

AID AGREEMENT BETWEEN  
THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND  
THE VILLAGE OF SOMERS

THIS AGREEMENT is entered into by and between the State of Wisconsin Department of Natural Resources (Department) and the Village of Somers (Grantee) for the purpose of implementing restoration to improve the hydrology within Neumiller Woods Park and establish vegetation in the wetland area.

FOR AND IN CONSIDERATION of the terms and conditions contained in this grant agreement, the above-named parties agree:

1. PERIOD OF AGREEMENT: This grant agreement shall commence upon its signing by both parties and continue until December 31, 2021, during which period all performance as described in this grant agreement shall be fully completed to the satisfaction of the Department. The Grantee is eligible for expenses incurred beginning March 1, 2018.
2. CANCELLATION: The Department reserves the right to cancel this agreement in whole or in part, without penalty, due to nonappropriation of funds or for failure of the Grantee to comply with terms, conditions, and specifications of this grant agreement.
3. ENTIRE GRANT AGREEMENT; AMENDMENTS: This grant agreement, together with the specifications in the bid request (if any) and referenced parts and amendments, shall constitute the entire agreement and previous communications or agreements pertaining to this grant agreement are hereby superseded. Any agreement revisions, including cost adjustments and time extensions, may be made only by a written amendment to this grant agreement, signed by both parties prior to the ending date of this grant agreement.
4. ASSIGNMENT SUBCONTRACTS: Neither this grant agreement nor any right or duty in whole or in part by the Grantee under this grant agreement may be assigned, delegated or subcontracted without the written consent of the Department. If upon the written consent of the Department this grant agreement or any right or duty in whole or in part is assigned, the Assignee(s) shall expressly agree to assume and perform all relevant obligations expressed under the terms of this grant agreement and be bound by the terms and conditions of this agreement. Assignment in whole or in part of this grant agreement does not absolve the Grantee of any liability or obligation expressed and agreed to hereunder.
5. DESCRIPTION OF WORK: The Grantee agrees to perform the following services to the satisfaction of the Department as described in the attached Scope of Work.

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6. AGENCY CONTACTS: All communications regarding this grant agreement will be made through the designated agency contacts. The designated contacts are:

Grantee - William Morris, Village Administrator  
Village of Somers, Village Hall  
7511 12<sup>th</sup> Street  
P.O. Box 197  
Somers, WI 53171-0197  
262-859-2822  
[wmorris@somers.org](mailto:wmorris@somers.org)

Department - Cheryl Bougie, Sediment & WQ Monitoring Coordinator  
Wisconsin Department of Natural Resources  
Office of Great Waters  
2984 Shawano Avenue  
Green Bay, WI 54313  
920-662-5170  
[cheryl.bougie@wisconsin.gov](mailto:cheryl.bougie@wisconsin.gov)

7. TERMINATION:

- A. This grant agreement may be terminated in whole, or in part, in writing by the Department in the event of substantial failure of the Grantee to fulfill its obligation under this grant agreement, provided, that the Department shall give the Grantee not less than thirty (30) days written notice (delivered by certified mail, return receipt requested) of intent to terminate and an opportunity for consultation prior to termination.
- B. If termination is effected by the Department, an equitable adjustment in the price provided for in this grant agreement shall be made. Any payment due to the Grantee at the time of termination may be adjusted to the extent of any additional costs occasioned to the Department by reason of the Grantee's default. The equitable adjustment for any termination shall provide for payment to the Grantee for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Grantee relating to commitments which had become firm prior to the termination.
- C. Upon receipt of a termination action pursuant to paragraph A above, the Grantee shall (1) promptly discontinue all services affected (unless the notice directs otherwise); (2) terminate all subcontracts to the extent that they relate to the performance of work terminated by the Department, and (3) deliver or otherwise make available to the Department, all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Grantee in performing this grant agreement, whether completed or in process.
- D. Upon termination pursuant to paragraph A above, the Department may take over the work and prosecute the same to completion by agreement with another party or otherwise and the Grantee is liable for any excess costs for such similar work or services.

E. The rights and remedies of the Department and the Grantee provided in this clause are in addition to any other rights and remedies provided by law or under this grant agreement.

8. PAYMENT: The Department agrees to reimburse the Grantee up to a total of \$32,000 for the costs identified in the attached Scope of Work. The Grantee is eligible for expenses incurred beginning March 1, 2018.

