 PM	Approve: 3/21/2023 2:04 PM
	Gault, David		Approve: 3/21/2023 2:08 PM
	Lowndes, Daniel		
	Stavn, Stephanie	Read: 3/22/2023 9:07 AM	
	Oby, Joe		

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Dave – in Dan’s absence, could you please approve for Dan as well?

Contract #15053

Department: Land & Water Resources

Vendor: WI Dept of Natural Resources

Contract Description: MOU to create an agricultural wetland mitigation bank in Cherokee Marsh Wildlife Area (Res 387)

Contract Term: ongoing

Contract Amount: \$62,800.00

Michelle Goldade

Administrative Manager

Dane County Department of Administration

Room 425, City-County Building

210 Martin Luther King, Jr. Boulevard

Madison, WI 53703

PH: 608/266-4941

Fax: 608/266-4425

TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

AUTHORIZING A MEMORANDUM OF UNDERSTANDING
WITH THE WI DEPARTMENT OF NATURAL RESOURCES
FOR THE CREATION OF AN AGRICULTURAL WETLAND MITIGATION BANK
IN THE CHEROKEE MARSH WILDLIFE AREA

The Dane County Land & Water Resources Department is partnering with the WI Department of Natural Resources and USDA – Natural Resources Conservation Service on restoring wetlands and creating a Wisconsin Agricultural Wetland Mitigation Bank in the Cherokee Marsh Wildlife Area south of STH 19 and east of River Rd, in the Town of Westport. The project consists of disconnecting existing tile systems, filling ditches, creating shallow waterfowl scrapes and seeding wetlands and upland native prairies.

Funding for the project is provided by the USDA – Natural Resources Conservation Service and is administered through the WI Department of Natural Resources in collaboration with Dane County.

The project has many water quality benefits, including allowing more water to infiltrate the soil and to be held on site, increasing groundwater recharge, and reducing the amount of runoff nutrients and sediment entering the Yahara River. The project will also provide an increase in habitat suitable for ducks, amphibians, and other wildlife and an increase and diversification of wetland and prairie plant communities.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Executive is authorized to execute on behalf of Dane County a Memorandum of Understanding with the WI Department of Natural Resources for Restoration and Management of the Cherokee Marsh Wildlife Area and NRCS Wetland Mitigation Bank, which includes authorization for the Dane County Clerk to execute and enter into a Temporary Limited Easement to allow the WI Department of Natural Resources and their contractors access to the project site for construction and maintenance.

15053

Memorandum of Understanding

Between the Wisconsin Department of Natural Resources and the Dane County Land and Water
Department

Restoration and Management of the Cherokee Marsh Wildlife Area (River Road) NRCS Mitigation Site

Wisconsin Agricultural Mitigation Bank

Dane County Land and Water Resources Department

The Wisconsin Agricultural Mitigation Bank (WAMB) administered/sponsored by the Wisconsin Department of Natural Resources (WDNR) intends to implement a Natural Resources Conservation Service (NRCS) wetland mitigation site on approximately 18.6 acres of land solely owned by Dane County Land and Water Resources Division (Dane Co.). The property, a part of Parcel #080912182010 (mitigation site), is located to the southeast of the intersection of River Road and State Highway 19 in the Town of Westport, Dane County. The mitigation site was not purchased using any federal grant dollars, and there are currently no restrictive covenants or easements in place that will affect the restoration on the mitigation site.

NRCS wetland mitigation sites will be used to provide wetland mitigation opportunities for Wisconsin producers for impacts to wetlands subject to the compliance provisions of the Food Security Act of 1985. This mitigation program operates under the authority of the NRCS. The WDNR is administering this mitigation program for NRCS through a federal grant.

WAMB mitigation sites must be protected in perpetuity by recording a conservation easement or comparable legal instrument on the property. The site protection instrument shall restrict activities to protect the restoration actions undertaken onsite. It is not necessary for the site protection instrument to prohibit low impact outdoor activities (such as hunting, trapping, fishing, hiking, cross-country skiing, snowshoeing, wildlife viewing, research, and education) and the allowance of such activities will be at the discretion of the mitigation site landowner.

