

Res 495

Contract Cover Sheet

Note: Shaded areas are for County Executive review.

Department Land & Water Resources/Land Conservation	Contract/Addendum #: 12735																				
1. This contract, grant or addendum: <input checked="" type="checkbox"/> AWARDS <input type="checkbox"/> ACCEPTS	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Contract</th> <th style="width: 50%;">Addendum</th> </tr> <tr> <td colspan="2" style="font-size: 0.8em;">If Addendum, please include original contract number</td> </tr> <tr> <td><input type="checkbox"/> POS</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input checked="" type="checkbox"/> Grant</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Co Lease</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Co Lessor</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Intergovernmental</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Purchase of Property</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Property Sale</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Other</td> <td><input type="checkbox"/></td> </tr> </table>	Contract	Addendum	If Addendum, please include original contract number		<input type="checkbox"/> POS	<input type="checkbox"/>	<input checked="" type="checkbox"/> Grant	<input type="checkbox"/>	<input type="checkbox"/> Co Lease	<input type="checkbox"/>	<input type="checkbox"/> Co Lessor	<input type="checkbox"/>	<input type="checkbox"/> Intergovernmental	<input type="checkbox"/>	<input type="checkbox"/> Purchase of Property	<input type="checkbox"/>	<input type="checkbox"/> Property Sale	<input type="checkbox"/>	<input type="checkbox"/> Other	<input type="checkbox"/>
Contract	Addendum																				
If Addendum, please include original contract number																					
<input type="checkbox"/> POS	<input type="checkbox"/>																				
<input checked="" type="checkbox"/> Grant	<input type="checkbox"/>																				
<input type="checkbox"/> Co Lease	<input type="checkbox"/>																				
<input type="checkbox"/> Co Lessor	<input type="checkbox"/>																				
<input type="checkbox"/> Intergovernmental	<input type="checkbox"/>																				
<input type="checkbox"/> Purchase of Property	<input type="checkbox"/>																				
<input type="checkbox"/> Property Sale	<input type="checkbox"/>																				
<input type="checkbox"/> Other	<input type="checkbox"/>																				
2. This contract is discretionary <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																					
3. Term of Contract or Addendum: 3-8-2016 – October 1, 2016																					
4. Amount of Contract or Addendum: \$5,000																					
5. Purpose: A grant to complete work on a paired watershed study in the Pleasant Valley and Ridgeway Branch to address nutrient and sediment non-point run-off in the Pecatonica River watershed.																					
6. Vendor or Funding Source: The Nature Conservancy																					
7. MUNIS Vendor Code: 16497																					
8. Bid/RFP Number:																					
9. Requisition Number:																					
10. If grant: Funds Positions? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Will require on-going or matching funds? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																					
11. Are funds included in the budget? <input type="checkbox"/> Yes <input type="checkbox"/> No																					
12. Account No. & Amount, Org & Obj. <u>LWRCONSV 10072</u> Amount \$ <u>\$5,000</u> Account No. & Amount, Org & Obj. <u>LWRCONSV New TNC Grant Rev</u> Amount \$ <u>\$5,000</u> Account No. & Amount, Org & Obj. _____ Amount \$ _____																					
13. If this contract awards funds, a purchase requisition is necessary. Enter requisition # & year <u>N/A</u>																					
14. Is a resolution needed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please attach a copy of the Resolution. If Resolution has already been approved by the County Board, Resolution No. & date of adoption 2015 RES-495_																					
15. Does Domestic Partner equal benefits requirement apply? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																					
16. Director's Approval: <i>Ken Coma</i>																					

Contract Review/Approvals				Vendor
Initials	Ftnt	Date In	Date Out	Vendor Name
<i>My</i> Received	_____	<u>3-14-16</u>	_____	The Nature Conservancy
<i>at</i> Controller	_____	_____	<u>3/15/16</u>	Contact Person
<i>ds</i> Corporation Counsel	_____	<u>3-16-16</u>	<u>3/17/16</u>	Steve Richter
<i>rl</i> Risk Management	<u>1</u>	<u>3/15/16</u>	<u>3/16/16</u>	Phone No.
<i>at</i> Purchasing	_____	_____	<u>3/15/16</u>	608-316-6434
_____ County Executive	_____	_____	_____	E-mail Address
				srichter@tnc.org

