

AGREEMENT

This Agreement is entered into by and among the City of La Crosse, a Wisconsin municipality (“La Crosse”), Mississippi Valley Conservancy, Inc., a Wisconsin non-stock corporation (“MVC”), the Wisconsin Department of Natural Resources (“DNR”), and Northern States Power Company, a Wisconsin corporation (“NSPW”), as of the Effective Date, defined below. La Crosse, MVC, DNR, and NSPW are individually referred to as a “Party” and collectively as the “Parties”. The Effective Date of this Agreement is the date that the last Party executes this Agreement.

WHEREAS, La Crosse owns real property located in the City of La Crosse, County of La Crosse, State of Wisconsin, legally described on the attached Exhibit A (the “Property”); and

WHEREAS, NSPW has easements on portions of the Property for an electric line, recorded in the Office of the Register of Deeds for La Crosse County on March 11, 1958, as Document No. 682921, and on March 11, 1958, as Document No. 682923 (collectively, the “NSPW Easement”); and

WHEREAS, subsequent to the granting of the NSPW Easement, MVC conveyed a grant contract to DNR recorded in the Office of the Register of Deeds for La Crosse County on March 3, 2006, as Document No. 1443723; and

WHEREAS, the restrictions of said grant contract were assigned to La Crosse in an Assignment, recorded in the Office of the Register of Deeds for La Crosse County on December 13, 2007, as Document No. 1491635 (the grant contract and the Assignment are collectively, the “DNR Contract”); and

WHEREAS, subsequent to the granting of the NSPW Easement, MVC was granted a conservation easement on the Property recorded in the Office of the Register of Deeds for La Crosse County on December 13, 2007, as Document No. 1491634 (the “MVC Easement”); and

WHEREAS, MVC has raised multiple issues with regard to what access rights NSPW has on the Property to access the easement area where the electric line facilities are located (the “NSPW Electric Line ROW Corridor”), depicted on Exhibit B, and the restoration of the Property following access; and

WHEREAS, the Parties have reached an agreement, wish to avoid litigation, and wish to resolve all differences between the Parties regarding NSPW’s access rights on the Property.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed to as follows:

1. Recitals. The above recitals are fully incorporated into the terms of this Agreement.

2. Route 1. NSPW uses a trail that is outside of the NSPW Electric Line ROW Corridor described in the NSPW Easement (the “Off ROW Access”) in the NW ¼ of the SE ¼ and the SW ¼ of the SE ¼, all in Section 15, Township 15 North, Range 7 West. The Off ROW Access is depicted on the attached Exhibit B as “Route 1”.

3. Route 2.

(a) The NSPW Easement does not include any rights within the NE ¼ of the SW ¼ of Section 15, Township 15 North, Range 7 West. However, NSPW has been using, and desires to continue to use, a portion of an existing trail in this part of the Property to access its NSPW Electric Line ROW Corridor. This portion of the trail is depicted on the attached Exhibit B as “Route 2”.

(b) The Parties acknowledge and agree that NSPW needs access to the NSPW Electric Line ROW Corridor using Route 2. La Crosse agrees to modify its DNR-approved management plan for the Property to account for NSPW’s access needs and planned management activities and submit said plan to MVC and DNR for review and approval (the “Amended Plan”). The Amended Plan shall allow NSPW to use Route 2 as part of approved habitat restoration activities to offset impacts of the use of Route 2 needed to access the NSPW Electric Line ROW Corridor. Any amendment to the management plan shall be limited to provisions consistent with the MVC Easement and the DNR Contract. Future use of Route 2 is subject to the following:

(i) NSPW shall be able to access the NSPW Electric Line ROW Corridor as it deems necessary using Route 2 under the terms and conditions of this Agreement for a period not to exceed twenty-five (25) years, at which time this Agreement will be updated to reflect current habitat conditions and/or La Crosse, MVC, DNR, or NSPW requirements for the Property. However, NSPW’s right to use Route 2 to access the NSPW Electric Line ROW Corridor will not be amended and will continue uninterrupted.

