



**11. Closed Session**

To consider a motion to convene in closed session under Section 19.85(1)(e) of the Wisconsin Statutes for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specific public business, whenever competitive or bargaining reasons require a closed session:

- Expansion to Van Riper Park

If any action is required in Open Session, as a result of the Closed Session, the Board will reconvene in Open Session to take the necessary action and/or continue on with the printed agenda.

Adjournment

## ONALASKA-MVC NATURAL LANDS PROTECTION AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Onalaska, a municipal corporation organized under the laws of the State of Wisconsin (hereinafter "City"), and Mississippi Valley Conservancy, Inc. (hereinafter "MVC"), a non-profit corporation under sections 501(c)(3) and 170(h) of the Internal Revenue Code, located at 1309 Norplex Drive, Suite, La Crosse, WI 54601.

WHEREAS, the City of Onalaska, hereinafter referred to as the City, is a Wisconsin municipal corporation;

WHEREAS, as a result of citizen input received during the Comprehensive Plan process, City has determined that it wishes to protect the natural scenic beauty of the City, including blufflands, wetlands and other natural areas;

WHEREAS, the Conceptual Master Plan for the Onalaska Central Greenway identifies opportunities for implementation of the Greenway Plan through public/private partnerships to extend technical and financial resources to accelerate the implementation of the objectives of the Greenway Plan in the interest of forever protecting the scenic quality of the City of Onalaska;

WHEREAS, the Conceptual Master Plan for the Onalaska Central Greenway contains the objective of continuing cooperative efforts with MVC on the establishment of trailheads and facilities associated with the La Crosse River Conservancy Project and developing a bluffland trail system linking Green Coulee and French Road;

WHEREAS, MVC has a history of working cooperatively with numerous organizations, government entities, public and private foundations, and public and private landowners for purposes of receiving donations for the purchase of conservation easements and fee title to natural lands and receiving direct donations of conservation easements and fee title;

WHEREAS, the City and MVC wish to enter into a contractual relationship to provide for attaining these land protection goals in the most efficient and cost effective manner; and

WHEREAS, the City shall budget on a project by project basis for funds for use by MVC in conserving natural lands in and around the City of Onalaska;

NOW, THEREFORE, it is hereby agreed as follows:

1. The City will utilize MVC, and MVC shall negotiate on the City's behalf for purposes of acquiring title to land and/or conservation easements on land in and around the City for conservation purposes. Said program shall be known hereafter as the "City of Onalaska Natural Lands Protection Program" (hereinafter "ONLPP").

2. The parties agree that the City of Onalaska Natural Lands Protection Program boundaries shall consist of blufflands identified in the City plan, as well as properties in and adjacent to the Great River Trail, the La Crosse River Conservancy and the Black River corridor, as depicted on Exhibit "A" attached hereto. MVC shall attempt, to the extent possible, to purchase lands in proximity to lands already owned by governmental units within this area, so as to enlarge the areas already protected by the City and other units of government.

3. The City agrees to fund this project on an as needed basis by annually reviewing those projects anticipated for the budgetary year and making a request for an allocated budget amount needed for such projects from its Capital Improvement Program for the City for the years 2016-2020, subject to applicable law. On or before the fifteenth day of July of each year MVC should inform the City's Planning Department of the anticipated projects and the costs for the following year. By December 15<sup>th</sup> of each year, the City shall notify MVC about the amount of funding available for the following fiscal year. Said amounts shall be transferred to MVC on a reimbursement basis, for acquisition earnest money and/or for escrow closings and used only for

projects subject to the terms of this agreement. Prior to the expenditure of any funds, MVC shall prepare and submit a proposed budget for each acquisition project based upon the best information available at the time of submittal, and shall receive written approval from the City Director of Parks and Recreation. Reimbursement to MVC will be based on actual costs incurred and documented. In the event that extraordinary circumstances prevent a land or easement acquisition from reaching completion, the City shall reimburse MVC for actual expenditures included on the approved budget.

4. MVC shall make its best efforts to secure matching funds from other sources for land protection projects to include, but not be limited to, funds from public and private foundations, the Wisconsin Knowles-Nelson Stewardship Fund, as well as from donations from individuals and businesses.

5. In addition to the outright purchase of land by MVC, MVC is also authorized to purchase conservation easements, i.e. development rights, from private landowners who are willing to sell said rights to MVC.

6. All fee title lands purchased by MVC with the use of funds from the City shall be transferred from MVC to the City for conservation purposes within three years of the date of MVC's acquisition, unless MVC needs additional time to complete grant reimbursement from the Wisconsin Knowles-Nelson Stewardship Fund. The City and MVC mutually acknowledge that all projects, fee and easement, acquired with the Wisconsin Knowles-Nelson Stewardship Fund are subject to Section 23.0917 of the Wisconsin Statutes granting the Wisconsin Department of Natural Resources (hereinafter "DNR") certain rights and interests with respect to said properties. These rights and interests will be established within a recorded Stewardship Grant and Management Contract. Per S. 51.005(7) Wisc. Admin. Code, any transfer of

Stewardship land from MVC to the City is subject to prior written approval of the DNR.

Transfer of Stewardship land to the City will require that the City assume all obligations to the Stewardship Grant and Management Contract. Stewardship funds may only be used to acquire lands outside of the City limits if the government with jurisdiction over said lands agrees in writing to the acquisition and eventual transfer of the land to the City. On any land purchased by MVC, simultaneous with transfer of ownership to the City, MVC is authorized to place a conservation easement, substantially in the form of Exhibit "B" attached hereto, to prohibit future development upon these lands. Both the City and MVC shall sign a baseline report documenting the condition of the land at the time the land is conveyed. Reimbursement of transfer expenses described in Section 8, as well as the stewardship fee pursuant to Section 7, shall be due to MVC simultaneous with or before the land is transferred to the City.