Footnotes:

1. Non-Standard Indemnification language approved as condition of receiving grant money.
- 2.

Return to: Name/Title: Janet Crary/Account Clerk II Phone: 224-3757 E-mail Address: crary@countyofdane.com	Dept.: Land & Water Resources Mail Address: 5201 Fen Oak Dr., #208 Madison, WI 53718
---	---

Certification

The attached contract: *[check as many as apply]*

- conforms to Dane County's standard Purchase of Services Agreement form in all respects
- conforms to Dane County's standard Purchase of Services Agreement form with modifications and is accompanied by a revision copy¹
- is a non-standard contract which has been reviewed or developed by corporation counsel and which has not been changed since that review/development
- is a non-standard contract previously review or developed by corporation counsel which has been changed since that review/development; it is accompanied by a revision copy¹
- is a non-standard contract not previously reviewed by corporation counsel; it is accompanied by a revision copy
- contains non-standard/indemnification language which has been reviewed or developed by risk management and which has not been changed since that review/development
- contains non-standard insurance/indemnification language which has been changed since review/development or which has not been previously seen by risk management; it is accompanied by a revision copy
- contains non-standard affirmative action/equal opportunity language which has been reviewed or developed by contract compliance and which has not been changed since that review/development
- contains non-standard affirmative action/equal opportunity language which has been changed since the earlier review/development by contract compliance or which has not been previously seen by contract compliance; it is accompanied by a revision copy¹

Date: 3-11-16

Signed: Kevin Connor

Telephone Number 224-3731

Print Name: Kevin Connor

Major Contracts Review (DCO Sect. 25.20) This review applies only to contracts which both exceed \$100,000 in disbursements or receipts and which require county board review and approval.

Executive Summary (attach additional pages, if needed).

1. **Department Head** Contract is in the best interest of the County.
Describe any deviations from the standard contracting process and any changes to the standard Purchase of Services Form Agreement.

Date: _____

Signature: _____

2. **Director of Administration** Contract is in the best interest of the County.

Comments:

Date: _____

Signature: _____

3. **Corporation Counsel** Contract is in the best interest of the County.

Comments:

Date: _____

Signature: _____

¹ A revision copy is a copy of the contract which shows the changes from the standard contract or previously revised/developed contract by means of overstrikes (indicating deletions from the standard language) and underlining (showing additions to the standard language).

12735



Contract Number:	30116-2016018
Accounting Information –	
Project Name:	WI Pecatonica
Project-Award-Activity Number:	P104124
Source of funds:	Private <input checked="" type="checkbox"/>

CONTRACT FOR SERVICES

This Contract is entered into by and between **The Nature Conservancy**, a nonprofit corporation (“TNC”), through the following U.S. office:

TNC Business Unit:	WIFO
Contact:	Steve Richter, Director of Conservation
Address:	633 W Main Street, Madison, WI 53703
Telephone:	608-316-6434
Email Address:	srichter@tnc.org

and the following person or entity (“Contractor”):

Name of Contractor:	Dane County Land Conservation Division
Contact:	Amy Callis, Conservationist
Address:	5201 Fen Oak Dr., Madison, WI 53718
Telephone:	608-224-3740
Email Address:	Callis.amy@countyofdane.com

1. **Services.** Contractor agrees to perform the services described in **Exhibit A**, including any deliverables cited (collectively, the “Services”), in accordance with the “Standard Terms and Conditions” attached as **Exhibit B** and any other exhibits or attachments to this Contract, all of which are incorporated by reference into this Contract. Unless otherwise noted, in the event of a conflict between the terms of **Exhibit A** and any other terms of this Contract, including any other Exhibit, such other terms will control. If any of the Services are to be performed on land that is not owned by Contractor or TNC, Contractor must obtain the landowner’s permission before entering upon such land. The parties acknowledge that none of the Services are to be performed or delivered outside of the United States.

2. **Payments.** TNC will compensate Contractor for the Services as follows:

(a) **Contract Fee.** For all of the Services, TNC will pay Contractor a fixed fee (the “Contract Fee”) of \$5,000.00 once all of the Services have been performed.

(b) **No Expense Reimbursement.** Unless explicitly stated otherwise in this Contract, Contractor will not be reimbursed for any expenses it incurs in performing the Services.

