

Document Number	Document Title
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State of Wisconsin
 Department of Natural Resources
 Box 7921
 Madison, WI 53707

**LAND USE AGREEMENT
 (Trail – Over 5 Years)**

Section 23.09(2)(h), Wis. Stats.
 Form 2200-118
 Rev. 09/2019

THIS LAND USE AGREEMENT (Agreement) is made by and between the State of Wisconsin Department of Natural Resources (Owner) and the Village of Ridgeway (Permittee).

RECITALS

WHEREAS, the Owner is the successor in title of the former railroad corridor of the Chicago and Northwest Railroad known today as the “Military Ridge State Trail” (“Trail”);

WHEREAS, the Owner owns certain real property located in Sections 14 and 15, Township 6 North, Range 4 East, Village of Ridgeway, Iowa County, Wisconsin, that is further described below and referred to in this Agreement as the Premises;

That Portion of the Military Ridge State Trail that exists in the NW ¼ of the NW ¼, the NE ¼ of the NW ¼, the SW ¼ of the NW ¼ of Section 14, and the NE ¼ of the NE ¼, the SE ¼ of the NE ¼ of Section 15, Village of Ridgeway, Township 6 North, Range 4 East, Iowa County, as further described on attached Exhibit “A.”

Recording Area
 Return: Department of Natural Resources
 Bureau of Facilities & Land - LF/6
 P.O. Box 7921
 Madison, WI 53707-7921
 Attn: Bill Peterson (LU 7254)

Parcel Identification Number (PIN):
 177-1094.01, 177-0198.05, 177-028.01,
 177-0213.01

WHEREAS, the Owner may enter into agreements permitting others to engage in mutually beneficial activities on its property;

WHEREAS, the Permittee desires to maintain the existing improvements located on the Premises, specifically the volleyball courts constructed by authority of a land use agreement dated April 10, 1987 and a basketball court and associated improvements constructed by authority of a land use agreement dated May 10, 1995, between the Ridgeway Advancement Association (“the Association”) and the Owner; and

WHEREAS, the two agreements identified above were combined into and superseded by one land use agreement between the Association and the Owner, dated March 22, 2003, which expired March 31, 2018;

WHEREAS, the Permittee desires to continue maintenance of an existing toilet facility constructed by authority of a lease agreement dated September 16, 1983, between the Permittee and the Owner, said lease agreement having expired July 31, 1998;

WHEREAS, the Permittee also desires to hold community-sponsored and Owner-approved events which may utilize a portion of the Premises;

WHEREAS, the Owner is agreeable to combining the terms of the three aforementioned agreements and the additional term relating to community sponsored events under the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefit of both parties, the Owner and Permittee agree to the following terms and conditions:

1. **Purpose.** Owner agrees that Permittee may continue the maintenance of the exiting volleyball and basketball facilities in addition to the existing toilet facilities located on the Premises. Permittee will also be allowed to hold community-sponsored events on the Premises.
2. **Parties.** The terms Owner and Permittee, when used herein, shall mean either masculine or feminine, singular or plural, as the case may be, and the provisions of this Land Use Agreement shall bind the parties mutually, as well as their employees, agents and legal representatives.
3. **Term.** This Agreement shall be in effect for a fifteen (15) year period commencing September 1, 2020 and ending August 31, 2035.
4. **Termination.** The Owner may terminate this Agreement by providing 30 days written notice to Permittee if the Owner reasonably determines that the continued use of the Premises by the Permittee will substantially interfere with the future management objectives of the Owner. If the Permittee breached any term or condition contained in this Agreement, Owner may terminate the Agreement if, after providing written notice of breach to the Permittee, the breach has not been cured within thirty (30) days.
5. **Non-Assignment.** Neither this Agreement nor any right or duty in whole or in part by the Permittee under this Agreement may be assigned, delegated or subcontracted without the prior written consent of the Owner.
6. **Maintenance.** The Permittee shall maintain the Premises in a safe condition at all times.
7. **No Parking or Storage.** The Permittee shall not park or store any vehicles or equipment on the Premises at any time unless prior written approval is obtained from Owner.
8. **Construction.** In the event the Permittee intends to construct additional improvements on the Premises, the Permittee shall submit for approval to the Owner a plan describing the intended construction and eventual maintenance of such improvements. The Permittee may not alter the terrain, vegetation or elevation of the Trail corridor, except upon written approval of a construction plan by the Owner. No deviations from this approved plan shall be allowed except with the prior written approval of the Owner. Within thirty (30) days after the termination of this Agreement, the Permittee shall remove all structures placed on the Premises. If the Permittee's structures remain on the property more than 30 days after termination, (1) title to the structure(s) shall vest in the Owner, or (2) the Owner may remove the structure and the Permittee shall reimburse Owner for all removal costs within thirty (30) days of billing.
9. **Signage.** Any signs, postings and other markers proposed by Permittee to be located on the Premises shall be approved by the Owner prior to placement.
10. **Vegetative Management.** No cutting or trimming of trees shall be done without the prior written approval of the Owner, except for dead and down trees that obstruct passage of the Premises may be removed without such written approval. Any trees removed from the Premises remain the property of the Owner. All trees having commercial value including firewood shall be cut in standard lengths and be piled at a location on the Premises designated by the Owner. . All stumps, slash, waste materials and other debris shall be disposed of by the Permittee as directed by the Owner. Use of pesticides and herbicides shall only be allowed with the prior written approval of the Owner. Any pesticides or herbicides used as part of a management plan must conform to the Forest Stewardship Council list found at <https://ic.fsc.org/en/our-impact/program-areas/forest-program/pesticides>. Permittee shall report to the Owner at least annually, the chemicals that are

