

Res 6

Contract Cover Sheet

Note: Shaded areas are for County Executive review.

Department Land & Water Resources		Contract/Addendum #: 13085																					
1. This contract, grant or addendum: ☒ AWARDS ☐ ACCEPTS		<table border="1"> <tr> <th>Contract</th> <th>Addendum</th> </tr> <tr> <td colspan="2">If Addendum, please include original contract number</td> </tr> <tr> <td>☐ POS</td> <td>☐</td> </tr> <tr> <td>☐ Grant</td> <td>☐</td> </tr> <tr> <td>☐ Co Lease</td> <td>☐</td> </tr> <tr> <td>☒ Co Lessor</td> <td>☐</td> </tr> <tr> <td>☐ Intergovernmental</td> <td>☐</td> </tr> <tr> <td>☐ Purchase of Property</td> <td>☐</td> </tr> <tr> <td>☐ Property Sale</td> <td>☐</td> </tr> <tr> <td>☐ Other</td> <td>☐</td> </tr> </table>		Contract	Addendum	If Addendum, please include original contract number		☐ POS	☐	☐ Grant	☐	☐ Co Lease	☐	☒ Co Lessor	☐	☐ Intergovernmental	☐	☐ Purchase of Property	☐	☐ Property Sale	☐	☐ Other	☐
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☐ Property Sale	☐																						
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2. This contract is discretionary ☒ Yes ☐ No																							
3. Term of Contract or Addendum: Four years (1/1/2017-12/31/2020)																							
4. Amount of Contract or Addendum: \$12,192/yr x 4 = \$48,768																							
5. Purpose: Contract is to lease 50.8 acres in Black Earth Creek NRA for grass and hay and control of invasives and noxious weeds.																							
6. Vendor or Funding Source: DMK Farms LLC - Donald Kaltenberg																							
7. MUNIS Vendor Code: 25248																							
8. Bid/RFP Number: 118101																							
9. If grant: Funds Positions? ☐ Yes ☐ No Will require on-going or matching funds? ☐ Yes ☒ No																							
10. Are funds included in the budget? ☒ Yes ☐ No																							
11. Account No. & Amount, Org & Obj. <u>LWRPKOP 84911</u> Amount \$ <u>12,192</u> Account No. & Amount, Org & Obj. _____ Amount \$ _____ Account No. & Amount, Org & Obj. _____ Amount \$ _____																							
12. If this contract awards funds, a purchase requisition is necessary. Enter requisition # & year _____																							
13. Is a resolution needed? ☒ Yes ☐ 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 _____																							
14. Does Domestic Partner equal benefits requirement apply? ☐ Yes ☒ No																							
15. Director's Approval: _____																							

Contract Review/Approvals				Vendor	
Initials	Ftnt	Date In	Date Out	Vendor Name	
<u>mg</u> Received	_____	<u>4-18-17</u>	_____	DMK Farms LLC	
<u>sp</u> Controller	_____	_____	<u>4/18/17</u>	Contact Person	
<u>sp</u> Corporation Counsel	_____	<u>4-20-17</u>	<u>4/21/17</u>	Donald Kaltenberg	
<u>✓</u> Risk Management	_____	<u>4/18/17</u>	<u>4/20/17</u>	Phone No.	
<u>Cec</u> Purchasing	_____	<u>4/21/17</u>	<u>4/21/17</u>	608-316-5605	
_____ County Executive	_____	_____	_____	E-mail Address	
				dm.snow@live.com	

Footnotes:

- 1.
- 2.

Return to: Name/Title: Gaylord Plummer, LTE RE Specialist Phone: 608-224-3760 E-mail Address: plummer@countyofdane.com	Dept.: Land & Water Resources Mail Address: 5201 Fen Oak Drive Madison WI 53718
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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: 4/17/2017
Telephone Number 608-224-3760

Signed: Gaylord Plummer
Print Name: Gaylord Plummer

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).

LEASE

THIS LEASE, made and entered into by and between the County of Dane (hereinafter referred to as "LESSOR") and DMK Farms LLC ("LESSEE").

WITNESSETH

WHEREAS LESSOR is the owner of certain real property partially described as follows:

The E ½ and part of the E ½ of the W ½ of Section 7, T7N R8E, Town of Middleton, Dane County, Wisconsin totaling approximately 173 acres, and

WHEREAS LESSEE desires to lease from LESSOR for the uses hereinafter set forth approximately 50.8 acres of the above-described land (said 50.8 acres hereinafter referred to as "the premises") and which are more particularly shown on the attached Conservation Plan Maps;

THEREFORE, in consideration of the above conditions and the mutual covenants hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by each party for itself, LESSOR and LESSEE do agree as follows:

Section 1. TERM. LESSOR does hereby demise and lease the premises to LESSEE for a term of four (4) years, commencing as of the first day of January, 2017 and ending on the 31st day of December, 2020. LESSOR or LESSEE may terminate the lease without penalty at the end of any crop year.

