

COUNTY OF DANE  
INTERGOVERNMENTAL AGREEMENT

AGREEMENT NO. \_\_\_\_\_

EXPIRATION DATE: ANYTIME UPON 90 DAYS NOTICE

APPROVALS: \_\_\_\_\_  
CORP. COUNSEL RISK MGR. C. C. OFFICER

AUTHORITY: Res. 41, 1999-2000

DEPARTMENT: Land and Water Resources

THIS AGREEMENT, made and entered into by and between the COUNTY OF DANE (hereafter referred to as "COUNTY") and the Village of Cottage Grove (hereinafter referred to as "MUNICIPALITY");

WITNESSETH:

WHEREAS COUNTY, whose address is c/o County Clerk, 112 City-County Building, 210 Martin Luther King, Jr., Blvd., Madison, WI 53709, has enacted an erosion control and stormwater management ordinance ("the county ordinance") which regulates any soil disturbing activity involving more than 4,000 square feet or the cumulative addition of 20,000 square feet of impervious surface in Dane County; and

WHEREAS the county ordinance allows cities and villages to adopt an equivalent ordinance directly, MUNICIPALITY having done so, such ordinance hereinafter referred to as "the municipal ordinance"; and

WHEREAS the county ordinance provides for cityvillage-county cooperative administration of the municipal ordinance, pursuant to a Wis. Stats. section 66.0301 agreement; and

WHEREAS MUNICIPALITY, whose address is: 221 East Cottage Grove Road, Cottage Grove, Wisconsin 53527, desires to have COUNTY perform certain functions required of MUNICIPALITY under the municipal ordinance, COUNTY being willing to do so under conditions set forth herein;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and MUNICIPALITY do agree as follows:

1 The term of this Agreement shall commence as of the date by which all parties hereto have executed this Agreement and shall have no fixed expiration date. Either party may terminate this Agreement without cause on 90 days advance written notice, provided that the requirements of this paragraph do not apply to a termination under either paragraph 5.2 or paragraph 5.4.

48 2.1 With respect to sites covered by the municipal ordinance, COUNTY agrees to perform  
49 on behalf of MUNICIPALITY a technical analysis similar to that set forth in s. 14.51 and 14.54,  
50 D. C. Ords.  
51

52 2.2 With respect to sites covered by the municipal ordinance, COUNTY agrees to perform,  
53 upon request of the MUNICIPALITY, the following services on behalf of MUNICIPALITY:  
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- 55 a. Review any Erosion Control and / or Stormwater Management Plan (herein collectively and  
56 severally known as "Plan") required by municipal ordinance as part of a land grading or  
57 development proposal. Review will include determining through engineering calculation  
58 whether the Plan meets the requirements of the Municipal Erosion Control and Stormwater  
59 Management Ordinances ("Ordinance").
- 60 b. Correspond or meet with the Municipality's representative responsible for approving the Plan,  
61 as may be needed for any Plan review.
- 62 c. Provide to Municipality written technical comments on the Plan to suggest any changes  
63 needed for compliance with the local ordinance.
- 64 d. Meet with builders and developers at the request of the Municipality to review and explain  
65 any deficiencies or needed changes in the Plan or its implementation.
- 66 e. Provide to the builders, developers and Municipality written documentation on any  
67 recommended changes to the Plan and expectations of implementation.
- 68 f. Inspect during the development and construction phase any commercial and plat  
69 development sites, and other construction sites governed by the Ordinance to ensure  
70 compliance with Plan implementation and maintenance requirements. This inspection will  
71 include as applicable a field verification that implemented practices meet the standards for  
72 Stormwater quality and quantity control.
- 73 g. Cooperate with the responsible party of the Municipality to determine and implement  
74 appropriate remedies on sites found to be non-compliant with the requirements of the Plan or  
75 Ordinance.
- 76 h. Assist the Municipality in any enforcement action by providing technical assistance and  
77 testimony upon request.
- 78 i. Provide written documentation of the inspection and report to the Municipality's  
79 representative responsible for enforcement any discovered deficiencies or violations in the  
80 requirements of the Plan, and describe actions taken to remedy the deficiencies. Provide  
81 recommendations for enforcement action in cases where deficiencies are not corrected.
- 82 j. Perform follow-up inspections of Stormwater management practices at the completion of the  
83 project construction and again just prior to expiration of any warranty period to ensure proper  
84 implementation of the practices.
- 85 k. Provide to the Municipality upon request, an annual summary of inspection reports,  
86 enforcement recommendations and actions taken in sufficient detail to satisfy the reporting  
87 requirements of a WPDES permit.
- 88 l. Assist the Municipality with interpretation of technical standards for erosion control or  
89 Stormwater management required by applicable ordinances.  
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91  
92 2.3 With respect to sites covered by the municipal ordinance, COUNTY agrees to perform  
93 on behalf of MUNICIPALITY on-site inspections by qualified COUNTY personnel.  
94