applied on the Premises including the date, product trade name, active ingredient(s) and corresponding CAS number(s), purpose, rate, location with a map, total area treated, and total amount of chemical used.

11. **Public Use.** The Permittee understands that the Premises is open to the public. The Premises is open for use to all members of the general public without regard to race, creed, marital status, color, sex, national origin, age, handicap, ancestry, sexual orientation, arrest record or conviction record.
12. **Limit of Liability.** The Permittee shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, contractors, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions. The Owner shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives, including providing its own defense. In situations including joint liability, the Permittee and Owner shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the parties to impose liability beyond that imposed by state statutes. This clause applies only to the actions of each party pursuant to this Agreement and does not apply to actions or events that occur outside the scope of this Agreement.
13. **Prohibitions.** The Permittee shall not allow grazing on the Premises. The Permittee shall not disturb or harass wildlife or disturb wildlife habitat on the Premises.
14. **NR 45.** The Owner retains management, supervision and control over the Premises for the purpose of enforcing Chapter NR 45, Wis. Adm. Code, which governs the conduct of visitors to state lands and provides for the protection of the natural resources, as well as other pertinent state laws, when needed to protect the Premises or the general public.
15. **Hunting and Fishing.** This Agreement does not give the Permittee, its guests, members or agents, any rights pertaining to hunting, fishing, or trapping. These rights remain under the control of the State of Wisconsin.
16. **Renewal.** This Agreement may be extended for an additional **15 years** at the Owner's sole discretion. If Permittee seeks a renewal based on the same terms and conditions and fee, it must submit a written request to the Owner at least 90 days prior to the expiration of this Agreement.
17. **AREMA.** Conveyance of this agreement may be encumbered by federal or state railroad interest and subject to future restoration and reconstruction of the right-of-way for rail purposes consistent with Section 208 of the National Trails System Act Amendment of 1983, Publ. L. No. 98-11 (16 U.S.C. 1247(d)) or Wis. Stat. s. 85.09, including possible termination of this agreement, and subject to reservations, exceptions and leases, agreements and permits authorized by the former railroad company or the Owner prior to the execution of this agreement. Owner shall provide written notice of the necessity for the reestablishment of railroad, which may result in the termination of this agreement upon the discretion of the railroad. Permittee shall: (1) not materially change the grade or topography of the Agreement Area; (2) not construct and install or remove any permanent improvement which violates American Railway Engineering and Maintenance-of-Way Association ("AREMA"), or its successors, published practices and procedures or would make such reestablishment of railroad impracticable; and (3) not allow the installation of any facility, above or below grade that does not conform to AREMA's standards or clearances for railroad.
18. **Non-Discrimination.**
 - a) In connection with the performance of work under this contract, the Permittee agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), 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 contractor further agrees to take affirmative action to ensure equal employment opportunities. The Permittee agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Permittee setting forth the provisions of the nondiscrimination clause.