(ii) Written notification, which includes electronic notification, of, and purpose for, access shall be provided to La Crosse, MVC, and DNR at least thirty (30) days prior to using Route 2; provided, however, that no prior notice shall be required if there is an emergency need of access by NSPW. In the event emergency access is required, NSPW will provide written notice to all Parties as to the nature and impact of access within thirty (30) days following said access.

(iii) NSPW’s use of Route 2 may be on foot. In addition, NSPW’s use of Route 2 may be by vehicles and equipment so long as the vehicles and equipment are washed prior to entering the Property to prevent weed seed contamination. The revegetation of Route 2 if/as needed will be assumed by NSPW pursuant to the activities and limitations described on the attached Exhibit C. If NSPW access is needed other than when dry and/or frozen conditions exist, additional, appropriate, reasonable restoration measures may be required. NSPW agrees to minimize soil and vegetation disturbance to the extent practicable.

(iv) NSPW may not widen Route 2 beyond the current width as of the Effective Date or introduce aggregate base, gravel, or other outside materials onto Route 2, without

the prior written consent of all parties to this Agreement, which consent shall not be unreasonably withheld, conditioned, or delayed.

(v) Part of the need for NSPW to have access to the NSPW Electric Line ROW Corridor is to maintain or enhance the wildlife habitat of the NSPW Electric Line ROW Corridor. NSPW agrees to complete a wildlife habitat improvement project, approved by NSPW as part of its maintenance of the NSPW Electric Line ROW Corridor, in conjunction with performing maintenance work within the NSPW Electric Line ROW Corridor. Specifically, the Parties agree that a herbicide treatment of invasive woody species in the NSPW Electric Line ROW Corridor in and around Structure #49 shall be considered fulfillment of a wildlife habitat improvement project by NSPW.

(c) All provisions of the Amended Plan, as approved by MVC and DNR, which will affect NSPW shall be approved in advance by NSPW, which approval shall not be unreasonably withheld, conditioned, or delayed. NSPW shall have sixty (60) days in which to review and approve the Amended Plan. After the sixty (60) days, if NSPW has not replied in writing to the Amended Plan submitted to it for approval, the Amended Plan shall be deemed to be approved by NSPW.

(d) A one-time payment of Five Thousand and 00/100 Dollars (\$5,000.00) shall be made by NSPW to MVC to reimburse for staff time and expense in the development of this Agreement, the anticipated time and expense for MVC to work with La Crosse to establish the Amended Plan, and for the necessary oversight for the use and restoration of Route 2. In addition, NSPW shall pay MVC an additional payment at any time this Agreement is amended by the agreement of all the Parties, including after the first twenty-five (25) years described above. The exact amount of said payment is to be agreed upon by NSPW and MVC prior to the execution of the amended Agreement; provided, however, under no circumstance shall the amount be arbitrary or unsubstantiated.

4. Restoration of Route 1 and Route 2.

(a) After the completion of NSPW's use of Route 1 to replace structures in the NSPW Electric Line ROW Corridor (the "NSPW Structure Work"), which work is currently anticipated to occur in late 2020 or in 2021, NSPW will perform the restoration activities on Route 1 listed on the attached Exhibit C. Said restoration shall not be unreasonably delayed.

(b) After the completion of NSPW's use of Route 2 for the NSPW Structure Work, NSPW will perform the restoration activities on Route 2 listed on the attached Exhibit C.

5. Effective Settlement Agreement. This Agreement is intended to settle and resolve all disputes with respect to NSPW's use of Route 1 and Route 2 between the Parties without any admission of liability, and is entered into in lieu of litigation that could have been commenced by the Parties.

6. Binding Effect; Successors and Assigns. Subject to the terms of this Agreement, the rights and obligations of the Parties hereto shall inure to the benefit of and be binding upon their successors and assigns.

7. Entire Agreement; Amendment. This Agreement supersedes all prior discussions, representations, warranties, and agreements, both written and oral, among the Parties with respect to NSPW's use of Route 1 and Route 2, and, except for the NSPW Easement, the MVC Easement, and the DNR Contract, contains the sole and entire agreement among the Parties with respect to NSPW's use of Route 1 and Route 2. No prior drafts of this Agreement and no words or phrases from any such prior drafts shall be admissible into evidence in any action, suit, or other proceeding involving this Agreement. This Agreement may be amended, supplemented, or modified only by a written instrument duly executed by or on behalf of each Party hereto.

