

MEMORANDUM OF UNDERSTANDING
BETWEEN _____{COUNTY NAME}_____ COUNTY AND
THE STATE OF WISCONSIN, DEPARTMENT OF NATURAL RESOURCES
{SHADED / UNDERLINED TEXT WILL VARY. DELETE THIS LINE BEFORE SIGNING.}

I. Introduction

The purpose of this Memorandum of Understanding, (MOU) is to set forth the agreements and understandings which have been reached between _____{COUNTY NAME}_____ County, (County) and the State of Wisconsin Department of Natural Resources (Department) regarding the acquisition, development, and operation of approximately _____{NUMBER OF MILES}_____ miles of former rail corridor located in _____{COUNTY NAME}_____ County known as the _____{TRAIL NAME}_____ State Trail (Trail). The property *is presently/will be* owned by the Wisconsin Department of Natural Resources.

The Department is interested in preserving the corridor for trail purposes. The County is interested in developing, maintaining, and operating a trail on the corridor *provided the Department acquires the corridor*. The County and the Department agree to work together to achieve their mutual goals as set forth below.

II. Description of the Property

The property subject to this MOU is described generally as the grade from **X** to **Y**. An exact legal description of the property shall be attached to this MOU as Exhibit A and a map attached as Exhibit B. The trail easement referred to in this MOU, when executed, shall have attached to it Exhibit A of this MOU; in addition a map of the trail easement parcel will be attached as Exhibit B to the trail easement. This MOU shall be attached to the trail easement as Exhibit C. Exhibits A, B, and C shall become part of the Cooperative State Trail easement.

III. Consideration

The Department *has acquired/will acquire* the grade from _____{ENDPOINT1}_____ to _____{ENDPOINT2}_____ from the corridor owner. The DNR will execute a trail easement with the County for one dollar or other valuable consideration for the purposes contained in this document. The County will develop, operate, repair, and maintain the Trail. The Department will not acquire land through the eminent domain process.

IV. Obligations of the Department

1. The Department will convey by easement to the County the right to develop, operate, repair, and maintain the Trail as a component of the State Trail System. The County accepts the property "as is" on the date of conveyance.

2. The Department represents that it has made reasonable inquiry and has no reason to believe that hazardous waste, noxious waste, or any other condition of the land subject to this MOU exists that would inhibit the ability of the County to possess and improve the property as contemplated by this MOU. If, however, such prohibitive conditions are discovered, either the Department shall take all steps reasonably necessary to remove such conditions or the intent of this MOU being frustrated, the MOU shall terminate.
3. The Department will work with the County to identify funding sources for the development and repair of the Trail.
4. The Department will designate the Trail as a “State Trail” under section NR 51.73, Wis. Adm. Code. The Trail will be included in any appropriate list of State Trails.
5. The Department will make its Adopt-A-Trail program available to the County. The Department has an application process for groups interested in adopting a section of State Trail. This program is similar to the Department of Transportation’s Adopt-A-Highway program.
6. The Department and the Natural Resources Board, with input from the County, will determine the allowable hunting, fishing, and trapping opportunities on the Property pursuant to Wis. Stat. s. 29.089.

V. Obligations of the County

1. The County will coordinate naming of the Trail with the Department. Final approval rests with the Department’s Natural Resources Board. The official name of the Trail will end with “State Trail”. [For example, “Wisconsin River State Trail.”] The Department encourages trail naming based on historical references or natural features. For example, the Trail could be named for a geologic feature that it passes or is near. For the benefit of Trail users, it is recommended that Trail naming be consistent for its entire length, regardless of political boundaries.
2. The County, with the assistance of the Department will coordinate and prepare a plan for the Trail, describing the management and development of the trail, within two years of the conveyance of the easement. Specific recreational uses will be determined through the planning process. Per section NR 44.04 (13), Wis. Adm. Code this cooperatively prepared plan is not obligated to comply with Chapter NR 44, Wis. Adm. Code requirements. However, the plan shall be consistent with Chapter NR 44, Wis. Adm. Code to the extent practicable.
3. The plan must include, at a minimum:
 - a. A public notification and participation process allowing for draft plan comments.
 - b. A list of allowed trail uses, including where and when they are allowed (e.g. snowmobiles allowed from Hwy Y to the Main Street trailhead, only when snow

cover is 6” or greater). Year around bicycling is encouraged and may be allowed in conjunction with snowmobiling. Walking must be allowed on the property at all times (section NR 1.61, Wis. Adm. Code).

