



Dane County Department of Planning & Development  
Room 116, 210 Martin Luther King, Jr. Blvd.  
Madison, WI 53703  
(608) 266-4266

## TDR AGRICULTURAL CONSERVATION EASEMENT AGREEMENT

This *AGREEMENT* creates an agricultural conservation *EASEMENT* in accordance with ss. 700.40, Wis. Stats. (2022) and s.10.004(155), Dane County Code.

### A. COVERED LAND

The *EASEMENT* applies to all of the land that is described in attached Exhibit A (*COVERED LAND*) and mapped in attached Exhibit B.

### B. PERPETUAL EASEMENT RUNS WITH THE LAND

The *EASEMENT* runs with all of the *COVERED LAND* in perpetuity, regardless of any changes in land ownership or control. The *EASEMENT* is binding on all owners, occupiers and users of the *COVERED LAND* as well as those with a mortgage, lien or other interest in the *COVERED LAND*. If an owner grants another person the right to occupy or use the *COVERED LAND*, the owner and the other person are jointly and severally responsible for complying with the *EASEMENT*.

### C. EASEMENT GRANTORS

The *EASEMENT* is granted by the following persons (*GRANTORS*), who are owners of the *COVERED LAND*:

*BADGER FARMS, LLC*

### D. EASEMENT HOLDERS

The *GRANTORS* grant the *EASEMENT* to the following parties (*HOLDERS*) in accordance with s. 700.40(1)(b) Wis. Stats. (2022) :

- (1) *COUNTY OF DANE (COUNTY)*, or its successor in interest.
- (2) *Town of Cottage Grove, DANE COUNTY, WISCONSIN (TOWN)*, or its successor in interest.

### E. EASEMENT GRANTED

For good and valuable consideration, the receipt and sufficiency of which are acknowledged by the *GRANTORS*, the *GRANTORS* hereby grant and convey to the *HOLDERS* a perpetual *EASEMENT* in the *COVERED LAND* as provided in this *EASEMENT AGREEMENT*. The *EASEMENT* takes effect when this *EASEMENT AGREEMENT* is accepted, and signed by the *HOLDERS*, and recorded with the county Register of Deeds in the county where the *COVERED LAND* is located.

### F. PURPOSE

KRISTI CHLEBOWSKI  
DANE COUNTY  
REGISTER OF DEEDS

DOCUMENT #  
6011355  
02/17/2025 01:21 PM  
Trans Fee:  
Exempt #:  
Rec. Fee: 30.00  
Pages: 9

This space is reserved for recording data

Return to:  
BADGER FARMS, LLC  
1682 COUNTY HIGHWAY BB  
DEERFIELD WI 53531

Parcel Identification Number/Tax Key Number  
0711-123-8000-9;  
0711-123-9500-2

## F. PURPOSE

The purpose of this Easement is to preserve the availability of the *COVERED LAND* for *agricultural use* by preventing uses or activities on the land that will impair or interfere with the *COVERED LAND*'s agricultural viability and productive capacity. This Easement is being granted in accordance with the Transfer of Development Rights policies of the Town of Cottage Grove component of the *Dane County Comprehensive Plan* and s.10.304 of the Dane County Code of Ordinances.

## G. DEFINITIONS

In this *EASEMENT AGREEMENT*:

- (1) "*Accessory use*" means any of the following land uses, other than a building, structure, *impervious surface* or improvement that is consistent with the purpose of the *EASEMENT*:
  - (a) An activity or business operation that is an integral part of, or incidental to, an *agricultural use* of the *COVERED LAND*.
  - (b) A business, activity or enterprise, not associated with an *agricultural use*, if all of the following apply:
    - (i) It is conducted by a person who resides on and owns or farms the *COVERED LAND*, or by a member of that person's immediate family.
    - (ii) It requires no new buildings, structures or *impervious surfaces*.
    - (iii) It employs no more than 4 full-time employees annually.
    - (iv) It does not impair or limit current or future *agricultural uses* of the *COVERED LAND*.
- (2) "*Agricultural use*" means any of the following:
  - (a) Any of the following activities conducted for the purpose of producing an income or livelihood:
    - (i) Crop or forage production.
    - (ii) Keeping *livestock*.
    - (iii) Beekeeping.
    - (iv) Nursery, sod, or Christmas tree production.
    - (v) Floriculture.
    - (vi) Aquaculture.
    - (vii) Fur farming.
    - (viii) Forest management.
    - (ix) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program
  - (b) Any other use that the Wisconsin Department of Agriculture, Trade, and Consumer Protection (*DATCP*) or its successor state agency identifies by rule as an *agricultural use*.
- (3) "*Alteration*" means the act of causing the change to or disturbance of a surface.
- (4) "*Impervious surface*" means an installed material that prevents rain from falling directly onto the land surface or surface vegetation, or that prevents rain water from percolating directly into the soil. *Impervious surface* includes roofs, containers, pavement and macadam.
- (5) "*Livestock*" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- (6) "*Open space or natural resource use*" means a use, other than an *agricultural use* or an accessory use, that includes no buildings or permanent structures, other than limited structures such as fences or government-approved natural resource conservation practices that do not convert the land to other uses.
- (7) "*Pre-existing structure*" means a building or structure that existed on the date of this *EASEMENT AGREEMENT*. Pre-existing structure(s) on the covered land, if any, shall be identified in Section H and shown on a map attached as Exhibit C.

