

**TEMPORARY LIMITED EASEMENT FOR
STREAM CHANNEL RESTORATION, SLOPING
AND GRADING PURPOSES**

The **County of Dane** (“County”), a Wisconsin municipal corporation, being the owner of the property located in the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, all in T6N R8E, City of Verona, legally described below (the “County’s Property”), for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does grant, set over and convey to the **City of Verona** (“City”), a Wisconsin municipal corporation, a temporary limited easement for stream corridor rehabilitation access, sloping and grading purposes (“TLE”) upon and across that portion of the County’s Property described in Exhibit A and depicted in Exhibit B (“Easement Area”), said Exhibit B attached and made a part of this TLE.

WITNESSETH:

WHEREAS, the County is the owner of real property, located in part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 06 North, Range 08 East, City of Verona, Dane County, Wisconsin, said County property being part of the Parks system under the jurisdiction of the Dane County Park Commission; and

WHEREAS, the City is undertaking Phase II of the Lincoln Street Channel Restoration Project which encompasses a feeder stream to Badger Mill Creek; and

WHEREAS, said Phase II of said Lincoln Street Channel restoration involves approximately 900 linear feet of stream corridor on County property of the total 1,200 linear feet in the stream corridor restoration project area; and

WHEREAS, the City is willing to have this work done at the City’s expense on behalf of the City and the County; and

WHEREAS, sec. 66.0301, Stats., broadly authorizes governments to cooperate with each other to furnish services to their citizens; and

WHEREAS, as part of said restoration of the Lincoln Street Channel, the City and its contractors will remove invasive and woody species, reshape and stabilize channel side slopes, reinforce bottom, remove a downstream drop structure and install native vegetation on County property; and

WHEREAS, the Dane County Park Commission, at its meeting of June 14, 2017 did approve the use of the Property for the project, as did the Dane County Public Works & Transportation Committee on June 20, 2017.

RETURN TO: City of Verona
Dept of Public Works
111 Lincoln Street Verona, WI 53593

Tax Parcel Nos: 286/0608-154-9501-2
286/0608-221-8001-2

WHEREAS, the County and the City will enter into a separate Memorandum of Agreement covering long term maintenance of said stream channel corridor; and

WHEREAS, the County is willing to convey to the City a non-exclusive Temporary Limited Easement (“TLE”) for stream construction access, sloping, grading and restoration of the Lincoln Street Channel within the TLE Area.

NOW, THEREFORE, the County hereby grants to the City a non-exclusive Temporary Limited Easement for stream construction and restoration access, including design, planning, construction, grading and sloping purposes subject to the following conditions:

1. Construction, Restoration and Maintenance

- a. The purpose of this TLE is to allow property access for stream channel restoration and construction, to include removal of invasive and woody species, reshape and stabilize channel side slopes, reinforce stream bottom, removal of a downstream drop structure, install native vegetation, and other activities pursuant to the site and project plan attached as Exhibit C. The City shall receive prior permission from Dane County Parks staff if the work deviates from the attached site and project plan.
- b. The City’s use of the TLE Area shall be for project construction, sloping and grading purposes including, but not limited to, the right of ingress and egress, the right to operate necessary equipment thereon, and the right to preserve, protect, remove or plant thereon vegetation and native species that the City may deem desirable to stabilize and prevent erosion of the soil.
- c. Construction shall be performed and completed in a good and workmanlike manner and shall not interfere with or endanger the use of the abutting land owned by the County. City shall use clean equipment to perform the work and the restoration in order to minimize the introduction of invasive species.
- d. City shall maintain the TLE Area is a decent, sanitary and safe condition. City shall make every effort to accommodate public park users and protect them from any hazards during any construction or restoration process. Work sites shall be adequately marked and barricaded.
- e. The City will promptly restore the TLE Area after completion of the construction and/or grading of the TLE Area (or as soon thereafter as weather reasonably permits) and in a manner satisfactory to the County. The City will maintain the project area until seeding of the project area has matured.
- f. Except as provided in the site and project plan, no new above ground structures of any kind shall be placed or erected upon the premises without the prior written approval of the County.
- g. Following the completion of the construction and restoration according to the site and project plan, Exhibit C, no grade change shall be made in the PLE Area without written mutual agreement by the City and County.
- h. Upon completion of restoration and construction, the City will be responsible for long-term

