

INTERGOVERNMENTAL COOPERATION AGREEMENT

relating to

WINNEBAGO WATERWAYS COMMITTEE

Authorized and Established under Section 66.0301 of the Wisconsin Statutes

THIS AGREEMENT ("*Agreement*"), dated as of [_____], 2017, by and among Calumet County, Fond du Lac County and Winnebago County (individually a "*County*" and collectively the "*Counties*"), all of which are counties in the State of Wisconsin organized under the Wisconsin Constitution and Chapter 59 of the Wisconsin Statutes:

WITNESSETH

WHEREAS, pursuant to Section 66.0301(2) of the Wisconsin Statutes (as in effect as of the date hereof and as the same may from time to time be amended or supplemented), two or more municipalities of the State of Wisconsin may enter into a contract for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law; and

WHEREAS, pursuant to Section 66.0301(3) of the Wisconsin Statutes (as in effect as of the date hereof and as the same may from time to time be amended or supplemented), any contract entered into under Section 66.0301(2) shall provide a plan for administration of the function or project; and

WHEREAS, a Wisconsin county is a "municipality" as that term is defined in Section 66.0301 of the Wisconsin Statutes; and

WHEREAS, the Counties are each empowered by law to create, promote and conduct economic, cultural, recreational and community development activities in the county which are conducive to the general health and welfare, and otherwise exercise powers related to the promotion of the public health, safety, convenience and general welfare; and

WHEREAS, the Counties recognize a desire and need to support and promote beautification, restoration, promotion and general upkeep of the waters that comprise the lakes of the Winnebago Waterways, commonly defined as Lake Winnebago and the associated pool lakes of Poygan, Butte des Morts and Winneconne and watershed tributaries within the five-county area including Calumet, Fond du Lac, Outagamie, Waushara and Winnebago Counties (the "*Winnebago Waterways Program*"); and

WHEREAS, in order to accomplish their intent with respect to the Winnebago Waterways Program as stated above, the Counties desire to create a committee comprised of official representatives from each of the Counties to oversee activities under this Agreement related to the purposes set forth in this Agreement; and

WHEREAS, each County has authorized entering into this Agreement by its governing body.

NOW, THEREFORE, the Counties, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. Creation. Pursuant to Sections 66.0301(2) and 66.0301(3) of the Wisconsin Statutes, there is hereby created a committee to be known as the "**Winnebago Waterways Committee**" (the "**Committee**"), whose purpose is to, in addition to the specific responsibilities set forth herein, administer this Agreement.

Section 2. Purpose. This Agreement is a contract entered into pursuant to the provisions of Section 66.0301(2) of the Wisconsin Statutes. The purpose of this Agreement is to establish the Committee, which is hereby responsible for the joint exercise of any power or duty of the Counties under applicable law. In particular, the purpose of the Committee is to effectuate the Winnebago Waterways Program as developed by the Committee. Such purposes shall be accomplished in the manner provided in this Agreement.

Section 3. Effectiveness; Term. This Agreement shall become effective and be in full force and effect and a legal, valid and binding agreement of each of the Counties on the date that all of the Counties have executed and delivered this Agreement. This Agreement shall continue in full force and effect until such time as there are no longer at least two (2) Counties that are parties to this Agreement. This Agreement shall terminate as to a County if the County delivers written notice to the Committee of its intent to withdraw from this Agreement pursuant to Section 13(b), which written notice must be delivered at least 180 days prior to the effective date of the withdrawal. The terms and conditions associated with a County's withdrawal are governed by Section 13(b).

Section 4. Powers. The Committee shall have only those powers enumerated herein and those necessary to effectuate the terms of this Agreement. The powers of this contract shall be limited and shall not exceed the amounts appropriated by the counties. Nothing in this Agreement shall be construed as providing the Committee with tax levy, assessment or other fiscal powers separate and apart from administration of the financial commitments of each County under this Agreement. The Committee shall be a policy-making entity with broad responsibility for the budgeting and appropriation of funds provided to the Committee by the Counties hereunder and monitoring the activities of any service provider or other entity charged with any responsibility in the Winnebago Waterways Program.