Billings by the Grantee shall be made on a quarterly itemized basis for the actual net costs incurred for review and acceptance. Invoices should be sent to:

Emily Punke, Grant Coordinator  
Wisconsin Department of Natural Resources  
Office of Great Waters, OGW/3  
P.O. Box 7921  
Madison, WI 53707  
608-267-7439  
[Emily.Punke@Wisconsin.gov](mailto:Emily.Punke@Wisconsin.gov)

AND

[Cheryl.Bougie@wisconsin.gov](mailto:Cheryl.Bougie@wisconsin.gov)

Final invoices must be submitted within 30 days after the end of the grant agreement.

9. RECORDS; ACCESS: The Grantee shall, for a period of three (3) years after completion and acceptance by the Department, maintain books, records, documents, and other evidence directly pertinent to performance on work under this grant agreement in accordance with generally accepted accounting principles and practices. The Grantee shall also maintain the financial information and data used in the preparation or support of the cost submission in effect on the date of execution of this grant agreement and a copy of the cost summary submitted to the Department. The Department, the U.S. Environmental Protection Agency, their agents and their duly-authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee shall provide proper facilities for such access and inspection. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such dispute, performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such dispute, appeal, litigation, claim or exception.
10. INDEPENDENT CONTRACTOR: The Grantee is an Independent Contractor for all purposes and is not an employee or agent of the Department.
11. INDEMNIFICATION: The Grantee agrees to save, keep harmless, defend and indemnify the State of Wisconsin, Department of Natural Resources and all its officers, employees and agents, against any and all liability, claims and costs of whatever kind and nature, for injury to or death

of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this grant agreement or omissions of Grantee's employees, agents or representatives.

12. INSURANCE: The Grantee performing services for the State of Wisconsin shall:

- a) Maintain worker's compensation insurance for all employees engaged in the work.
- b) Maintain commercial liability and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out the agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
- c) Provide an insurance certificate indicating this coverage, counter-signed by an insurer licensed to do business in Wisconsin, covering the period of the agreement/contract. The insurance certificate is required to be presented prior to the issuance of the purchase order or before commencement of the agreement/contract.
- d) The state reserves the right to require higher or lower limits where warranted.

13. NONDISCRIMINATION: In connection with the performance of work under this grant agreement, the Grantee agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in section 51.01(5), Wis. Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Grantee further agrees to take affirmative action to ensure equal employment opportunities. The Grantee agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Failure to comply with the conditions of this clause may result in the Grantee being declared an "ineligible" Grantee, termination of the grant agreement or withholding of payment.

14. AFFIRMATIVE ACTION: If this grant agreement is for an amount of fifty thousand dollars (\$50,000) or more the Grantee agrees to submit a written affirmative action plan to the Department within 15 business days after the grant agreement's commences if an acceptable plan is not already on file with the State of Wisconsin. (Grantees with an annual work force of fewer than fifty employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the Grantee being declared an "ineligible" Grantee, termination of the grant agreement or withholding of payment.

15. FUNDING SOURCE: This grant agreement is funded in part or wholly by a grant from U.S. Environmental Protection Agency, CFDA #66.469. This procurement will be subject to regulations contained in 2 CFR 200.338 & 200.339 (formerly 40 CFR Parts 31 and 40 and OMB Circular 133). Neither the United States nor the U.S. Environmental Protection Agency is a party to this agreement.

16. APPLICABLE LAW: This grant agreement shall be governed by the laws of the State of Wisconsin. The Grantee shall at all times comply with all federal, state and local laws, ordinances, and regulations in effect during the period of this grant agreement.
17. ANTITRUST ASSIGNMENT: The Grantee and the Department recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Department. Therefore, the Grantee hereby assigns to the Department any and all claims for such overcharges as to goods, materials or services purchased in connection with this grant agreement.
18. TAX DELINQUENCY: Grantees who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
19. ADDENDUM: Additional conditions are attached as Addendum A, as part of the federal Grant Agreement No. GL-00E02317-0, funding this award. It is the responsibility of the grantee to determine which, if any, of the Federal Administrative Conditions in Addendum A may be relevant to the grant agreement or their sub awards, and to apply them accordingly.

The undersigned, as representatives of their respective agencies, hereto agree to this grant agreement.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

Date

3-19-18

By

Ed Elmer

Daniel L. Meyer, Secretary

VILLAGE OF SOMERS

Date

3-19-18

By

William Morris

William Morris, Village Administrator