8. Changes, Modifications and Waivers; Effect of Waivers on Default. No change of, waiver of, or modification to any provision under this Agreement shall be valid unless in writing and signed by the Parties. No consent or waiver, express or implied, by any Party to or of any breach of any covenant, condition, or duty of any other Party, whether by conduct or otherwise, in any one or more instances, shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition, or duty. Failure, delay, or forbearance of any Party to insist on strict performance of any provision of this Agreement, or to exercise any rights or remedies hereunder, shall not be construed as a waiver.

9. Construction; Interpretation. The headings used in this Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future laws, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, and (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom. The Parties acknowledge their mutual participation in the drafting of this Agreement and its terms shall not be construed more strictly against one Party or the other as the author of the document.

10. Notices. All notices hereunder, including, but not limited to, the notices required pursuant to Section 3(b), shall be given in writing and sent by hand, electronically, overnight courier, or certified or registered mail, return receipt requested, addressed as follows or to such other address as any Party shall have notified the other:

If to City of La Crosse:

Email: _____

If to Mississippi Valley Conservancy, Inc.:

Attn: Executive Director

PO Box 2611

La Crosse, WI 54602

Email: info@mississippivalleyconservancy.org

If to Wisconsin Department of Natural Resources:

Gina Keenan/DNR Stewardship Grant Specialist West Central Region

1300 W Clairmont Ave.

Eau Claire, WI 54702-4001

If to Northern States Power Company, a Wisconsin corporation:

Attn: Manager, Siting and Land Rights

P.O. Box 8

1414 W. Hamilton Avenue

Eau Claire, Wisconsin 54702-0008

Notices shall be deemed sufficiently given on the date delivered (if by hand delivery), on the date shown as received (if sent by overnight courier), or on the date shown on the return receipt (if sent by certified or registered mail). Each Party shall promptly furnish to the other Parties a copy of any notice received from any third person that would affect the rights of the other Parties.

11. Remedies Not Exclusive. Any right or remedy conferred on any of the Parties under this Agreement shall not be deemed to be exclusive of, or alternative to, any right or remedy afforded them by law or equity, but all such rights and remedies shall at all times be deemed to be cumulative.

12. Authority to Enter into Agreement. Each Party warrants and covenants that it has full authority to execute this Agreement.

13. Counterparts; Delivery of Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties; it being understood that all Parties need not sign the same counterpart. The exchange of copies of this Agreement and of signature pages by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in "portable document format" (".pdf"), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means, shall constitute effective

execution and delivery of this Agreement as to the Parties and may be used in lieu of an original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or other electronic means shall be deemed to be their original signatures for all purposes.

(signatures on following pages)

Dated: _____

Northern States Power Company, a Wisconsin corporation

By: _____

Name: _____

Title: _____

STATE OF _____)

(ss.

COUNTY OF _____)

Personally came before me, this ____ day of _____, 2020, the above named _____, the _____ of Northern States Power Company, a Wisconsin corporation, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of _____

My Commission Expires: _____

EXHIBIT A

Legal Description of the Property

Part of the SW 1/4 of the NE 1/4 and the NW 1/4 of the SE 1/4 of Section 15, Township 15 North, Range 7 West, Town of Shelby, LaCrosse County, Wisconsin, described as follows: Commencing at the Northeast corner of Cliffside Park Addition; thence East 1780 feet; thence South 2 degrees East 670 feet; thence South 60 degrees 24 minutes West 690 feet to the Northeast right-of-way line of Easter Road and the point of beginning: Thence South 67 degrees 2 minutes West 230.5 feet; thence North 41 degrees 13 minutes West to the West line of the SW 1/4 of the NE 1/4; thence South to the Southwest corner of the NW 1/4 of the SE 1/4; thence East to the Southeast corner; thence North along the East line 250 feet; thence West parallel to the South line 805 feet; thence North parallel to the East line to a point on the Northeast right-of-way of Easter Road; thence Northwesterly along the right of way to the point of beginning.