Section 5. Contractors and Subcontractors. The Committee may enter into a contract with a third-party contractor for the provision of services related to the Winnebago Waterways Program. Such contractor shall be an entity with the background, expertise and mission necessary to effectively provide services in the Winnebago Waterways Program. The Committee is also authorized to hire counsel or other consultants or advisers as it deems necessary in carrying out its functions. In no circumstance is the Committee authorized to hire employees without the consent of all Counties.

Section 6. Counties' Obligations. Each County by its execution hereof acknowledges and agrees that it shall do all things necessary and appropriate in respect of the terms of this Agreement and will in good faith promote the work and efforts of the Committee and the Winnebago Waterways Program.

Section 7. Governance; Administration

(a) Committee Composition. The Committee shall be initially comprised of nine (9) members consisting of the following ex officio: (i) the County Executive or County Administrator of each of the Counties (3 seats); (ii) the chair of the County Board from each of the Counties (3 seats); and (iii) the chair of each County Board's Land and Water Conservation Committee (3 seats) members or designee. Any county that is added to the Committee pursuant to Section 13(a) below shall be entitled to three (3) seats on the Committee consistent with this Section 7(a) and the number of Committee members shall be automatically expanded accordingly.

(b) Designee of the member identified in 7(a) must be a member of the LCC for the LCC chair, member of the county board for the Board Chair and an appointment of the County Executive for the County Executives.

(c) Expenses. Members of the Committee shall be entitled to no reimbursement of expenses or per diem from the Committee provided, however, that a member shall not be precluded from reimbursement of expenses or per diem from a County pursuant to a County policy.

(d) Meetings of the Committee.

(1) *Meetings Generally.* All meetings of the Committee, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Wisconsin Open Meetings Law, Wis. Stat. § 19.81 *et seq.* (the "Open Meetings Law"). To the extent permitted by the Open Meetings Law, Committee meetings may be held by telephone conference or other remote access technology as approved by the Committee. A member of the Committee shall be "present" at any regular or special meeting if he or she participates in person or telephone conference or other remote access technology as approved by the Committee.

(2) *Proxy Voting.* Committee members may not vote by proxy.

(3) *Regular Meetings.* The Committee shall from time to time establish a schedule for its regular meetings; *provided, however,* it shall hold at least one regular meeting each year.

(4) *Special Meetings.* Special meetings of the Committee may be called in accordance with the provisions of the Open Meetings Law. Special meetings may be called by the Chair of the Committee.

(5) *Minutes.* The Secretary of the Committee shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Committee and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Committee member.

(6) *Quorum and Voting, Generally.* A majority of the Committee members shall constitute a quorum for the transaction of business and no action may be taken by the Committee except upon the affirmative vote of a majority of the Committee members present (or, with respect to any matter, such greater number as may be provided by the By-Laws or resolution of the Committee), except that less than a quorum may adjourn a meeting to another time and place.

(e) Officers; Duties. The officers of the Committee shall be the Chair, Vice-Chair, Secretary and Treasurer, such officers to be elected by the Committee from among the Committee members, each to serve a two-year term from May 1 until April 30. Initial officers shall serve a term commencing upon the date of election and ending April 30, 2019. Officers shall serve until re-elected or a successor to such office is elected by the Committee. Each officer shall have the following general duties and responsibilities in addition to any further specific duties and responsibilities set forth herein, in the By-Laws or by resolution of the Committee.

(1) The Chair shall be the presiding officer of the Committee and shall be responsible for the calling of, and shall preside at, meetings of the Committee.

(2) The Vice-Chair shall exercise the duties and functions of the Chair in the Chair's absence.

(3) The Secretary shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Committee and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Committee member.

(4) The Treasurer shall be a member of the Committee that represents the County that is designated as the Committee's Fiscal Agent as set forth in Section 10 and shall otherwise report as to any matters of the Fiscal Agent.