The WDNR and Dane Co. agree to the following:

1. Site Planning
 - a. The WDNR, with input and approval from Dane Co., will complete the Site Mitigation Plan (SMP) to guide mitigation site restoration, maintenance, monitoring, and long-term management activities. The ultimate site restoration approach and methods will be determined by the NRCS through their approval of the SMP.
 - b. The WDNR has contracted with the Wisconsin Waterfowl Association (WWA) to consult on preconstruction design and planning, including topographic, hydrology, and drain tile investigation and restoration approach.

- c. Dane Co. will complete and fund a drone flight survey in order to complete a detailed digital elevation model (DEM) of the mitigation site.
- d. Dane Co. engineers may assist in site design, engineering, and creation of any construction drawings and plan sets required for the SMP, bid documents, or construction.

2. Site Implementation

- a. The WDNR, with input and approval from Dane Co., will contract with a qualified restoration professional to implement all site restoration activities detailed in the SMP including ditch filling, tile breaking, regrading, seeding, and invasive species control. Site implementation activities are planned to take place in the fall of 2023 after crops are harvested.
- b. The WDNR, with input and approval from Dane Co., will also contract with a qualified restoration professional to complete five years of maintenance activities (2024-2028), such as invasive species control and prescribed burning, required to meet vegetation performance standards as detailed in the SMP. Site maintenance activities may cease before five years if performance standards are met early and only with permission from the NRCS. See Project Funding section below for more information.
- c. Dane Co. will enter into any needed agreements with WDNR-contracted professionals to allow access and restoration activities to occur.
- d. WDNR staff will complete five years of site monitoring activities (2024-2028) and monitoring report creation. Monitoring may cease before five years if performance standards are met early and only with permission from the NRCS.

3. Project Funding

- a. The WDNR will fund all contracted mitigation site planning and site implementation activities listed above using funds received through an NRCS wetland mitigation grant (Grant #xxxxxx).
- b. The WDNR and Dane Co. may collaborate and explore opportunities to work together to gain efficiencies in completing the above mitigation site planning and site implementation activities, including using Dane Co. staff, equipment, or funding to complete said activities, but only upon written agreement by both parties.
- c. Completion of all restoration activities (not including Long Term Management) is ultimately the responsibility of the WDNR. Dane Co. is not obligated to provide any funding to implement any mitigation activities (not including Long Term Management).

4. Real Estate

- a. All NRCS mitigation sites must be protected by a perpetual conservation easement or comparable legal instrument. Dane Co. will develop and record a deed restriction on the mitigation site that will protect the restoration in perpetuity. This deed restriction will be robust enough to satisfy the protection requirements from the NRCS and the WAMB. This deed restriction must be reviewed and approved by the NRCS prior to recording.
- b. Dane Co. will share all title work with the WDNR for review. The WDNR may review title work before the mitigation project begins.

5. Management of the Mitigation Site (2023-2028)

- a. To manage habitat according to desired habitat values and reduce the spread of invasive, non-native, species into the mitigation site, the WDNR, and their contractors, may use prescribed burning, cutting, mowing, and aquatic-safe herbicide applications in and around the mitigation site. Dane Co. may elect to participate or conduct any of these activities.
 - b. In order to ensure hydrologic performance standards can be maintained in perpetuity, no new impoundments, scrapes, or excavations will take place on the mitigation site or in adjacent areas where lateral effects could alter the restored hydrology of the mitigation site, unless authorized through consultation with the WDNR or contained in the NRCS-approved SMP.
 - c. Final project design in the SMP will be approved by the NRCS, which will be followed until final performance standards are met and final credits are released (anticipated to be in 2028)
 - d. The vegetation targets on the mitigation site will be specified in the SMP. Communities may include upland prairie, wet mesic prairie, wet prairie and sedge meadow.
 - e. Invasive species management during the monitoring phase will be coordinated by the WDNR to ensure that any habitat management activities are efficiently implemented on the mitigation site.
6. Communications between Dane Co. and the WDNR
- a. Throughout project development, Dane Co. may participate in all project meetings, communication, and planning if desired.
 - b. The SMP will be created by the WDNR, with input and approval from Dane Co. Final decisions concerning the SMP will be made by the WDNR, with Dane Co. agreement. All SMP decisions will be made with the goal of restoring wetland functions in perpetuity on the mitigation site
 - c. During the construction and maintenance phases on the mitigation site, the WDNR and its contractors will coordinate the timing of site activities with Dane Co. to the greatest extent possible.
7. Credit Sales
- a. The NRCS will release credits for sale as milestones and restoration performance standards in the SMP are met. Dane Co. will hold the credits generated from this mitigation site and will sell the credits to Wisconsin producers.
 - b. Dane Co. will be responsible for setting the credit price and will do so in a manner that is fair and accessible for Wisconsin producers. Credit prices will be evaluated by Dane Co. annually and may be adjusted for inflation, market demand, long term management costs or other factors.
 - c. A typical credit sale process is outlined below:
 - (1) A producer identifies an agricultural activity that impacts a wetland, and they decide that they want to mitigate for that impact. The producer checks with the WDNR and the U.S. Army Corps of Engineers to ensure the impact does not require mitigation under the CWA or s. 281.36(3n)(d) Wis. Stats.
 - (2) The producer fills out form AD-1026 and submits to their Farm Service Agency office. If necessary, the form will be routed to the NRCS, who provides the producer with a wetland determination and acreage of wetlands that would be impacted. The NRCS will inform the producer of their compliance options, one of which is purchasing credits from the WAMB.