- (8) "*Pre-existing use*" means a land use, other than an *agricultural use*, an accessory use, or an *open space or natural resource use*, that existed on the date of this *EASEMENT AGREEMENT*. Pre-existing uses, if any, shall be identified in Section H and shown on a map attached as Exhibit C.

## **H. USE OF THE COVERED LAND**

The *EASEMENT* limits use of the *COVERED LAND* as follows:

(1) **Land uses.** Land uses are limited to the following:

- (a) *Pre-existing uses and structures.* The following *pre-existing uses and structures* that have no material adverse impact on *agricultural use* of the *COVERED LAND*: (NO EXISTING STRUCTURES ON THE COVERED LAND)
- (b) *Agricultural uses* not requiring the installation of *impervious surface* or gravel.
- (c) *Accessory uses* not requiring the installation of *impervious surface* or gravel.
- (d) *Undeveloped open space and natural resource uses.*
- (e) Uses for which the *HOLDERS* give prior written approval under section I.
- (f) Fencing.
- (g) Natural resource conservation practices implemented in compliance with a state or federal conservation standard.

(2) **Land division.** The *COVERED LAND* may not be divided, except with the prior written approval of the *HOLDERS* under section I. The *HOLDERS* may not approve a division that is inconsistent with the purpose of the *EASEMENT*.

(3) **Conservation compliance.** All land uses on the *COVERED LAND* shall comply with applicable state laws related to soil and water conservation, nonpoint source pollution and nutrient management, regardless of whether the landowner or land user receives any cost-share payment for compliance.

(4) **Land surface alteration.** Any alteration to the surface of the *COVERED LAND* including excavation, removal or filling of the land surface shall be consistent with the purpose of the *EASEMENT*. Permitted alteration under this subsection is limited to any of the following:

- (a) An alteration that is minimal in scope and impact and does not by itself or in combination with other alterations exceed one (1) acre in size. Any alteration shall be repaired to the maximum extent feasible to restore the land's potential for *agricultural use*.
- (b) An alteration authorized under paragraph H (1) (b) to (g)

(5) **Residential use:** No residential use is permitted on the *COVERED LAND*.

## **I. HOLDERS' APPROVAL REQUIRED**

(1) An owner of the *COVERED LAND* may not do any of the following without the *HOLDERS'* approval:

- (a) Cover any part of the *COVERED LAND* with additional *impervious surface* or gravel. Approval of the *HOLDERS* is not required if the action is permitted under paragraph H (4) (a) or H (1) (g).
- (b) Subdivide the *COVERED LAND*.
- (c) Alter the land surface of the *COVERED LAND* in excess of one (1) acre. Approval of the *HOLDERS* is not required if the action is permitted under paragraph H (4) (a) or H (1) (b) to (g).
- (d) Materially expand or alter any *pre-existing use or structure* on the *COVERED LAND*. Approval of the *HOLDERS* is not required if the action is permitted under paragraph H (4) (a) or H (1) (g).
- (e) Petition the county and town boards to rezone the property to another zoning district.

- (2) A request for approval shall be in writing and shall clearly and accurately describe the proposed action. The description shall include the nature, size, scope, location, design and other material features of the proposed action, and any other information reasonably required by the *HOLDERS*.
- (3) The *HOLDERS* may approve a proposed action in response to a written request under sub. (1) if all of the following apply:
  - (a) The proposed action and subsequent land use is consistent with the purpose of the *EASEMENT*.
  - (b) The proposed action and subsequent land use will not violate section H.
  - (c) The proposed use will not unnecessarily convert prime farmland or cropland, will not convert the primary use of the *COVERED LAND* to a use other than *agricultural use*, and will not materially impair or limit any surrounding *agricultural uses*.
- (4) The *HOLDERS* will grant or deny a written request under sub. (1) within 90 days after receiving a complete written request under paragraph I (2). The *HOLDERS* may deny a request in their sole discretion, and are not required to justify any denial. The *HOLDERS* may grant approval subject to conditions specified in the approval. Conditions may include deadlines for the beginning or completion of a proposed action.
- (5) An approval under sub. (3) is not effective unless given by all of the *HOLDERS*.

