

Document Number

TEMPORARY GRADING EASEMENT
Title of Document

Recording Area

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Parcel Identification Number (PIN)

This instrument was drafted by:
Scott A. Jackman, Esq. - Jackman Law Firm, LLC

TEMPORARY GRADING EASEMENT

THIS TEMPORARY GRADING EASEMENT is made as of _____, 2014, by and between County of Dane, a body politic organized pursuant to Chapter 59, Wis. Stats. (“Dane County”), and County Farm Properties, LLC, a Wisconsin limited liability company (“County Farm Properties”).

I. RECITALS.

WHEREAS, Dane County is the owner of certain property in the City of Verona, Dane County, Wisconsin legally described on Exhibit A (the “Easement Property”);

WHEREAS, County Farm Properties is the owner of certain property in the City of Verona, Dane County, Wisconsin legally described on Exhibit B (the “County Farm Properties Land”);

WHEREAS, County Farm Properties desires the right to temporarily perform grading per the approved plan as shown on the attached Exhibit C;

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Dane County and County Farm Properties hereby agree as follows:

II. TERMS AND CONDITIONS.

1. Grant of Grading Easement. Dane County hereby grants unto County Farm Properties, its employees, agents, contractors and business invitees, a temporary grading easement on the Easement Property. The length of the term of said easement shall expire upon the completion of the grading, restoration and maintenance obligations upon the Easement Property.

2. Grading Specifications. The grant of the temporary grading easement is contingent upon the following:

- a. Structures. No structures shall be placed by either County Farm Properties or Dane County within the limits of the Easement Property.
- b. Slope. The maximum slope of the grading within the Easement Property shall be 4:1.
- c. Stormwater Runoff. All roof and parking lot water from the County Farm Properties Land shall be collected in storm sewer and routed to the bioretention basins and on to the regional basin and shall not drain towards the bike path. All stormwater runoff from the County Farm Properties’ Land shall be directed away from the bike path.

- d. Bike Trail. A minimum 1' gravel and 1' mown grass (total 2' level) shoulder must be maintained by County Farm Properties from the western edge of pavement for the bike trail along newly graded areas. County Farm Properties shall also provide a detail plan of the driveway/bike path intersection treatment that identifies proposed signage and striping for Dane County's approval prior to the construction of such signage and striping. Dane County's consent to such signage and striping shall not be unreasonably withheld, conditioned or delayed.
- e. Berm. The berm on the north side of County Farm Properties' land shall be incorporated into the existing grades.
- f. Restoration of Easement Property. County Farm Properties shall restore the Easement Property and disturbed areas between the existing berm and the north side of any improvements upon the County Farm Properties Land with a native seed mix that is coordinated with SetterTech, LLC to provide consistency with BPHCC restoration efforts. County Farm Properties shall be responsible for maintaining native seed restoration areas for three (3) years after planting.
- g. Landscaping Plans. County Farm Properties shall provide Dane County with landscape plans which provide screening of the parking lot and building from BPHCC and the adjacent park. Plant materials specified in the landscape plan shall be native to Dane County, Wisconsin and able to successfully establish in a non-mowed prairie landscape. County Farm Properties shall guarantee the survival of plant materials for one (1) year after planting. Dane County's consent to said landscaping plans shall not be unreasonably withheld, conditioned or delayed.

3. Termination, Modification, Waiver or Amendment. No termination, modification, waiver or amendment of this instrument will be effective unless a written instrument setting forth the terms thereof has been executed, acknowledged and recorded in the office of the Register of Deeds of Dane County, Wisconsin.

4. No Partnership or Joint Venture. Nothing contained in this instrument shall be construed to make Dane County or County Farm Properties, or their successors and assigns, partners or joint venturers of each other or to render any party liable for the debts or obligations of any other party, except as expressly provided herein.

5. Waiver. No delay or omission by any party, or their successors and assigns, to exercise any right or power accruing upon any noncompliance or failure of performance by another party under the provisions of this instrument shall impair any such right or power or be construed to be a waiver hereof. A waiver of any party, or their successors or assigns, of any of the provisions of this instrument to be performed by another shall not be construed to be a waiver of any succeeding breach thereof or any provision contained herein.

6. Invalidity. If any provision or portion of this instrument, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable by virtue

of any final judgment of any court of competent jurisdiction, the remainder of this instrument or the application of such provision, or portion thereof, to any other persons or circumstances shall be valid and enforceable to the fullest extent permitted by law.

7. Hold Harmless. County Farm Properties releases and agrees to hold harmless, indemnify and defend Dane County, its boards, commissions, agencies, officers, employees and representatives from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, judgments or administrative actions, including, without limitation, reasonable attorneys' fees arising from or in any way connected with injury to or the death of any person or physical damage to any property resulting from any act, omission, condition or other matter related to or occurring on or about the Easement Property made by County Farm Properties, its successors and assigns, and their employees, agents, contractors and business invitees, regardless of cause, unless due solely to the negligence of any of the indemnified parties.

8. Insurance. County Farm Properties shall obtain and at all times during the term of this instrument keep in full force and effect a commercial general liability insurance policy issued by a company or companies authorized and licensed to do business in the State of Wisconsin, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary.

IN WITNESS WHEREOF, the parties hereto have executed this Temporary Grading Easement as of the day and year first set forth above.

[SIGNATURE PAGE FOLLOWS]

County of Dane

By: _____
Scott McDonell
Dane County Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of _____ 2014, the above named Scott McDonell, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My commission expires: _____

COUNTY FARM PROPERTIES, LLC

By: _____
Timothy T. Neitzel, Authorized Member

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of March 2014, the above named Timothy T. Neitzel, as Authorized Member of County Farm Properties, LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My commission expires: _____

This document was drafted by:
Scott A. Jackman, Esq.
Jackman Law Firm, LLC
2620 Stewart Avenue, Suite 314
P.O. Box 1205
Wausau, WI 54402-1205

EXHIBIT A

Legal Description of Easement Property

EXHIBIT B

County Farm Properties Land

Lot One (1) of Certified Survey Map No. 12482 recorded in the office of the Register of Deeds for Dane County, Wisconsin, in Volume 78 of Certified Survey Maps on page 75-76, as Document No. 4440659, in the City of Verona, Dane County, Wisconsin.

PIN: 286/0608-142-2951-2

EXHIBIT C

Grading Plan