(Tax Parcel No. 11-1125-000).

Part of the SW 1/4 of the NE 1/4 and the NW 1/4 of the SE 1/4 of Section 15, Township 15 North, Range 7 West, Town of Shelby, LaCrosse County, Wisconsin, described as follows: Commencing at the Southeast corner of the NW 1/4 of the SE 1/4; thence North along the East line 250 feet to the point of beginning: Thence West parallel with the South line 805 feet; thence North parallel with the East line 1140 feet to the Southerly right-of-way line of Easter Road; thence Southeasterly along the right-of-way to the East line of the NW 1/4 of the SE 1/4; thence South along the East line 770 feet to the point of beginning.

(Tax Parcel No. 11-1125-002).

Part of the SE 1/4 of the NW 1/4 of Section 15, Township 15 North, Range 7 West, Town of Shelby, LaCrosse County, Wisconsin, described as follows: Commencing at the Northeast corner of Cliffside Park Addition; thence South 1 degree 43 minutes West along the East line 370.4 feet to the point of beginning; Thence South 66 degrees 33 minutes East 40.8 feet; thence South 41 degrees 13 minutes East to the East line; thence South to the Southeast corner; thence West along the South line to the East line of Addition; thence Northerly along the East line to the point of beginning.

(Tax Parcel No. 11-1134-000).

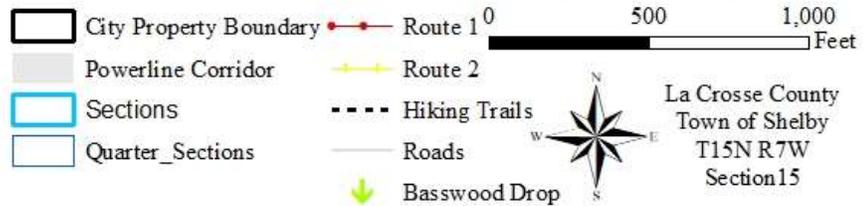
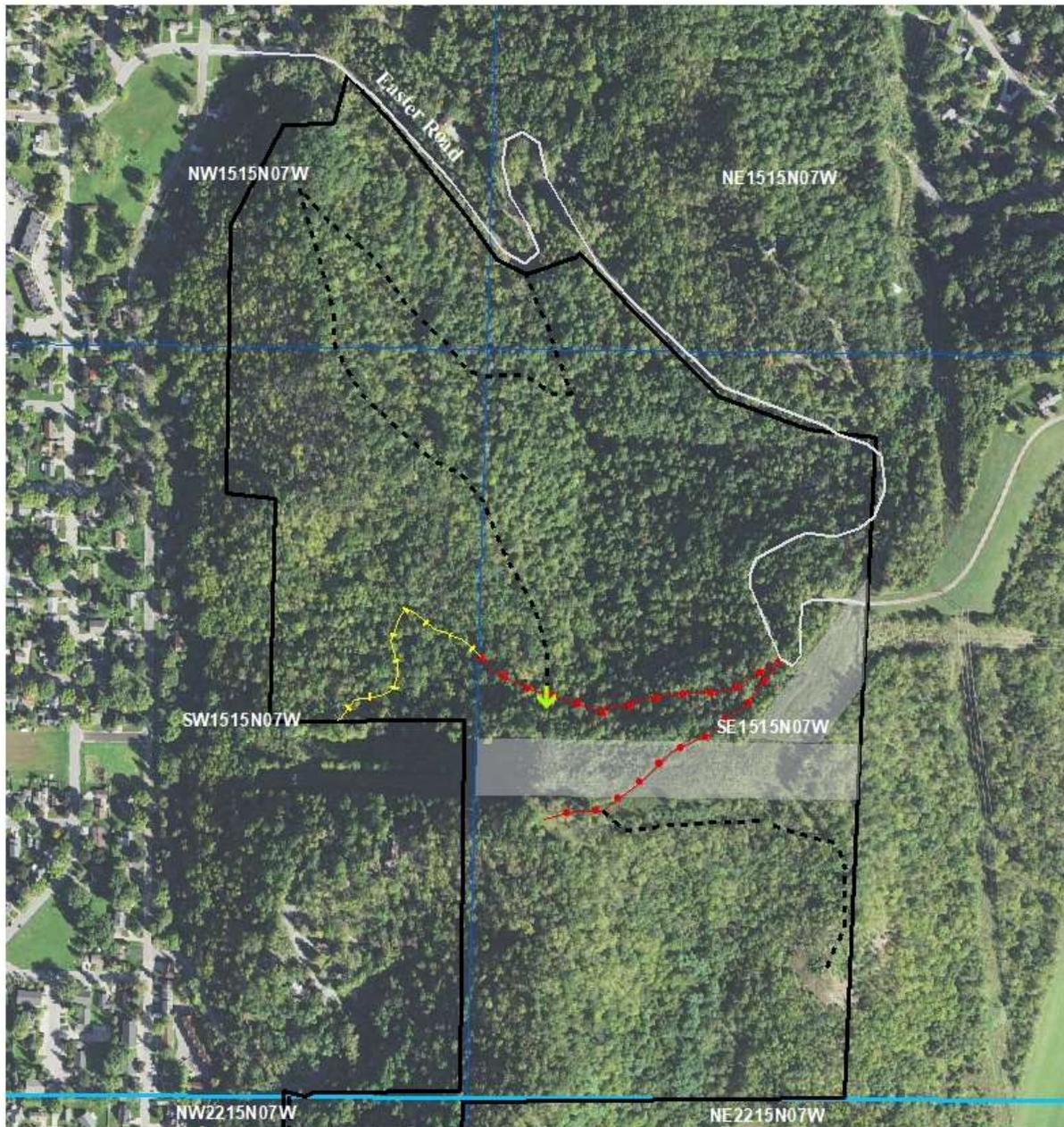
Part of the NE 1/4 of the SW 1/4 of Section 15, Township 15 North, Range 7 West, Town of Shelby, LaCrosse County, Wisconsin, EXCEPT Cliffside and First Addition to Cliffside Park Addition, and EXCEPT that part lying West of said First Addition.