(c) **Invoices and Payments.** Requests for payment of the Contract Fee and any authorized reimbursements must be submitted to TNC in the form of an invoice summarizing the work performed and reimbursable expenses incurred during the invoice period. Any expenses authorized for reimbursement by TNC must be: (i) substantiated by proper and adequate documentation (such as receipts), if requested by TNC; (ii) reasonable in amount; and (iii) related to and in furtherance of the Contract purposes. Invoices will be subject to review and approval by TNC, and TNC may deny payment of requests received more than sixty (60) days after the final deadline for completion of the Services. TNC will make all payments by check, subject to TNC’s receipt from the Contractor of a properly completed IRS Form W-9.

3. **Contract Commencement and Expiration.** Unless otherwise indicated in **Exhibit A**, Contractor must begin performing the Services promptly after this Contract has been signed by both parties and must complete all of the Services no later than October 1, 2016 or, as to specific tasks, such earlier date(s) as may be specified in **Exhibit A** (provided that no work may commence before the later signature date below). Any deadline(s) set forth in **Exhibit A** may be extended only with TNC's prior written consent. This Contract will expire automatically once all the Services have been completed and final payment by TNC has been made. Upon such expiration, the parties will have no further rights or obligations under this Contract, except as otherwise provided in **Exhibit B**.

The Nature Conservancy

By: Steve Richter
(signature)
Print Name: Steve Richter
Title: Director of Conservation
Date: March 8, 2016

Dane County Land Conservation Division

By: _____
(signature)
Print Name: _____
Title: _____
Date: _____

Exhibit A
Description of the Services

The Contractor will use the funds in a paired watershed study using Pleasant Valley as the “test watershed” and Ridgeway Branch as the “control watershed” to address nutrient and sediment non-point run-off in the Pecatonica River watershed (see Exhibit C for a map). The duties are:

- 1) Interview landowners and operators in Pleasant Valley watershed to collect farm inventory data (crop rotations, tillage, animal numbers, manure and fertilizer applications, and any new soil test results).
- 2) Use farm inventory data to update the existing SnapPlus database with crop years 2014, 2015 and 2016, and revise the existing GIS map layer where necessary.
- 3) With the interviews and/or field checks, determine if cost-shared practices are being continued.
- 4) Meet with Iowa County Conservationist to determine land use changes and animal number changes in the control watershed and compare this to previous surveys during the course of the project.

Dane County will submit an invoice that documents the hours worked on the project. The invoices/ report will also summarize the number of landowners contracted in the Pleasant Valley watershed and a summary of information gathered in both Pleasant Valley and Ridgeway watersheds in terms of crop and grassland acres and animal numbers on the farms.

