

**-- CONSTRUCTION GRANT AGREEMENT --**

Form 8700-327 (rev. Feb 2016)

**Notice:** By signing this agreement, the grantee indicates concurrence with the conditions of this agreement, authorized under chs. 281 and 283, Wis. Stats., and chs. NR 151, 154, 155 and 216, Wis. Adm. Code. This agreement must be signed and returned to the address above within 30 days so that funds will be reserved for this project. Failure to return a signed agreement will result in denial of grant funds. Personally identifiable information collected will be used for program administration and may be made available to requesters as required under Wisconsin's Open Records Law [ss. 19.31 - 19.39, Wis. Stats.].

**PART 1. GRANT ADMINISTRATION INFORMATION**

<b>Grant Number</b> USC-USC13225Y16	<b>Grant Award Date</b> January 1, 2016		
<b>Grantee (Unit of Government)</b> City Of Fitchburg			<b>Total Grant Amount</b> \$10,520
<b>Project Name</b> Lacy Heights Bioretention Facility		<b>Grant Period</b> From January 1, 2016 Through December 31, 2017	
<b>Authorized Government Official</b> Cory Horton, City Engineer		<b>Grantee Contact</b> Rick Eilertson, Environmental Engineer	
<b>Government Official Address</b> 5520 Lacy Road		<b>Contact's E-mail Address</b> rick.eilertson@city.fitchburg.wi.us	
<b>City, ZIP Code, County</b> Fitchburg, 53711 Dane County		<b>Contact's Telephone Number</b> (608)270-4264 Fax No. (608)270-4275	
<b>Name of Department Regional Nonpoint Source Coordinator, Phone Number and Email Address</b> Mike Gilbertson, (608)275-3288, Mike.Gilbertson@Wisconsin.gov			<b>DNR Region</b> South Central Region

**PART 2. ELIGIBLE COST-SHARE BUDGET DATA**

Note: Line items cannot be exceeded without approval in advance from the DNR.

	<b>State Cost-Share Amount</b>		
1. Project Cost-Share Reimbursements for:			
a. CONSTRUCTION	\$8,080.00		
b. ENGINEERING	\$2,440.00		
		<b>Cost-share Percentage</b>	
		<b>for this grant:</b>	<b>40 %</b>
2. <b>Total Maximum USW Grant Amount</b>	<b>\$10,520.00</b>		

**PART 3. PURPOSE AND SCOPE**

This grant provides cost-share funding and authorizes reimbursement by the DEPARTMENT for the above named project as described in the grant application submitted for the grant period in Part 1 above. Reimbursements may be made for eligible work performed and expenses incurred for the following Best Management Practices consistent with the project budget identified in Part 2 above.

[U3] Urban Infiltration System
[U6] Urban Practice Design

The municipality will construct/install a bioretention for infiltration basin to remedy discharges of total suspended solids in urban runoff entering waters of the state.