- b) If the Permittee employs 50 or more employees and engages in work on the Premises that is estimated to cost fifty thousand dollars (\$50,000) or more, Permittee acknowledges they have a written affirmative action plan in place and upon request will provide it to the Owner.
19. **Entire Agreement.** This Agreement, together with the specifications in any required plan and its referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to this Agreement are hereby superseded. Any contractual revisions including cost adjustments and time extensions must be made by an amendment to this Agreement or other written documentation, signed by both parties at least 30 days prior to the ending date of this Agreement.
 20. **Notices.** All notices to either the Owner or the Permittee shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party to the address listed below. Either party may change its address for notice by providing written notice to the other party.
 - a) To the Grantor: Wisconsin Department of Natural Resources, Bureau of Facilities and Lands, 101 South Webster Street, Madison, WI 53707.
 - b) To the Grantee: Clerk Treasurer, Village of Ridgeway, 113 Dougherty Ct, Ridgeway, WI 53582.
 21. **Invalidity.** If any term or condition of this Agreement shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
 22. **Enforcement.** It is intended that this Agreement shall be construed as being adequate and legally enforceable. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief.
 23. **Headings.** The headings of clauses contained in this Easement are used for convenience and ease of reference only and do not limit the scope or intent of the clause.
 24. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
 25. **Additional Conditions.** Additional terms and conditions that apply to this Agreement are enumerated below:
 - A. With respect to Paragraph 1. above, maintenance of the facilities and the premises shall include but not be limited to:
 1. Lawnmowing and landscaping of the Premises.
 2. Maintenance of existing restrooms and drinking fountain.
 3. Maintenance of existing volleyball courts and basketball courts.
 4. Any additional maintenance as agreed upon by both Owner and Permittee.

- B. With respect to Paragraph 1. above, "community-sponsored events," which could include but not be limited to community fairs or carnivals, will not impede the general public's use of the Premises as a recreational trail.
- C. On an annual basis, Permittee will provide the Owner, by mailing to the Owner via the Property Manager located at 4350 Mounds Park Road, Blue Mounds, WI 53517, with a Certificate of Insurance, demonstrating adequate liability coverage in the amounts of and naming the Owner as the certificate holder and as an additional insured. Amounts to be \$1,000,000.00 single limit per occurrence including coverage of \$1,000,000.00 for bodily injury, including death, and \$25,000.00 property damage so the Owner and its employees will be protected from any liability arising out of the actions of the Permittee and/or conducting the events contemplated by this agreement.

END OF TERMS AND CONDITIONS

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed on its behalf this _____ day of _____, 2021.

State of Wisconsin
Department of Natural Resources
For the Secretary

By _____ (SEAL)
Terry H. Bay
Facilities and Lands Bureau Director

State of Wisconsin)
) ss.
Dane County)

Personally came before me this _____ day of _____, 2021, the above named, Terry H. Bay, Facilities and Lands Bureau Director, State of Wisconsin Department of Natural Resources, to me known to be the person who executed the foregoing instrument and acknowledged that he executed and delivered the same as for the act and deed of said Department of Natural Resources.

Aubrey F. Johnson
Notary Public, State of Wisconsin
My Commission (expires)(is) _____

IN WITNESS WHEREOF, the Permittee hereby accepts and consents to the terms and conditions of this agreement this 13 day of July, 2021.

The Village of Ridgeway

Michele B. Casper

*



State of Wisconsin)

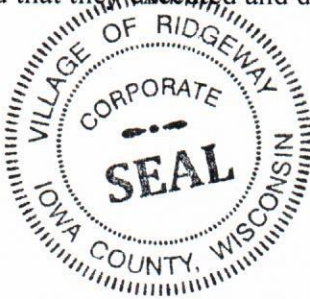
) ss.

County of IOWA

Personally came before me this 13 day of July, 2021, the above named Michele Casper to me known to be the persons who executed the foregoing instrument and acknowledged that they executed and delivered the same on behalf of the Village of Ridgeway.

Hailey E. Roeder

*



Notary Public, State of Wisconsin

My Commission (expires)(is) 03/24/2023.

*please print names