Exhibit B
Standard Terms and Conditions

- 1. Conflict of Interest Determination.** Contractor represents that to the best of its knowledge the information it has provided on TNC's Disclosure Form, now or up to two years prior to the commencement date of this Contract, is true and correct.
- 2. Independent Contractor.** The parties intend this Contract to create an independent contractor-client relationship and Contractor is solely responsible for the conduct and control of the Services and fulfilling its duties and obligations under this Contract. Contractor is not an agent or employee of TNC, and no joint venture or principal-agent relationship exists. Contractor and its employees, if applicable, are not entitled to any of the benefits that TNC provides for its employees. Neither TNC nor Contractor will have any right, power, or authority by virtue of this Contract to create any obligation, express or implied, on behalf of the other.
- 3. Performance of Work.** Contractor represents that it is qualified and willing to perform the Services in accordance with the highest standards of Contractor's profession or craft. Contractor will not be paid for any Services found by TNC to be unsatisfactory.
- 4. Assignment; Subcontract.** Contractor must not assign this Contract or subcontract any portion of the Services without TNC's prior written consent, which may be withheld in TNC's sole discretion.
- 5. Termination; Remedies.** TNC may terminate this Contract at any time, in its sole discretion, upon two (2) weeks' notice to Contractor. Should this occur, Contractor must cease all work immediately upon receipt of the termination notice and TNC will pay Contractor for the Services that have been satisfactorily completed, as determined by TNC, as of the termination date. In addition, if Contractor defaults in the performance of any duty, obligation, or covenant under this Contract, whether for circumstances within or beyond Contractor's control, or if TNC determines at any time that the Services cannot be performed in accordance with applicable law and/or TNC's policies and standard operating procedures, then TNC may immediately terminate this Contract by notice to Contractor. Should termination occur as a result of Contractor's default, TNC may, without limiting any other remedies available to it under applicable law, recover damages from Contractor resulting from Contractor's default and may offset any amounts payable to Contractor against such damages. TNC will pay to Contractor any remaining balance of such payable amounts.
- 6. Liability; Indemnification; Insurance.** Contractor acknowledges and agrees that it is performing the Services entirely at its own risk, and agrees to indemnify, defend, and hold TNC and its directors, officers, employees and agents harmless from and against any and all liabilities, demands, damages, claims, losses, costs, or expenses, including reasonable attorneys' fees, to the extent that they arise out of or result, directly or indirectly, from the negligence, misconduct, breach of warranty, representation, or covenant, or any act or omission by Contractor or any of its employees or agents (including any permitted subcontractors) in performing the Services. Contractor's indemnity and defense obligations under this Contract will survive for a period of three (3) years after the expiration or earlier termination of this Contract with respect to any matters that occurred, or rights that accrued, prior to such expiration or earlier termination. Contractor must also carry, throughout the term of this Contract, one or more insurance policies providing: (a) workers' compensation insurance, as and to the extent required by applicable law; (b) commercial liability insurance written on an occurrence basis, with a liability limit of at least \$1,000,000 per occurrence; (c) motor vehicle liability insurance, covering all owned and non-owned vehicles used in performing the Services, with a liability limit of at least \$500,000 per occurrence; and (d) if Contractor is providing consulting services, professional liability insurance written on an occurrence basis. Contractor's policy(ies) must be primary insurance to any other valid and collectible insurance available to TNC with respect to any claim arising out Contractor's performance of the Services. If requested by TNC, Contractor must have TNC named as an additional insured on Contractor's commercial liability insurance policy on a primary, non-contributory basis and provide TNC with evidence that the required coverage is in effect before any work under the Contract commences.
- 7. Intellectual Property Rights.**
 - A. Works Made for Hire.** With the exception of works that are original to or otherwise owned by Contractor prior to the commencement date of this Contract, all right, title, and interest, including copyright, in any reports, studies, photographs, software (including programming codes), drawings, designs, writings, or other works or documents produced in performing the Services, along with all related drafts, versions, and other material created as part of the Services (collectively the "Works"), are "works made for hire" as defined under the copyright laws of the United States. To the extent that any of the Works are not works made for hire, Contractor, through this Contract, unconditionally assigns to TNC and its successors and assigns all right, title, and interest, including copyright and other intellectual property rights, in and to the Works in all media (whether now known or later developed) throughout the world in perpetuity. Contractor further assigns to TNC all rights in any supporting data and material used in creating the Works, if and to the extent that the copyright is not held by others. Contractor also grants to TNC a worldwide, non-exclusive, royalty-free, perpetual license to use any works created or otherwise owned by