7. MVC shall administer and hold conservation easements that are purchased or received as a donation under the terms of this agreement including conservation easements placed by MVC on fee title lands acquired with City money that are later transferred to the City pursuant to Section 6 hereof. MVC shall be responsible for monitoring and enforcing these easements in perpetuity (the "City Easements"). Consideration for the monitoring and enforcement of the City Easements in perpetuity shall be included in the proposed budget for each conservation easement as a "Stewardship Fee", which fee shall not exceed \$5,000.00 plus additional funding contingent on the property owner's reserved rights as set forth in the MVC's Conservation Easement Stewardship Fund Policy (the "CESF Policy"). A copy of the CESF Policy shall be provided to the City annually.

8. The costs that may be paid by MVC from the City's funds shall include, in addition to the purchase price, the cost of appraisals, environmental inspections (commonly

called a Phase I Report) as appropriate and necessary, a onetime fee for easement monitoring and enforcement, normal and routine attorney's fees, title searches and title insurance, acquisition expenses for matching grants (title insurance, appraisals, surveys, recording fees, attorney fees, etc.), MVC staff time for negotiating and completing the acquisitions and time spent applying for matching grants, and other normal and routine costs of acquisition. During the period of MVC ownership of land to be transferred to the City, MVC shall be reimbursed out of City funds pursuant to a budget for each property mutually agreed upon by MVC and the City as per Section 3. Reimbursement shall include costs for title policy updates, property taxes, property tax exemption application fees, recording fees, boundary signs, recreational use signs (required by the DNR Stewardship Program), attorney fees, and staff time and expense for the negotiation, drafting, and completion of the conservation easement, baseline report documentation, land management plan, and other normal and routine costs of land transfers. Accounting for each acquisition and transfer shall be tracked in a spreadsheet showing "Schedule of Sources and Uses of Funds". Said spreadsheet shall include the date the expense occurred, the amount, the vendor, and a description of the expense (i.e. title policy, recording fees, etc.). No payments shall be due from the City to MVC unless approved in writing by the City.

9. MVC agrees that real estate appraisals shall be obtained for all property and/or easement purchases, and MVC shall not pay a price in excess of the appraised value without prior approval from the City. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City of Onalaska from purchasing property that MVC refuses to purchase due to the price of such property being in excess of the appraisal obtained by MVC.

10. The parties agree that to the extent that any land acquisition is located within the "Onalaska Natural Lands Protection Program Boundary Area" as depicted on Exhibit "A"

attached hereto; MVC need not seek separate approval for said acquisition from the Onalaska City Council. MVC shall receive written approval of each project subject to Section 3, and shall notify the Land Use and Development Director, the Director of Parks and Recreation, and the Mayor for the City of Onalaska prior to entering into any binding contracts for the purchase of either lands or easements, which contemplate the use of City funds.

11. The City acknowledges that MVC will develop and implement a land management plan in consultation with the DNR for any acquisitions using Knowles-Nelson Stewardship Fund dollars for the Program lands acquired in fee. All actions undertaken by the City within lands acquired pursuant to this program by MVC shall be consistent with the terms and conditions of this agreement, the land management plan, any DNR Stewardship Grant Contract, and the conservation easement held by MVC.

12. This agreement may be terminated at any time by the City, except that the City may not seek the return of any money it has approved for disbursement or allocation to MVC if MVC has a pending offer to purchase at the time this agreement is terminated by the City, nor may the City seek the return of any money already disbursed to MVC.

13. MVC may terminate this agreement at any time, and it shall return to the City all funds received from the City that have not been committed to, or expended for, the purchase of lands or easements.

14. MVC, its employees, agents, volunteers, and representatives shall be deemed independent contractors and shall in no way be deemed as a result of this Agreement to be the employees of the City. MVC, its employees, agents, volunteers, and representatives are not entitled to any of the benefits that the City provides for its employees. MVC and the City shall not be considered an agent, joint venture, or partner of the other.

15. The parties may amend this agreement at any time, except that any amendment to the agreement may not have the effect of changing any provision of this agreement if said change would have an effect upon the pending purchase of one or more properties or easements for which there is already an outstanding offer to purchase.

16. MVC understands and acknowledges that the City is subject to the Public Records Law of the State of Wisconsin. As such, MVC agrees to retain all records as defined by Wisconsin statute §19.32(2) applicable to this Agreement for a period of not less than seven (7) years after final payment is made. MVC agrees to assist the City to comply with any public records request that the City receives pertaining to this Agreement. The parties acknowledge that MVC may satisfy this provision by turning such records over to the City whereupon the City shall take custody of said records assuming such records are not already maintained by the City.

17. This Agreement may be executed in one or more counterparts, all of which shall be considered but one and the same agreements and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

**MISSISSIPPI VALLEY CONSERVANCY, INC.**

\_\_\_\_\_  
R. Patrick Caffrey, President

\_\_\_\_\_  
Date

STATE OF WISCONSIN    )  
  )ss  
LA CROSSE COUNTY     )

This instrument was acknowledged before me the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by R. Patrick Caffrey, president of Mississippi Valley Conservancy, Inc.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission: \_\_\_\_\_

**CITY OF ONALASKA**

\_\_\_\_\_  
Joe Chilsen, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cari Burmaster, City Clerk

\_\_\_\_\_  
Date

STATE OF WISCONSIN    )  
                                  )ss  
LA CROSSE COUNTY     )

This instrument was acknowledged before me the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Joe Chilsen, Mayor of the City of Onalaska, and Cari Burmaster, Clerk of the City of Onalaska, a municipal corporation.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission:\_\_\_\_\_