(f) Sub-Committees; Officers and Employees. The Committee shall have the power to appoint such other sub-committees as it may deem necessary or proper.

(g) Delegation of Authority. The Committee shall have the power, by resolution, to the extent permitted by Section 66.0301 of the Wisconsin Statutes or any other applicable law, to delegate any of its functions to one or more of the members or officers or agents of the

Committee (including, without limitation, the contractor and any counsel or consultant hired or appointed pursuant to Section 5) and to cause any of said members, officers or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Committee.

(h) By-Laws. The Committee may adopt, from time to time, by resolution of the Committee such by-laws for the conduct of its meetings and affairs as the Committee may determine to be necessary or convenient.

Section 8. Fiscal Year. The Committee's fiscal year shall be the period from January 1 to and including the following December 31, except for the first fiscal year which shall be the period from the date of this Agreement to December 31, 2017.

Section 9. Disposition of Assets. Upon the termination of this Agreement as set forth in Section 3, after payment of all expenses and liabilities of the Committee, all property of the Committee both real and personal shall automatically vest in the Counties that have not withdrawn in equal share and shall thereafter remain the sole property of the Counties that have not withdrawn. Any asset that is non-divisible shall be sold and equally divided among the remaining Counties.

Section 10. Fiscal Agent. All funds of the Committee shall be strictly accounted for. The Committee hereby appoints Fond du Lac County as the initial Fiscal Agent for the Committee. As Fiscal Agent, Fond du Lac County shall account for all revenue and expenses of the Committee. Fond du Lac County may resign as Fiscal Agent at any time upon at least 180 days' written notice to the Committee. Likewise, the Committee may remove Fond du Lac County as Fiscal Agent at any time upon majority vote. In the event of a vacancy in the Fiscal Agent, the Committee may appoint a Fiscal Agent by majority vote.

Section 11. Annual Financial Report. On or before January 31 of each year of this Agreement, the Fiscal Agent shall provide the Committee with a report itemizing all revenue and expenses of the Committee for the prior year. The Committee's financial records shall be open to inspection by a County at any time upon reasonable notice to the Fiscal Agent.

Section 12. Notices. Notices and other communications hereunder to the Committee or to the Counties shall be sufficient if delivered to the Chair of the Committee, if made to the Committee, or the County Clerk, if made to a County.

Section 13. Additional Members; Withdrawal of Members.

(a) Addition of Members. Any county in this State may be added as a party to this Agreement upon affirmative vote of the Committee approving the addition of such county and upon the county executing this Agreement. Upon satisfaction of such conditions, the Committee shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing. Counties that are added will immediately incur all liabilities and assets upon an executed amendment.

(b) Withdrawal of Member. A County may withdraw from this Agreement upon 180 days' written notice to the Committee and the withdrawal shall become effective on the 181st day following the Committee's receipt of such written notice ("Effective Date of Withdrawal"); *provided, however*, that no such withdrawal shall reduce the number of Counties to fewer than two (2). Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Chair of the Committee, which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing. Withdrawal by a County shall not affect the County's obligations, if any, with respect to this Agreement that have accrued prior to the Effective Date of Withdrawal. If a withdrawal reduces the number of Counties to fewer than two (2), the Committee shall treat the notice of withdrawal as a notice of termination of this Agreement and proceed to wind up its affairs consistent with Section 9. A County shall have no claim against the Committee or its assets relating to a withdrawal and shall receive no refund, in part or whole, of any money previously paid to the Committee. All outstanding assessments and pre-existing obligations imposed prior to the Effective Date of Withdrawal shall remain the obligation of the County.

Section 14. Indemnification. Counties shall hold harmless and indemnify any member of the Committee or its agents or employees from any civil liability related to any acts of negligence or omission occurring as a result of the member, agent or employee performing his or her legal duties in relationship to the operation of this Committee."