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**PART 4. CONDITIONS**

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**A. General Conditions:**

- A.1. The Wisconsin Department of Natural Resources (DEPARTMENT) and the GRANTEE identified in Part 1 above mutually agree to perform this agreement in accordance with the Urban Nonpoint Source Water Pollution Abatement and Storm Water Management Grant Program and ss. 281.66 and 283, Wis. Stats., and chs. NR 151, 154, 155, and 216, Wis. Adm. Code, and with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps and also any assurances attached and made a part of this agreement.
- A.2. This agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or covenants pertaining to this agreement are superseded. Any revisions to this agreement must be made by written amendment, signed by both parties, prior to the termination date of this agreement, whether for changes in scope, grant period, or cost. Requests to extend the grant period must be made 45 days or more before the end of the grant period in Part 1.
- A.3. Failure by the GRANTEE to comply with the terms of this agreement shall not cause the suspension of all obligations of the State if, in the judgment of the Secretary of the DEPARTMENT, such failure was due to no fault of the GRANTEE. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for reimbursement under this agreement, at the DEPARTMENT's discretion.
- A.4. Eligibility for cost-sharing reimbursement is governed by the provisions of s. NR 154.04 and ch. NR 155, Wis. Adm. Code. Cost-share rates and applicability may be further limited by departmental contract approval(s), which may restrict the cost-share amount due to the eligibility requirements of the statute and codes.
- A.5. The amount listed in Part 2 above is the maximum amount the DEPARTMENT may reimburse under this agreement.
- A.6. Neither the GRANTEE nor any landowner may adopt any land use or practice that reduces the effectiveness or defeats the purposes of any BMP installed under this agreement.
- A.7. The GRANTEE:
1. Agrees to comply with all applicable Federal, Wisconsin, and local laws in fulfilling the terms of this agreement. In particular, GRANTEE agrees to comply with all applicable local and state contract and bidding requirements. GRANTEE should consult its legal counsel with questions concerning contracts and bidding. For assistance, GRANTEE may consult Procurement Guide for Local Governments Receiving DNR Grants.
  2. Agrees to obtain all necessary and appropriate permits prior to commencement of construction.
  3. Shall ensure that DEPARTMENT representatives have access to land on which grant-funded activities are being planned or installed, before, during and after BMP installation.
  4. Promises, in consideration of the promises made by the DEPARTMENT, to execute the project described in accordance with this agreement.
  5. May decline the offer of financial assistance provided through this agreement, in writing, at any time prior to the start of the project and before expending any funds. After the project has been started or funds expended, this agreement may be rescinded, modified, or amended only by mutual agreement in writing.
  6. Agrees that its employees or agents are not employees or agents of the DEPARTMENT for any purpose, including Worker's Compensation.
  7. Agrees, to save, keep harmless, defend and indemnify the DEPARTMENT and all its officers, employees and agents, against any and all liability claims, 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 agreement or omissions of GRANTEE's employees, agents or representatives.

8. Agrees to reimburse the DEPARTMENT of any and all funds the DEPARTMENT deems appropriate in the event the GRANTEE fails to comply with the conditions of this agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description or this agreement. In addition, should the GRANTEE fail to comply with the conditions of this agreement, fail to progress due to non-appropriation of funds, or fail to progress with or complete the project to the satisfaction of the DEPARTMENT, all obligations of the DEPARTMENT under this agreement may be terminated, including further project cost payment.
9. Agrees, in connection with the performance of work under this agreement, not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, handicap, sex, physical condition, developmental disability as defined in s. 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, as required by law. The GRANTEE agrees to post in conspicuous places available, for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
10. Agrees that accounting for project funds shall conform to generally accepted accounting principles and practices, and that GRANTEE shall maintain a financial management system in compliance with s. NR 155.29, Wis. Adm. Code, and separate from all other GRANTEE activities, for this agreement.
11. Agrees that all consultant and construction contracts must be approved by the DEPARTMENT **prior** to GRANTEE signing any contract in order to determine reimbursement eligibility and conformity with practice, technical standards and storm water permitting requirements.
12. Agrees that project design must be approved by the DEPARTMENT before construction begins.
13. Shall comply with the cost containment and procurement procedures in the applicable administrative codes governing this agreement.
14. Agrees to obtain prior DEPARTMENT approval before entering into a cost-share agreement with landowners and land operators if the best management practice will be constructed on land not owned by the GRANTEE. The cost-share rate offered to the landowner may not exceed the cost-share percentage specified in Part 2 of this agreement. Such agreements and any agreement amendments shall be recorded with the County Register of Deeds and promptly submitted to the DEPARTMENT's Regional Nonpoint Source Coordinator listed in Part 1 above.
15. Agrees not to reimburse landowner or land operators under this agreement if landowner or land operator is delinquent in child support or child maintenance payments per s.49.854 (2) (b), Wis. Stats. Prior to entering into a cost-share agreement with a landowner or land operator, the GRANTEE shall verify the status of the cost-share recipient by viewing the Department of Workforce Development website <https://liendocket.wisconsin.gov/>.
16. Agrees to retain and make available to the DEPARTMENT for inspection all fiscal records, including invoices and canceled checks, that support all project costs claimed by the GRANTEE, for three years from the date of final payment by the DEPARTMENT or three years after the end of the Grant period, whichever is later, or for a longer period if required by the DEPARTMENT for audit purposes.
17. Agrees to comply with annual Single Audit requirement, at its own expense, if combined total state and federal grant awards received by the GRANTEE from all sources is \$750,000 or more during the calendar year. Annual Single Audit requirements are specified in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, & Audit Requirements for Federal Awards (referred to as Uniform Guidance) and the Wisconsin State Single Audit Guidelines found at: <http://www.doa.state.wi.us/Divisions/budget-and-finance/financial-reporting/state-controllers-office/state-single-audit-guidelines> issued by the Wisconsin Department of Administration (DOA), State Controller's Office.