- c. A list of hunting, fishing, and trapping activities and areas as determined by the Department and Natural Resources Board pursuant to section 29.089, Wis. Stats (include a map).
 - d. A list of anticipated support facilities (e.g. restrooms, parking lots).
 - e. A map showing locations of anticipated support facilities and use zones.
 - f. Projected development costs.
 - g. Plans to address any environmentally sensitive or culturally or historically significant areas identified.
 - h. Development of a set of management alternatives for the Trail, with a preferred alternative (the alternative that will be used) identified.
 - i. Estimated number of users per year.
 - j. Name and address of the office that will be managing the Trail.
 - k. An emergency action plan to include protocols and procedures for responding to reports of potentially hazardous conditions on the trail.
 - l. Desired vegetation types along the trail.
4. The County will participate in or conduct public meetings, which are necessary for the establishment and development, management, and improvements of the Trail project, including for any major changes to the trail plan, such as eliminating or adding allowed trail uses or special events not consistent with the trail plan. Attempts should be made to comply with the intent of Chapter NR 44 Wis. Adm. Code as it relates to public participation.
 5. The Department, via the Division Administrator, shall have final review approval over the plan.
 6. The County, within five years of the conveyance of the easement, will develop the Trail. Thereafter, and during the term of this agreement, the County shall, maintain, repair, and operate the Trail located within the County for recreational purposes, as funding becomes available. Until development occurs, the County will assume all monitoring, enforcement, and maintenance responsibilities on the property.
 7. The County agrees that the development, construction, maintenance, and repair of the Trail will meet or exceed Department trail standards and any applicable standards mandated by state or federal law. The County further agrees that in operating the trail, the County will comply with all applicable state and federal law.
 8. The County shall comply with statutory inspection requirements pursuant to section 23.115(2), Wis. Stats., further described in Department Manual Code 2527.20, and shall provide the Department with a copy of inspection reports.
 9. Vegetative management.
 - a. Trees

1. Forest cover. Trees remain the property of the Department. Any proposed commercial timber sale must be reviewed by the Department. Although cooperative state trails are specifically excluded from forest certification, to maintain desired forest cover types, sustainable forestry practices are encouraged. Depending on the desired cover type, different commercial or non-commercial practices may be used. When active management is proposed, coordinate review of the proposed management activity with appropriate Department staff.
 2. Hazard tree management. Hazard trees should be identified during the biannual property inspections (further described in Section V. 8. herein. If the volume of hazard trees is too large for County staff to handle, consider contracting a commercial sale or other approach.
- b. Non-tree vegetation including saplings, shrubs, and herbaceous vegetation
1. Management for routine trail maintenance. A minimum maintained (clear) shoulder of at least 2' on either side of the trail tread (the traveled portion of the trail) is recommended. Acceptable maintenance techniques can include mowing, brushing, chainsaw work, and or pesticide.
 2. Habitat conversion or establishment. If there is an opportunity to develop or enhance native habitat types, as established in the trail plan, consult with the Department. Projects may include developing a prairie on a larger block of land within the trail right of way or along a trail corridor. Projects will be considered if not adverse to existing laws or Department policy, or they do not negatively impact an existing use.
- c. Pesticide application. Any pesticide application should be in accordance with Department Manual Code 4230.1 concerning DATCP (Department of Agriculture, Trade and Consumer Protection) certification and Department policy. The Department shall be notified of any proposed pesticide application in early fall of the year preceding the proposed application, so that the required process can be followed for pesticide use on Department lands (Department Manual Code 4230.1).
10. The County shall secure and comply with all federal, state and local permits and licenses required for the construction, installation, operation, maintenance, repair, reinstallation, of the Trail including, without limitation, zoning, building, health, environmental permits or licenses, and shall indemnify the Department against payment of the costs therefore and against any fines or penalties that may be levied for failure to procure or to comply with such permits or licenses as well as any remedial costs to cure violations thereof. The Department agrees to cooperate with the County in securing any such permits or licenses by providing information and data upon request.
 11. The County agrees that any signage or display material relating to the Trail shall clearly identify the property is owned by the Department and under the management and control of the County. No commercial advertising shall be allowed on the property, unless it is in accordance with Department policy. The County may allow

signs providing directional information about Trail-related services. No specific business names, commercial logos or fonts, trademarks, or other advertising shall appear in signage within the Trail corridor. The Department reserves the right to remove non-compliant signage located on the property. In the event Department signage policy is modified, the above section on signage shall automatically reflect the modification.