- Contractor prior to the commencement date of this Contract that are used to produce, or are otherwise incorporated into, the Works.
- B. **Delivery of Works and Other Documentation.** Upon request from TNC, Contractor must deliver to TNC (i) all tangible copies (including digital copies) of the Works or any portion of the Works, supporting data, or material not previously delivered to TNC, and (ii) any further documentation of TNC's ownership of the Works as provided under this Contract as may be requested by TNC.
- C. **Authorized Use by Contractor.** Contractor may use the Works, supporting data and material only with TNC's prior written consent, and any such use must include an acknowledgment that the Works, supporting data, and material used are the property of TNC. Unless otherwise provided in this Contract, to the extent that any portion of the Works consists of research reports or studies, Contractor may use, publish or distribute that portion of the Works in academic papers and scientific or academic journals, with or without co-authors, provided that Contractor acknowledges that funding for such research reports or studies was provided by TNC.
- D. **Warranty.** Contractor warrants to TNC and covenants that (i) the Works will be original to Contractor alone and will not infringe the intellectual property rights of others, and (ii) to the extent that the Works contain any intellectual property owned by others, Contractor has been authorized, by license or otherwise, to assign to TNC the rights described in this Contract.
- 8. Use of TNC Name and Logo.** Contractor must not use TNC's name, logo or other intellectual property in any manner, whether in conjunction with the Services or otherwise, except (a) to the extent reasonably necessary in order to perform the Services; (b) in order to deliver invoices or other notices to TNC; and (c) if and to the extent otherwise explicitly stated in this Contract.
- 9. Confidential Information.** In performing the Services, Contractor might have access to materials, data, strategies, trade secrets, proprietary information, systems, or other information relating to TNC and its programs that are intended for internal use only. Contractor must not, without TNC's prior written consent, use, publish, or divulge any such information to any person, firm, or corporation, or use it in any advertising or promotion regarding Contractor or Contractor's services, unless required to do so by law or by a court of competent jurisdiction or if such information becomes part of the public domain. Contractor must return to TNC promptly upon completion of the Services any and all TNC confidential information Contractor has in its possession.
- 10. Taxes.** Contractor is responsible for filing and paying its own taxes and for complying with the requirements of any applicable tax laws. TNC will not withhold or pay on behalf of Contractor or any of its employees any U.S. Federal, state, or local income tax or payroll tax of any kind.
- 11. Compliance with Laws.** Contractor represents, warrants and agrees as follows, wherever applicable to the performance of the Services: (a) Contractor can lawfully work in the United States; (b) Contractor will obtain, at its own expense (except to the extent otherwise explicitly stated in this Contract) any permits or licenses required to perform the Services; and (c) Contractor will comply with all statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements of the United States, the state(s) in which the Services are performed (and the state in which the TNC Business Unit set forth on the first page of this Contract is located, if different), and any other U.S. jurisdiction(s) in which Contractor is organized or authorized to do business. Contractor must not take any actions that might cause TNC to be in violation of any such laws.
- 12. Notices.** Any formal notice, request, or demand made by one of the parties pursuant to this Contract (each, a "Notice") must be in writing and given to the respective named contact above by at least one of the following delivery methods, unless another form of delivery is explicitly required elsewhere in this Contract: (a) in person, (b) certified mail (return receipt requested, postage prepaid), (c) nationally recognized next day delivery service, or (d) electronic mail ("email"). A Notice will be deemed given: (1) immediately, if delivered in person; (2) if sent by certified mail, on the earlier to occur of: (i) the date of first attempted delivery; or (ii) the third business day after being deposited in the mail; (3) if sent by next day delivery service, on the following business day; and (4) if sent by email, on the date it is transmitted, unless the transmission is completed on a non-business day or after 5:00 p.m. in the recipient's time zone, in either of which cases it will be deemed given on the next following business day.
- 13. Binding Effect; Amendments.** This Contract will become binding when signed by both parties. This Contract supersedes all prior or contemporaneous communications and negotiations, both oral and written, and constitutes the entire agreement between the parties relating to the activities described in this Contract. No amendment will be effective except in writing signed by both parties.

14. Governing Law; Forum. This Contract and claims relating to this Contract, whether based on contract, tort, or other law, will be interpreted, construed and governed by the laws of the state in which the TNC Business Unit set forth on the first page of this Contract is located (excluding such state's choice of law principles, if any), and such other U.S. laws as are applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this Contract, the parties agree that litigation will be conducted in the state in which the TNC Business Unit set forth on the first page of this Contract is located.