#### **J. LANDOWNER RIGHTS RESERVED**

- (1) Except as provided in this *EASEMENT AGREEMENT*, all rights enjoyed by current or future owners of the *COVERED LAND* are reserved to those owners.
- (2) This *EASEMENT* does not limit any owner's right to use, improve, transfer, bequeath, lease, restrict access to, grant a mortgage or other interest in, encumber or convey the *COVERED LAND*, except as provided in this *EASEMENT AGREEMENT*.
- (3) The terms, conditions, restrictions and purpose of this *EASEMENT* shall be referenced in any subsequent deed or other legal instrument by which the owners divest themselves of any interest in the *COVERED LAND*.
- (4) No provision of this *EASEMENT* shall be construed as impairing the ability of the owners to use the premises as collateral for any subsequent loan, provided that any mortgage or lien arising from such a transaction must not be inconsistent with the terms of this *EASEMENT*, and must be subordinate to this *EASEMENT*.

#### **K. EASEMENT DOES NOT CREATE PUBLIC ACCESS RIGHT**

This *EASEMENT AGREEMENT* does not give the general public any right of access to any portion of the *COVERED LAND*, nor does it limit any right of public access that otherwise exists.

#### **L. EASEMENT DOES NOT LIMIT LANDOWNER RESPONSIBILITIES**

Except as specifically provided in this *EASEMENT AGREEMENT*:

- (1) This *EASEMENT AGREEMENT* does not relieve the *GRANTORS*, or any subsequent owners, occupiers or users of the *COVERED LAND*, from any responsibility or liability which they currently have or may subsequently incur in connection with the *COVERED LAND*.
- (2) The *HOLDERS* assume no responsibility for the use, management, control, operation, upkeep or maintenance of the *COVERED LAND*, and assume no liability for any action or omission related to the use, management, control, operation, upkeep or maintenance of the *COVERED LAND*.

#### **M. ENFORCING THE EASEMENT**

- (1) Any or all of the *HOLDERS*, or their authorized agents, may do any of the following:
  - (a) Upon reasonable prior notice and at reasonable times, enter onto the *COVERED LAND* to monitor compliance and collect evidence of noncompliance.

- (b) Issue notice of apparent *EASEMENT* violations to an alleged violator. The notice may include a demand for timely corrective action. A notice under this subsection is not a prerequisite to court action under sub. (c).
  - (c) Initiate action in court to enjoin an apparent violation of the *EASEMENT*. The action may include a request for an ex parte restraining order or temporary injunction, as circumstances may warrant. The court may enjoin the violation, require appropriate corrective action, award costs, and grant any other relief to which the *HOLDERS* may be entitled.
- (2) No failure on the part of any *HOLDER* to enforce any term of this *EASEMENT* shall discharge or invalidate the term or any other provision of the *EASEMENT* or affect the rights of the *HOLDERS* to enforce the *EASEMENT* in the event of a subsequent breach or default.

#### **N. AMENDING THE EASEMENT**

- (1) The terms of the *EASEMENT* may be amended with the written consent of all of the *HOLDERS* and all of the persons who own the *COVERED LAND*. Any amendment of the *EASEMENT* must be submitted to the Dane County Zoning Committee for consideration following at least one public hearing. An amendment under this subsection does not include an amendment that extinguishes the *EASEMENT*.
- (2) The *HOLDERS* may give their consent under sub. (1) only if the amendment is consistent with the purpose of the *EASEMENT*, does not affect the perpetual duration of the Easement and does not materially weaken the *EASEMENT* to the detriment of the *HOLDERS*.
- (3) The *HOLDERS* may withhold their consent under sub. (1) in their sole discretion, and are not required to justify any withholding of consent.
- (4) An amendment under sub. (1) is not effective unless it is in writing, and signed by all of the persons who are required to give their consent under sub. (1). A signed written amendment takes effect when signed by all parties and recorded with the county Register of Deeds in the county where the *COVERED LAND* is located.

#### **O. TERMINATING THE EASEMENT**

The *EASEMENT* may be terminated at any time by court order if all of the following apply:

- (1) The purpose of the *EASEMENT* can no longer be achieved because of a material change in circumstances, or because of a lawful application of eminent domain authority. A change in the value of the *COVERED LAND*, or in an owner's intended use of the *COVERED LAND*, does not constitute a material change in circumstances under this subsection.