Section 2. PUBLIC ACCESS TO PREMISES. LESSOR may provide public access to all or a portion of the premises. Public access may include, without limitation, recreational use, areas for the parking of vehicles, trails for pedestrian ingress and egress and fencing and gating of such areas and trails. To the extent such access prevents or substantially interferes with LESSEE'S use of a portion of the premises for agricultural purposes, LESSOR shall reduce the number of acres under the lease, and the rent shall be reduced accordingly.

Section 3. INTENDED USE AND PROVISIONS. The intended uses and sole permitted uses of the premises by the LESSEE are, after the first year of the lease, as continuous grass and hay, native vegetation establishment, and wildlife species habitat.

Section 4. LESSEE OBLIGATIONS. Throughout the term of this lease, LESSEE shall crop, operate, and maintain the premises according to the Conservation Plan developed by the Dane County Land & Water Resources Department (LWRD) and no-till standards in NRCS Technical Standard 329. Specific language in the Conservation Plan for this parcel: "The rotation is continuous hay or one year of row crops, one year of seeding, and three years of established hay."

LESSEE shall collect soil samples in accordance with UW A21000 recommendations and submit results to (LWRD) within the first year of this lease contract, but no later than June 1, 2017.

LESSEE shall also submit to LWRD by June 1, 2017 a nutrient management plan developed according to the USDA Natural Resource Conservation Service standards and specifications. LESSEE shall confer with LWRD on land management issues or changes in land practices.

Continuous no till with 60% residue from previous crop year is required unless an acceptable alternative is approved in writing by LWRD.

No phosphorus may be applied except as approved in the Nutrient Management Plan.

Manure may only be applied by a low-disturbance vertical manure injection system, and then only if approved in the Nutrient Management Plan. Spreading manure on snow covered or frozen ground is strictly prohibited.

LESSEE shall cut, spray or otherwise control Canada thistles before they go to seed and cut or control weeds in lots and along roadsides whenever necessary to prevent reseeding.

Trimming or removal of trees is strictly prohibited unless permission is granted by LESSOR.

LESSEE shall not store automobiles, trucks, tractors or bulk fuel on the leased premises or otherwise violate restrictions of LESSOR's insurance contract or local ordinances.

Section 5. SECURITY OF PREMISES. LESSEE shall be solely responsible for security for the premises and shall indemnify, defend and hold harmless LESSOR from any and all damages, losses and expenses LESSOR may suffer as a result of any litigation or claim for injuries suffered by any person or persons occurring as a result of alleged lack of security for the premises.

Section 6. NO MUTUAL INDEMNIFICATION. Each party shall be responsible for the consequences of its own acts, errors or omissions and those of its employees, boards, commissions, agencies, officers and representatives and shall be responsible for any losses, claims and liabilities which are attributable to such acts, errors or omissions, including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives.

Section 7. RENTAL PAYMENTS. In consideration of LESSOR's agreement to lease the premises, LESSEE agrees to pay as rent the amount of \$240.00 per acre per year, for a total of \$12,192.00 annually. An initial rent payment of \$12,192.00 shall be made on the later of June 1, 2017 or delivery of an executed lease to LESSEE. Thereafter, payments, in equal installments of \$6,096.00 are due and payable on the first day of March and the first day of June commencing March 1, 2018 and continuing for the duration of the lease. Checks payable to Dane County Treasurer shall be sent to 5201 Fen Oak Drive, Madison, WI 53718. Time is of the essence with respect to rental payments. Failure to make timely rental payments may result in termination of the lease and may also impact LESSEE's ability to secure future leases

Section 8. ADJUSTMENTS. There shall be no rental rate adjustments during the term of the lease. LESSEE agrees that LESSOR may reduce the number of acres under the lease with notice to LESSEE.

Acreage adjustments also may be made upon mutual agreement between LESSEE and LESSOR.

Section 9. NOTICES. All payments and notices required to be sent under this agreement shall be deemed delivered as of the date of postmark. Notices to LESSOR shall be sent to Dane County Land & Water Resources Department, Attn: Crop Lease, 5201 Fen Oak Drive, Madison, WI 53718. Notices to LESSEE shall be sent to Donald Kaltenberg, DMK Farms LLC, 5467 Easy Street, Waunakee WI 53597.