12. The County, in connection with this MOU, shall open the facilities to the general public subject to reasonable rules and regulations, fees, and charges, as outlined below for the management and operation of the Trail.

A. Rules and regulations.

Pursuant to section NR 45.02, Wis. Adm. Code, the Department retains management, supervision, and control over the premises for the purpose of enforcing Chapter NR 45, Wis. Adm. Code, when needed to protect the property. Daily routine enforcement remains the responsibility of the County. The County and other local units of government may adopt Chapter NR 45, Wis. Adm. Code provisions as ordinance.

B. Admission Fees.

The County must use the Department's trail pass fee program should it charge a fee on the trail. If admission fees are charged, the State Trail Pass, both annual and daily, the conservation patron license, and senior citizen recreation card issued by the Department shall be honored without additional admission charges. The County shall agree to waive all admission fees on State Parks Open House Day, date as determined by the Department, and National Trails Day. National Trails Day is the first Saturday in June.

If the County uses the Department's trail pass fee program, the County may retain a commission to be used for Trail operations and maintenance as provided for in section 27.01 (8m), Wis. Stats. A separate Trail Pass Sales Agreement between the County and the Department will be executed, detailing the sales and remittance procedures. The County may use sub-vendors to sell the pass.

In the event section 27.01(8) or (8m), Wis. Stats. is modified, the above section on admission fees shall automatically reflect the modification.

13. In the exercise of its right herein, including but not limited to the operation of the eased property as a trail, the County shall not discriminate against any member of the public on the basis of age, race, creed, color, handicap, sex, marital status, arrest or conviction records, ancestry, sexual orientation, or membership in the National Guard, state defense force or any other reserve successors or designees.

14. The County may enter into agreement with a Friends Group which meets the criteria in section NR 1.71, Wis. Adm. Code, and Department policy. In recognition of the status of this Trail as a State Trail, the Department shall also be a co-signer of any Friends agreement.

15. The County may enroll volunteers in the Department's Adopt-A-Trail program, following Department policies and procedures.
16. The County will indemnify and hold harmless the Department and its employees against all claims, damages, costs, and expenses, including reasonable attorney's fees, arising from the performance of this MOU by the County, its agents, contractors, servants, licensees, permittees, or employees. In case any action or proceeding is brought against the Department or its employees by reason of any such claim, the County, upon notice from the Department, will defend such action or proceeding.

VI. General

1. This MOU is subject to all applicable laws and regulations. The establishment of this Trail is subject to approval by the Natural Resources Board and Governor.
2. This MOU may be revised or amended by mutual written agreement of the Department and the County.
3. The Department must approve, and has sole discretion over, all land transactions, Trail crossings, and easements for the Trail corridor, but the County will be the first point of contact for inquiries from the public and/or private entities on these matters. Guidelines relating to easements for the driveways and road crossings will be provided to the County. If requests conform to the guidelines, they will be referred to the Department for executing an easement, lease, or agreement. If the requests do not conform to Department guidelines, the County will deny the request. The Department retains the right to issue other non-conflicting easements, leases, or permits but shall make every effort to not enter into agreements that would physically alter the Trail or its uses. All proceeds from these transactions shall be payable to the Department.
4. An annual meeting between the County and Department will take place to review development and acquisition progress, operational problems and maintenance standards needing attention and to exchange ideas and information for the good of the Trail project.
5. This MOU shall not be construed as creating a public debt on the part of the Department in contravention of Article VIII, Wisconsin Constitution and all payments or obligations hereunder are subject to the availability of future appropriations.
6. The County assumes complete responsibility for the development, operation, maintenance, and repair of the Trail. The Department has no obligation to develop, operate, maintain, or repair the Trail at any time.
7. This MOU does not create an employment or agency relationship between the Department and the County, any employees or agents of the County, or any third parties.