18. Agrees to submit progress reports to the DEPARTMENT Regional Nonpoint Source Coordinator identified in Part 1 of this agreement.
19. Agrees to submit a final report within 60 days of the end of the grant period to the DEPARTMENT Regional Nonpoint Source Coordinator detailing practices installed and results expected/obtained, along with an operation and maintenance strategy for the practices installed. Use this link to access the Final Report materials: <http://dnr.wi.gov/Aid/UrbanNonpoint.html>
20. Agrees that reimbursements may only be made for work performed, and expenses incurred, during the Grant Period as specified in Part 1 above. Grant reimbursements shall not exceed the individual line item amounts and will be calculated at the cost-share percentage in Part 2 of this grant. Reimbursements may not exceed the eligible contract prices approved by the DEPARTMENT times the cost-share rate. Reimbursement request(s) must be submitted to the DEPARTMENT Regional Nonpoint Source Coordinator listed in Part 1 above at the address identified and must be accompanied by payment documentation, consisting of consultant/contractor invoices with check nos. and dates paid.

The DEPARTMENT will not issue final reimbursement to the GRANTEE unless GRANTEE has submitted the Final Report and the Final Report has been approved by the DEPARTMENT Regional Nonpoint Source Coordinator.

Total reimbursements may be limited by: inclusion of ineligible items within the project activities; proration of grant coverage for either water quantity (flood) capacity or new development; and, the grantee's request for a lesser cost-share rate than the maximum allowable state rate.

#### A.8. The DEPARTMENT:

1. Promises, in consideration of the covenants and agreements made by the GRANTEE, to obligate for the GRANTEE the amount identified in Part 2 above and to tender to the GRANTEE that portion of the obligation that is required to pay the DEPARTMENT's share of the costs based on the cost-share percentage listed in Part 2 above for eligible project work performed and expenses incurred during the grant period noted in Part 1 above.
2. Agrees that the GRANTEE shall have sole control of the method, hours worked, and time and manner of any performance under this agreement other than as specifically provided in this document. The DEPARTMENT reserves the right only to inspect the job site or premises for the sole purpose of ensuring that the project is progressing or has been completed in compliance with the agreement. The DEPARTMENT takes no responsibility of supervision or direction of the performance of the agreement to be performed by the GRANTEE or the GRANTEE's employees or agents. The DEPARTMENT further agrees that it will exercise no control over the selection and dismissal of the GRANTEE's employees or agents.
3. Shall withhold twenty percent (20%) of the total grant amount until final inspection, project certification, and project's Final Report has been approved. The DEPARTMENT may only reimburse under this agreement [per s. 281.66 (3) (a) 2., Wis. Stats.] where the GRANTEE "... ensures adequate implementation of construction site pollution control, and of storm water management after development, for development and redevelopment of sites of one or more acres".

#### **B. Special Conditions**

- B.1. **Environmental Protection**. The GRANTEE is responsible for following all federal and state regulations for detecting and managing contaminated soils or solid waste encountered during installation of the best management practices funded under this grant. If such materials are encountered, the grantee shall immediately contact the DNR Regional Nonpoint Source Coordinator. The DEPARTMENT may terminate this grant if it determines that installation and operation of the BMP may facilitate movement of hazardous substances to waters of the state.
- B.2. **Natural Heritage Concerns**. If historical/cultural artifacts are unearthed or environmental hazards are discovered during any earth disturbance under this agreement activity, GRANTEE must immediately stop construction activities and notify the DEPARTMENT's Regional Nonpoint Source Coordinator to determine the appropriate response.