- (3) If the producer wishes to utilize WAMB mitigation credits, the NRCS issues a letter or email specifying the credits needed to mitigate for the impact. NRCS provides the producer with WDNR contact information to purchase credits.
 - (4) Producer completes the WDNR credit application and includes their wetland determination and NRCS credit need notice.
 - (5) WDNR reviews the application and, if accepted, provides the producer with a list of eligible credit holders to purchase credits from. If it is not accepted, the WDNR will inform the producer and NRCS.
 - (6) Producer contacts an eligible credit holder to inquire about the potential sale. If an acceptable sale price can be determined, the credit holder sends an invoice to the producer for payment.
 - (7) Once payment is complete, the credit holder issues the approved affidavit confirming purchase and sends to producer, NRCS, and WDNR. It is the responsibility of the producer to submit this documentation to the NRCS to show that their agricultural activity has been properly mitigated for.
- d. Dane Co. will notify the WDNR and NRCS in a timely manner confirming each sale once they have received funds from the producer.
 - e. Subject to section 8.e below, revenue from credit sales may be used at the discretion of Dane Co. However, the WDNR recommends that a portion of credit sales be reserved to fund long term management activities in perpetuity (see Long Term Management section below).

8. Long-Term Management

- a. The mitigation site will be designed to be a low maintenance site. However, long-term management activities will be necessary to maintain the mitigation site in accordance with the SMP. Dane Co. will be responsible for completing all long-term management activities detailed in the SMP.
- b. Once the 5-year maintenance period ends (approximately 2029), long-term management will begin. Dane Co., in consultation with WDNR, will identify and administer any management activities necessary on the mitigation site.
- c. Dane Co. may elect to undertake long-term management activities themselves, or contract with a qualified restoration professional to accomplish identified maintenance activities.
- d. Long term management activities include herbicide spraying, reseeding, prescribed burns, mowing, easement monitoring and enforcement, and other activities as necessary.
- e. Dane Co. will set aside a portion of credit sales for long term management activities.

9. Access

- a. WDNR agrees to require all contractors it retains pursuant to this MOU to enter into a Temporary Limited Easement (TLE) with Dane Co. prior to conducting the onsite work described in or anticipated by this MOU.

Signed this day of _____, 2023

State of Wisconsin

Department of Natural Resources

DocuSigned by:
Sarah Barry, Wisconsin Department of Natural Resources
A7D70DC3770642F...
3/16/2023 | 2:30 PM EDT Secretary Payne

_____, Dane County Executive

Dane County Land Parcel Legal Description

LOT 2 CSM 14621 CS101/178&184-10/2/2017 F/K/A LOT 1 CSM 9831 CS57/58&61-9/28/2000 & F/K/A LOT 1 CSM 6987 CS35/92&93-1/6/93 & ALSO INCL & DESCR AS SEC 12-8-9 PRT NW1/4NE1/4 & PRT NE1/4NE1/4 & SEC 1-8-9 PRT SW1/4SE1/4 & PRT SE1/4SE1/4 SUBJ TO DRIVEWAY ESMT IN R21711/45 & DOC #5362464 & #5364814 EXC TO WI DOT FOR RD R/W IN DOC #5500614