(Tax Parcel No. 11-1137-000).

The SW 1/4 of the SE 1/4 of Section 15, Township 15 North, Range 7 West, Town of Shelby, LaCrosse County, Wisconsin.

(Tax Parcel No. 11-1165-000).

EXHIBIT B
Exhibit B: Map



La Crosse County
 Town of Shelby
 T15N R7W
 Section 15

EXHIBIT C

The restoration work set forth in Items 1-4 below shall be completed by NSPW for Route 1 and Route 2 at the conclusion of the NSPW Structure Work. Thereafter, if NSPW accesses Route 1 or Route 2 and such access results in bare soil and/or soil disturbance, then NSPW shall complete the restoration work set forth in Items 1-3 below.

1. Conduct manual removal and chemical stump treatment of any non-native honeysuckle, common buckthorn, Japanese barberry, autumn olive, multiflora rose, and any other woody invasive species within fifty (50) feet of the centerline of Route 1 and/or Route 2.

(a) After the completion of the NSPW Structure Work, the restoration in this Item 1 shall occur a minimum of three (3) times during the next growing season (or, if the work is completed early enough in a calendar year, during the growing season of the year when the work is completed, if feasible).

(b) For all other required restoration, the work shall occur on the respective Route after any time the Route is accessed by any wheeled or tracked vehicle or machine, said work to be completed during the next growing season (or, if the work is completed early enough in a calendar year, during the growing season of the year when the work is completed, if feasible).

2. Repair any erosion and/or damage to the respective Route caused by NSPW's use of the respective Route to the reasonable satisfaction of La Crosse, MVC, and DNR.

3. Seed the respective Route with a seed mix approved by MVC, which approval shall not be unreasonably withheld, conditioned, or delayed.

4. Fall one or more of the basswood trees across Route 1 at the point designated by NSPW on the attached Exhibit B to prevent the access to the west from becoming a rogue trail and causing trespassing issues on neighboring properties.