95 3.1 MUNICIPALITY shall be and remain responsible for enforcement of the municipal  
96 ordinance.  
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98 3.2 MUNICIPALITY shall designate an employee or official to serve as its authorized  
99 enforcement agent for purposes of enforcing the municipal ordinance. MUNICIPALITY shall  
100 notify COUNTY of any change in its authorized enforcement agent.  
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102 4.1 MUNICIPALITY agrees to reimburse COUNTY for its labor costs under this agreement  
103 at the rate of \$85.15 per hour, pro-rated for fractions of an hour to the nearest 1/10th hour.  
104 Travel time is billable as a labor cost.  
105

106 4.2 As of April 1<sup>st</sup> of each year of the term of this Agreement the wage rate set forth in  
107 paragraph 4.1 shall be adjusted in accordance with changes in the CPI - All Urban Consumers  
108 - Midwest - All Items - Annual. Such adjustments shall be computed by the formula  $A/B \times C =$   
109 D where A is the Annual CPI Index the most recent year; B is the Annual CPI Index for the  
110 next most recent year; C is the wage rate immediately prior to the adjustment; and D is the  
111 adjusted wage rate. Alternatively, the formula may be expressed as  
112

$$\frac{\text{Annual Average CPI Index of most recent year}}{\text{Annual Average CPI Index of next most recent year}} \times \text{Current wage rate before adjustment} =$$

113  
114  
115  
116 Adjusted wage rate  
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118 4.3 MUNICIPALITY agrees to reimburse COUNTY for those miscellaneous direct expenses  
119 related to COUNTY's obligations under this Agreement<sup>RAM1</sup>, other than costs of labor, which  
120 COUNTY has informed or will inform MUNICIPALITY from time to time are not included in the  
121 labor rate set forth in paragraph 4.1 and which MUNICIPALITY has approved in advance.  
122

123 4.4 COUNTY shall invoice MUNICIPALITY monthly by the 15th of the month. Billable  
124 hours will be documented with time and date per each request or inspection. Invoices shall be  
125 due and payable by MUNICIPALITY to COUNTY within 60 days thereafter. Unpaid balances,  
126 which remain outstanding after the due date shall be, assessed a penalty at the rate of one  
127 percent (1%) per month on the outstanding balance as of the last day of the month. All  
128 payments shall be remitted to the Dane County Land and Water Resources Department 5201  
129 Fen Oak Drive Room 208 Madison, WI 53718.  
130

131 5.1 Neither MUNICIPALITY nor COUNTY shall assign or transfer any interest or obligation in  
132 this Agreement, whether by assignment or novation, without the prior written consent of the  
133 other party.  
134

135 5.2 If, through any cause, a party shall fail to fulfill in timely and proper manner its obligations  
136 under this Agreement, or if a party shall violate any of the covenants or stipulations of this  
137 Agreement, the other party shall thereupon have the right to terminate this Agreement by giving  
138 a thirty (30) day written notice to the defaulting or breaching party of such termination and  
139 specifying the effective date thereof.  
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141 5.3 In the event a party exercises its right to terminate this Agreement under paragraph 5.2,  
142 the defaulting or breaching party shall not be relieved of liability to the terminating party for  
143 damages sustained by the terminating party by virtue of any default or breach.  
144

145 5.4 If during the term of this Agreement, failure of the Dane County Board of Supervisors  
146 or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's  
147 obligations hereunder shall result in automatic termination of this Agreement as of the date  
148 funds are no longer available, provided, however that COUNTY has given MUNICIPALITY not  
149 less than sixty (60) days' notice prior to the effective date of any termination under this  
150 paragraph.  
151