# GRANT OF EASEMENT BY LANDOWNERS

The following GRANTORS hereby sign this EASEMENT AGREEMENT and grant the EASEMENT described herein:

<u>David R. Muehl</u> (Signature)	<u>12/12/24</u> (Date)	_____ (Signature)	_____ (Date)
<u>DAVID R. MUEHL</u> (Print Name)		_____ (Print Name)	
_____ (Signature)	_____ (Date)	_____ (Signature)	_____ (Date)
_____ (Print Name)		_____ (Print Name)	

State of Wisconsin )  
 ) ss  
 County of DANE

State of Wisconsin )  
 ) ss  
 County of \_\_\_\_\_

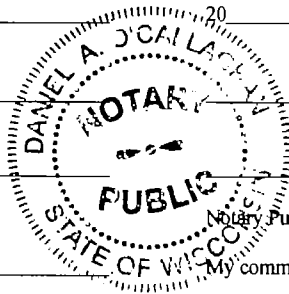
This instrument was acknowledged before me on the 12 day of DECEMBER

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_

2024 by DAVID R. MUEHL  
 (Name of Grantor)

20\_\_\_\_, by \_\_\_\_\_  
 (Name of Grantor)

[Signature]  
 (Signature of Notary)  
DAN O'CALLAGHAN  
 (Print Name)



\_\_\_\_\_  
 (Signature of Notary)  
 \_\_\_\_\_  
 (Print Name)

Notary Public, State of WISCONSIN

Notary Public, State of \_\_\_\_\_

My commission expires (is permanent) \_\_\_\_\_

My commission expires (is permanent) \_\_\_\_\_

# ACCEPTANCE OF EASEMENT BY COOPERATING ENTITY - TOWN OF COTTAGE GROVE

Kris Hampton as CHAIRMAN of Town of Cottage Grove  
 (Print Name) (Title) (Cooperating Entity)

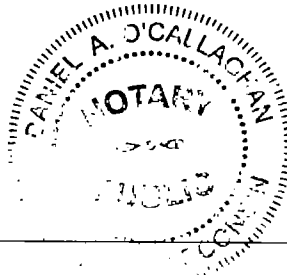
does hereby accept the EASEMENT described herein:

By: [Signature]  
 (Signature of Authorized Representative)  
KRIS HAMPTON CHAIRMAN  
 (Print Name, Title)

State of Wisconsin )  
 ) ss  
 County of DANE

This instrument was acknowledged before me on the 12TH day of DECEMBER, 2024, by Kris Hampton  
 as CHAIRMAN of TOWN OF COTTAGE GROVE  
 (Title) (Cooperating Entity) (Name)

[Signature]  
 (Signature of Notary)  
DAN O'CALLAGHAN  
 (Print Name)



Notary Public, State of WISCONSIN

My commission expires (is permanent) \_\_\_\_\_

ACCEPTANCE OF EASEMENT BY COOPERATING ENTITY COUNTY OF DANE

Scott McDonell as County Clerk of County of Dane  
(Print Name) (Title) (Cooperating Entity)

does hereby accept the EASEMENT described herein:

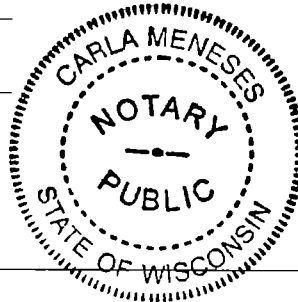
By: [Signature]  
(Signature of Authorized Representative)  
Scott McDonell, Dane County Clerk  
(Print Name, Title)

State of Wisconsin )  
 ) ss  
 County of Dane )

This instrument was acknowledged before me on the 12 day of February, 2025, by Scott McDonell  
 as Dane County Clerk of Dane County  
(Title) (Cooperating Entity) (Name)

[Signature]  
(Signature of Notary)  
Carla Meneses  
(Print Name)

Notary Public, State of Wisconsin  
 My commission expires (is permanent) 11/11/2025



ATTACHMENTS

EXHIBIT A. LEGAL DESCRIPTION OF THE COVERED LAND

Part of the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ , all in Section 12, Town 7 North, Range 11 East,  
Town of Cottage grove, Dane County, Wisconsin, described as follows:

Commencing at the South  $\frac{1}{4}$  corner of Section 12; thence N00°05'36"W, 683.48 feet to the Southeast corner of the North  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ ; thence N88°55'55"W, 1001.53 feet to the Southwest corner of the East  $\frac{3}{4}$  of the North  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ ; thence N00°07'37"W along the West line of said East  $\frac{3}{4}$  and the West line of the East  $\frac{3}{4}$  of the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ , 1518.55 feet; thence S89°19'16"E, 1002.31 feet to the East line of the SW  $\frac{1}{4}$ ; thence S00°05'36"E along said East line, 1525.34 feet to the Point of beginning. Containing 35.00 acres

Tax parcel #0711-123-8000-9 and 0711-123-9500-2



# EXHIBIT B: MAP OF THE COVERED LAND