maintenance of said Lincoln Street Stream Channel corridor, subject to a separate Memorandum of Agreement between the City and County. In the absence of such an agreement, the parties agree to coordinate such efforts with prior notice by the City to and with agreement by County under terms similar to this TLE.

2. Compliance. In all cases, the City shall be responsible for following all applicable ordinances, codes, statutes regulations, and laws and obtaining all permits and filing all plans required by any regulatory agency associated with any construction, restoration, repair or maintenance activities.
3. Reservation of Use. The County reserves the right to use and occupy the TLE area in a manner consistent with the rights conveyed herein, provided that such use and occupancy shall not interfere with or disturb the City's construction and restoration activities in the stream channel TLE Area.
4. Liability. Each party shall be responsible its own acts, errors or omissions and for the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions, and shall be responsible for any losses, claims, and liabilities that are attributable to such acts, errors, or omissions including providing its own defense, arising out of this Agreement. In situations involving joint liability, each party shall only be responsible for such losses, claims, and liabilities that are attributable to its own acts, errors, or omissions and the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions. It is not the intent of either party to waive, limit or otherwise modify the protections and limitations of liability found in Wis. Stat. 893.80 or any other protections available to the parties by law. This paragraph shall survive the termination or expiration of this agreement.
5. Amendment. This TLE may not be amended, modified, terminated, or released without the written consent of all the parties hereto.
6. Assignment. The City shall neither assign nor transfer any interest or obligation in this TLE without the prior written consent of the County.
7. Applicable Law. This TLE shall be construed in accordance with the laws of the State of Wisconsin.
8. Severability. If any term or provision of the TLE is held to be invalid or unenforceable, then such holding shall not affect any of the remaining terms and provisions of the TLE and the same shall continue to be effective to the fullest extent permitted by law.
9. Waiver. No waiver of any provision of this TLE shall be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this TLE signed by the parties, nor shall the waiver of any default under this TLE be deemed a waiver of any subsequent default or defaults of the same type. Any party's failure to exercise any right under this TLE shall not constitute the approval or acceptance of any wrongful act by the other party.
10. Term. This TLE shall terminate upon completion of the construction and restoration activities described above or December 31, 2018, whichever occurs first.

11. Public Record. This TLE conveyance shall be recorded at the office of the Dane County Register of Deeds.

IN WITNESS WHEREOF, the parties have entered into this Temporary Limited Easement Agreement for Stream Channel Restoration, Sloping and Grading Purposes as of the date first set forth above.

COUNTY OF DANE

By: _____
Scott McDonell, County Clerk

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this _____ day of _____, 2016, the above named Scott McDonell, County Clerk of the County of Dane, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

(print or type name of notary)
My Commission: _____

SIGNATURES CONTINUE ON FOLLOWING PAGE

CITY OF VERONA

By: _____
Jon Hochkammer, Mayor

By: _____
Ellen Clark, City Clerk

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this _____ day of _____, 2016, the above named Jon Hochkammer, Mayor of the City of Verona, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

Print or Type Name
My Commission: _____

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this _____ day of _____, 2016, the above named Ellen Clark, City Clerk of the City of Verona, acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

Print or Type Name
My Commission: _____

EXHIBIT A

The County's Property

Legal Description

Description of the TLE Area

EXHIBIT B

Depiction of the Lincoln Street Channel Restoration Project Area Phase II

EXHIBIT C

The Lincoln Street Channel Restoration Project Area Phase II

Site and Project Plan