152 5.5 In addition to terminations available under paragraphs 5.2 and 5.4 above, either party  
153 may terminate this Agreement, effective upon 90 days notice.  
154

155 6.1 MUNICIPALITY agrees to secure at MUNICIPALITY's own expense all personnel  
156 necessary to carry out MUNICIPALITY's obligations under this Agreement. Such personnel  
157 shall not be deemed to be employees of COUNTY nor shall they or any of them have or be  
158 deemed to have any direct contractual relationship with COUNTY.  
159

160 6.2 Notices, bills, invoices and reports required by this Agreement shall be deemed  
161 delivered as of the date of postmark if deposited in a United States mailbox, first class postage  
162 attached, addressed to a party's address as set forth above. It shall be the duty of a party  
163 changing its address to notify the other party in writing within a reasonable time.  
164

165 7.1 The MUNICIPALITY and the COUNTY, each for itself, shall be responsible for any  
166 injuries, claims or losses arising from or caused by the acts or omissions of its agents or  
167 employees acting within the scope of their employment, in accordance with secs. 893.80 and  
168 895.46(1), Wis. Stats. The obligations of the parties under this paragraph shall survive the  
169 expiration or termination of this contract.  
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171 7.2 In order to protect itself and COUNTY, its officers, boards, commissions, agencies,  
172 employees and representatives under the indemnity provisions of paragraph 7.1 above,  
173 MUNICIPALITY will at all times during the term of this Agreement keep in full force and effect  
174 comprehensive general liability and auto liability insurance policies issued by a company or  
175 companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin  
176 Insurance Department, with liability coverage provided for therein in the amounts of at least  
177 \$1,000,000.00 CSL (Combined Single Limits<sup>[RAM2]</sup>). Coverage afforded shall apply as primary.  
178 COUNTY shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon  
179 execution of this Agreement, MUNICIPALITY shall furnish COUNTY with a certificate of  
180 insurance listing COUNTY as an additional insured and, upon request, certified copies of the  
181 required insurance policies. If MUNICIPALITY's insurance is underwritten on a Claims-Made  
182 basis, the Retroactive Date shall be prior to or coincide with the date of this agreement, the  
183 Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive  
184 Date, MUNICIPALITY shall maintain coverage for the duration of this agreement and for two  
185 years following the completion of this agreement. MUNICIPALITY shall furnish COUNTY,  
186 annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is  
187 further agreed that MUNICIPALITY shall furnish the COUNTY with a 30-day notice of  
188 aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also  
189 agreed that on Claims-Made policies, either MUNICIPALITY or COUNTY may invoke the tail  
190 option on behalf of the other party and that the Extended Reporting Period premium shall be  
191 paid by MUNICIPALITY. In the event any action, suit or other proceeding is brought against  
192 COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice  
193 thereof to MUNICIPALITY and shall cooperate with MUNICIPALITY's attorneys in the defense  
194 of the action, suit or other proceeding. MUNICIPALITY shall furnish evidence of adequate  
195 Worker's Compensation Insurance.  
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197 7.3 The parties do hereby expressly agree that COUNTY, acting at its sole option and through  
198 its Risk Manager, may waive any and all requirements contained in paragraphs 7.1 and 7.2  
199 above, such waiver to be in writing only. Such waiver may include or be limited to a reduction  
200 in the amount of coverage required above. The extent of waiver shall be determined solely by  
201 COUNTY's Risk Manager taking into account the nature of the work and other factors relevant  
202 to COUNTY's exposure, if any, under this Agreement.

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8.1 During the term of this Agreement, each party agrees to abide by its respective affirmative action plan.

9.1 It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling.

9.2 In no event shall the acceptance of any payment required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of MUNICIPALITY and the acceptance of any such payment by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

9.3 This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

9.4 The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

9.5 The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

IN WITNESS WHEREOF, COUNTY and MUNICIPALITY, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR COUNTY:

Date Signed: \_\_\_\_\_  
JOSEPH T PARISI, County Executive

\* \* \* \*

FOR MUNICIPALITY:

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

\* Type or print names below signature lines