Section 15. Budget and Assessments. Prior to September 1 of each year of the term of this Agreement, the Committee shall establish a budget for the Committee's next fiscal year and cause a copy of the budget to be mailed to the County Clerk for each of the Counties. Each County will be equally assessed annual budget amounts not to exceed \$30,000. Each budget adopted by the Committee shall identify the anticipated revenue necessary from each County to support the Committee's activities in the next fiscal year. The amounts identified as revenue necessary from each County shall be considered an assessment against each County and each County agrees to pay such assessment in installments as invoiced by the Fiscal Agent from time to time according to expenses incurred by the Committee. If a County fails to pay any assessment when due, the three (3) members of the Committee sitting *ex officio* on behalf of the County forfeit the right to vote on any and all matters of business coming before the Committee until such time as the County has paid the assessment provided, however, that the assessment shall remain due and payable. The Committee may, from time to time, establish additional policies related to the payment of an assessment including, without limitation, payment of interest and penalties in the event of late payment. Invoices from the Fiscal Agent shall be due within thirty (30) days from receipt unless otherwise provided by Committee policy or procedure provided, however, that in no event shall the Committee establish an invoice procedure whereby an assessment invoice is due on a date later than thirty (30) days from receipt of the invoice.

Section 16. Contributions and Advances. In addition to assessments provided in Section 15, contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Committee by Counties for any of the purposes of this Agree-

ment. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Committee and the County making such advance at the time of such advance. Except for the assessments provided herein, it is mutually understood and agreed to that no County has any obligation to make advances or contributions to the Committee to provide for the costs and expenses of administration of the Committee or otherwise, even though any County may do so.

Section 17. Immunities. To the fullest extent permitted by law, all of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Counties when performing their respective functions, shall apply to the same degree and extent to the members, officers, employees, agents or other representatives of the Committee while engaged in the performance of any of their functions or duties under this Agreement.

Section 18. Amendments.

(a) Except as provided in subsection (b), below, this Agreement shall not be amended, modified, or altered, without the affirmative approval of the Committee and the affirmative written consent of each of the Counties.

(b) The Committee may, without the consent of the Counties, amend this Agreement if, in its reasonable opinion and upon the advice of counsel, deemed appropriate, upon which advice the Committee may rely, and if such amendment is technical or clarifying in nature and does not substantively affect the rights and responsibilities of the Counties. Notice of such amendment shall be provided to the Counties at least twenty (20) but not more than sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and, upon the written request of any two (2) Counties, the Committee shall submit the proposed amendment for ratification by the Counties.

Section 19. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 20. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no County may assign any right or obligation hereunder without the consent of the other Counties.

Section 21. Miscellaneous.

(a) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(b) The Section headings herein are for convenience only and are not to be construed as modifying or governing the language in the Section referred to.

(c) Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

(d) This Agreement shall be governed under the laws of the State of Wisconsin.

(e) Any future amendments to Section 66.0301 of the Wisconsin Statutes shall be automatically incorporated into the terms of this Agreement and any terms of this Agreement inconsistent with future amendments to Section 66.0301 of the Wisconsin Statutes shall, only to the extent necessary, be reformed in a manner consistent with the amendments.

(f) This Agreement is the complete and exclusive statement of the agreement among the Counties, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Counties relating to the subject matter of this Agreement.

(g) Conflict Resolution. For resolutions that cannot be accomplished through best efforts of the parties, the Committee agrees to utilize mediation to resolve disputed issues. Because mediation is not a binding form of conflict resolution, any issues remaining after mediation will be resolved by a Wisconsin circuit court held in a county that is not a part of the Agreement. The determination of the circuit court will be based on a majority vote of the Committee.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized representatives as of the day and year first above written.

<p>On behalf of CALUMET COUNTY:</p> <p>By: _____</p> <p>Its: _____</p>	<p>On behalf of FOND DU LAC COUNTY:</p> <p>By: _____</p> <p>Its: _____</p>
<p>On behalf of WINNEBAGO COUNTY:</p> <p>By: _____</p> <p>Its: _____</p>	