Section 10. NO SUBLET, ASSIGNMENT, RENEWAL. There shall be no sublet, assignment or automatic renewal of this lease unless in writing, consented to by LESSOR.

Section 11. CONDITION OF PREMISES. LESSEE has inspected the premises and is familiar with the condition thereof and accepts the same as being in a good condition. LESSEE agrees to maintain the premises in their present condition and to deliver the same in as good a condition at

the termination of this lease. In its use of the premises, LESSEE shall follow the soil conservation plan for the premises and to follow those practices recommended by LWRD. LESSEE shall preserve established water courses, tile drains, tile outlets, grass waterways and terraces and shall refrain from any operation that will injure them.

Section 12. USE OF PREMISES, TERMINATION. LESSEE shall not perform any acts or carry on any practices which may injure the premises or be a nuisance or menace to neighboring property. LESSEE shall comply with all laws, statutes, ordinances, rules and regulations of any agency of government having authority or jurisdiction over the premises.

If LESSEE shall fail to fulfill in timely and proper manner his obligations under this agreement, including timely payment of rent, LESSOR shall have the right to terminate this agreement as described below.

Violation of any provision of this section shall constitute grounds for termination of this lease by LESSOR on thirty (30) days' advance written notice containing the reasons for the termination. In the event of cancellation, rent already paid shall be returned to LESSEE on a prorated basis. LESSOR or LESSEE may terminate this lease without penalty at the end of any crop year.

Section 13. END OF TERM SURRENDER OF PREMISES. LESSEE shall peaceably surrender the premises at the end of the term of this lease and shall pay reasonable attorney fees for LESSOR in default of such obligation.

Section 14. EXCLUDED ACREAGE. Adjoining lands of LESSOR are not included in this lease.

Section 15. INSURANCE. LESSEE shall at all times during the term of this Agreement keep in full force and effect comprehensive general liability insurance and automobile liability insurance in the amounts of at least \$500,000. LESSEE shall also insure or otherwise protect itself against losses by fire, theft, or other cause of any personal property of LESSEE, its agents, employees or officers which is located on the demised premises. As evidence of this coverage, LESSEE shall furnish to LESSOR a certificate of insurance naming LESSOR as an additional insured.

Section 16. LESSOR'S AUTHORIZED AGENT. All written authorizations on the part of LESSOR necessitated by this agreement or requested by LESSEE shall be made only by the Director or Deputy Director, Dane County Land & Water Resources Department, 5201 Fen Oak Drive, Madison, WI 53718.

Section 17. NONDISCRIMINATION. During the term of this lease, LESSOR and LESSEE agree, in accordance with Chapter 19 of the Dane County Code of Ordinances, not to discriminate on the basis of race, religion, color, sex, handicap, age, sexual preference, marital status, physical appearance, or national origin against any person, whether a tenant or applicant for tenancy, a customer, an employee or an applicant for employment. Such equal opportunity shall include but not be limited to the following: renting, leasing, employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, or any other form of compensation. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases and exceptions shall be permitted only to the extent allowable by state or federal law.

Section 18. EQUAL OPPORTUNITY EMPLOYER AND LANDLORD. LESSOR and LESSEE shall, in all solicitations for employment or tenancy placed on either's behalf, state that

LESSOR or LESSEE is an "Equal Opportunity Employer" and complies with the Federal Fair Housing Act of 1968.

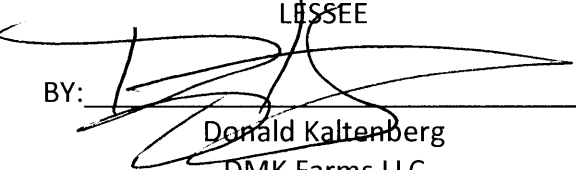
Section 19. AFFIRMATIVE ACTION. Contracts estimated to be Ten Thousand Dollars (\$10,000) or more require the submission of a written affirmative action plan. Within fifteen (15) days after the award of the contract, the plan shall be submitted for approval to LESSEE. Landlords with an annual work force of fewer than ten (10) employees are exempted from this requirement.

Section 20. SIGNS NOT PERMITTED. Except in designated areas, LESSEE shall not post signs or erect any signs of any kind upon the premises without the prior written consent of LESSOR.

Section 21. TITLES FOR CONVENIENCE ONLY. The various headings and titles used as section headings herein are for convenience and ease of reference only and shall have no substantive effect whatsoever on the agreement of the parties.

IN WITNESS THEREOF, LESSOR, by its authorized agent, and LESSEE have set their hands and seals as of the day and date on which both parties have caused this agreement to be executed.