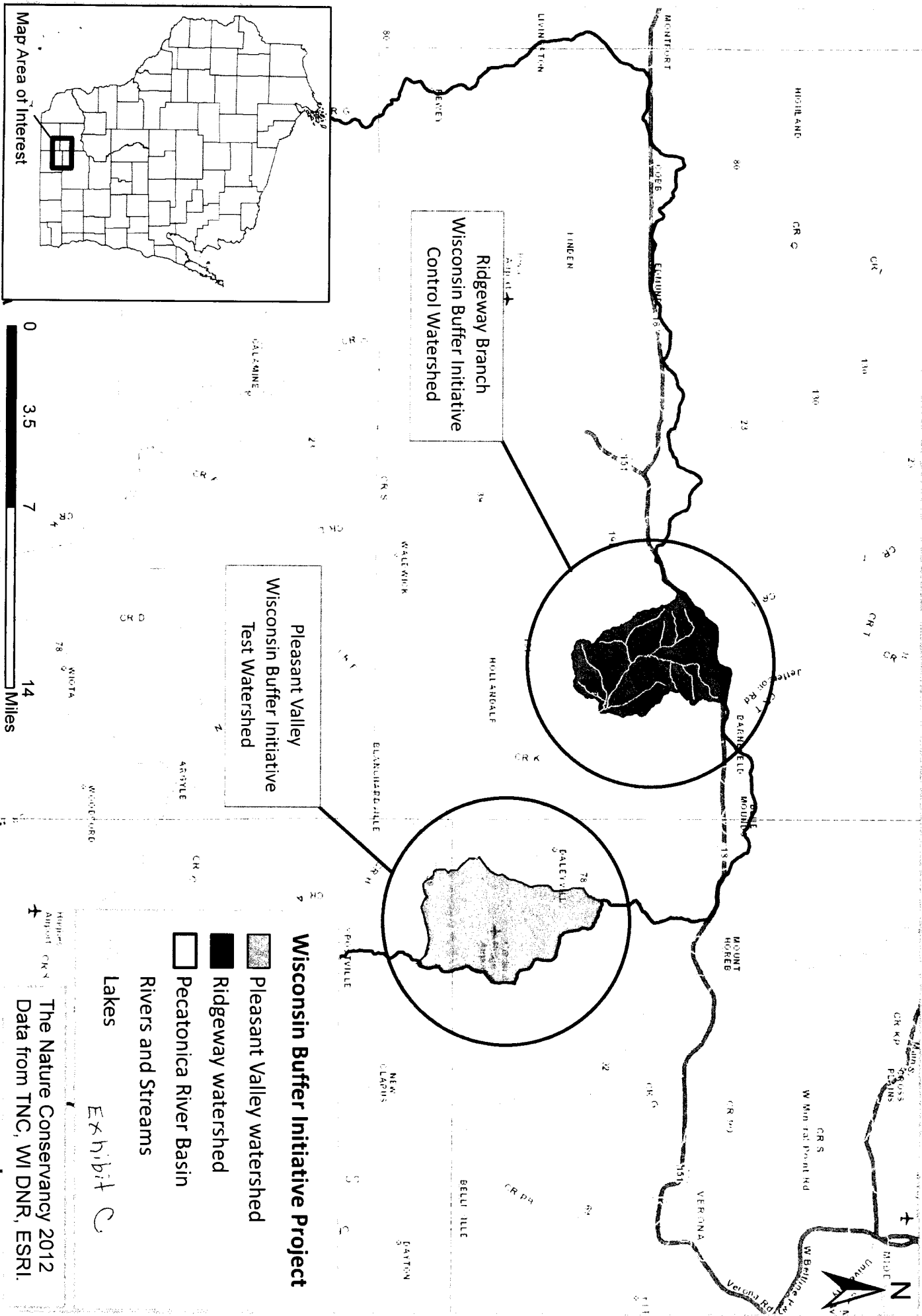
15. Severability; No Waiver. If any provision of this Contract is found to be invalid by a court of competent jurisdiction, the other provisions will not be affected by that finding. No delay in exercising any right or remedy under this Contract will constitute a waiver of that right or remedy or of any other right or remedy under this Contract or under applicable law.

16. Joint and Several Liability. If two or more persons or entities are identified as Contractor in this Contract, their obligations under this Contract are and will be joint and several.

17. Counterparts; Facsimile Signatures. This Contract may be executed in one or more counterparts, each of which will be deemed an original and all of which, taken together, constitute the complete Contract. Facsimile or scanned signatures on this Contract and any related documents, and digital or electronic signatures where authorized under applicable law, will be fully binding for all purposes under this Contract, although any documents that are to be recorded must be executed by both parties with original signatures (and delivered promptly to the party responsible for recording).

18. Compliance with Anti-Terrorism Laws. Contractor must not use any funds received under this Contract in violation of any applicable antiterrorist financing and asset control laws, regulations, rules and executive orders, including the USA Patriot Act of 2001 and Executive Order 13224.






Wisconsin Buffer Initiative Watersheds



Ridgeway Branch
Wisconsin Buffer Initiative
Control Watershed

Pleasant Valley
Wisconsin Buffer Initiative
Test Watershed

Wisconsin Buffer Initiative Project

-  Pleasant Valley watershed
-  Ridgeway watershed
-  Pecatonica River Basin
-  Rivers and Streams
-  Lakes

The Nature Conservancy 2012
Data from TNC, WI DNR, ESRI.

Exhibit C