B.3. **Enforcement.** As stipulated in the application for this project noted in Part 1 above, the GRANTEE is responsible for enforcing all local ordinance obligations for construction erosion and post-construction runoff and implementing the storm water local program indicated under the Multiplier section of the application.

B.4. **Land Acquisition.** This grant authorizes cost-sharing reimbursement, not to exceed the amount in the Land Acquisition budget line and the cost-share percentage set forth in Part 2 above, on the actual eligible purchase price of land required for construction of the best management practice. Value of land for grant purposes is determined by appraisal. Appraisals must be approved by the DEPARTMENT **prior to any acquisition**, and maximum eligible costs are limited to the amount authorized by the DEPARTMENT's appraisal approval letter. See s. NR 155.25, Wis. Adm. Code, for grant-specific land acquisition requirements and "Land Acquisition Guidelines for Local Governments" for uniform land acquisition requirements for all DEPARTMENT grant programs.

**PART 5. INELIGIBLE COSTS**

1. Costs incurred, or work performed, either prior to or after the grant period (page 1, Part 1), unless specifically authorized in the grant *Purpose and Scope* (Part 3).
2. Costs which are inconsistent with the grant application or this grant agreement,
3. Costs related to operation and maintenance of BMPs.
4. Costs specified in s. NR. 155.15(2), Wis. Adm. Code.

FOR THE GRANTEE

By Cory Hordow  
Authorized Government Official

CITY ENGINEER R / DPW  
Title

4/4/2016  
Date Signed

FOR THE STATE OF WISCONSIN

By Mary Rose Teves  
Mary Rose Teves, Director  
Bureau of Community Financial Assistance

March 3, 2016  
Date Signed

(Printed Name, If Different Than Authorized Government Official on P.1)

**When returning the signed grant, you must also include evidence of your community's local share of the grant project costs – such as a copy showing its inclusion in the municipal budget, or other evidence that the community has, in fact, committed the necessary funding to complete the project. Alternatively, you may certify that commitment below.**

Certification provided as an alternative to evidence of local share:

I, the undersigned, hereby certify and attest that the GRANTEE has incorporated the "local share" of funding for the project covered by this grant within the municipal budget, or has otherwise made provisions to provide the local share.

Cory Hordow  
Authorized Government Official

R-31-16  
Resolution Number Authorizing Expenditure

### PROJECT CONTACT PAGE

**INSTRUCTIONS:** In the spaces below, insert contact information for the person **most directly involved** with this particular project. The Department will contact the person named for all matters related to this project.

Grant No.	USC13225Y16	
Governmental Unit	City Of Fitchburg	
Project Contact Name	Rick Eilertson	
Project Contact Title	Environmental Engineer	
Project Contact Mailing Address	5520 Lacy Road	
Project Contact Phone Number (direct):	(608) 270-4264	Extension:
<b>Project Contact E-Mail Address:</b>	rick.eilertson@fitchburgwi.gov	

Address to which reimbursement checks should be sent if different than contact information above:

Name	Same as above	
Title		
Mailing Address		
Phone Number (direct):	( )	Extension:
<b>E-Mail Address:</b>		

If information provided on this page -- or any information in Part 1 of this grant agreement -- should change during the Grant Period, please provide that information to DNR Nonpoint Grant Manager and the DNR regional Nonpoint Source Coordinator.

Please complete this Contact Page and transmit with the signed grant agreement using one of the return methods below. (Email is preferred.)

Via E-mail:	Via US Postal Service:
<a href="mailto:DNRCFANONPOINTGRANTS@wisconsin.gov">DNRCFANONPOINTGRANTS@wisconsin.gov</a>	Nonpoint Grant Manager Bureau of Community Financial Assistance Wisconsin DNR P. O. Box 7921 Madison, WI 53707-7921

Thank you very much.

Staff of DNR Nonpoint Source Grant Program