Dated this ____ day of _____, 2017

LESSEE
BY: 
Donald Kaltenberg
DMK Farms LLC

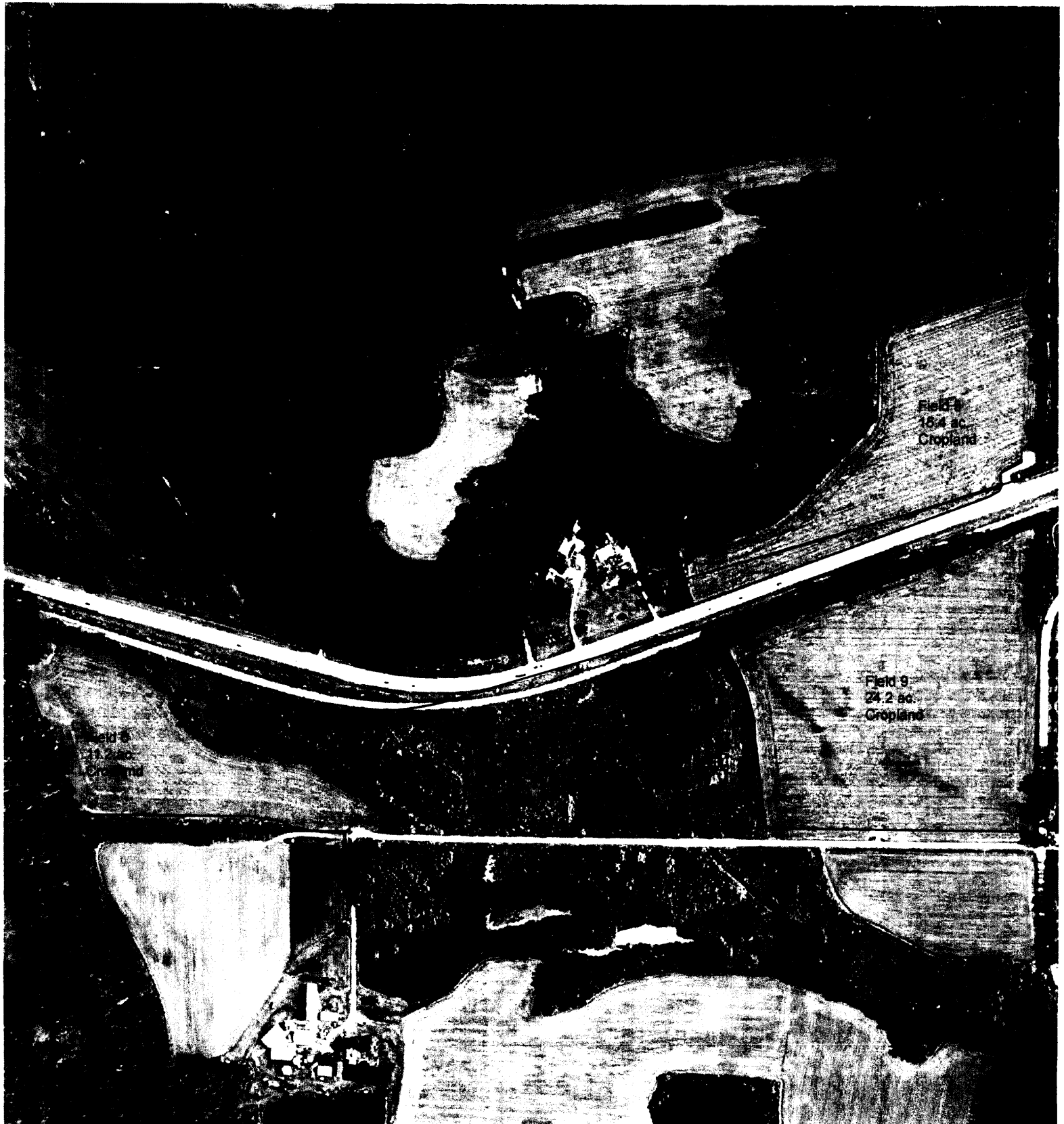
LESSOR
BY: _____
Joseph T. Parisi

COUNTY EXECUTIVE
BY: _____
Scott McDonnell
COUNTY CLERK

Conservation Plan Map

Owner: Dane County (Black Earth) Township(s): Middleton
Operator: Sections(s): 7
Tract(s): 17270, 17269

Completed by: Lambert
Phone: (608) 224-3730
Date: 9-2-16



42

0 500 1,000 1,500 Feet

Dane County Land & Water Resources Department
USDA Natural Resources Conservation Service
Digital orthophoto taken 2014.

