

# Dane County Contract Cover Sheet

Revised 06/2021

Res 145

<b>Dept./Division</b>	LWRD/Parks		
<b>Vendor Name</b>	WI Dept. of Natural Resources	<b>MUNIS #</b>	3457
<b>Brief Contract Title/Description</b>	Land Use Agreement between WDNR & County to allow construction of a bike/pedestrian trail through Governor Nelson State Park.		
<b>Contract Term</b>	08/01/2021 to 07/31/2023		
<b>Contract Amount</b>	\$ 49,900.00		

<b>Contract #</b> Admin will assign	14432
<b>Type of Contract</b>	
<input type="checkbox"/>	Dane County Contract
<input checked="" type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Grant
<input type="checkbox"/>	Other

Department Contact Information		Vendor Contact Information	
<b>Name</b>	Janet Crary	<b>Name</b>	Steve Schmelzer
<b>Phone #</b>	608-224-3730	<b>Phone #</b>	(608) 219-0477
<b>Email</b>	crary@countyofdane.com	<b>Email</b>	Steven.Schmelzer@wisconsin.gov
<b>Purchasing Officer</b>			

<b>Purchasing Authority</b>	<input type="checkbox"/> \$11,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$11,000 – \$37,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input type="checkbox"/> Over \$37,000 (\$25,000 Public Works) (Formal RFB/RFP required)	<b>RFB/RFP #</b>
	<input type="checkbox"/> Bid Waiver – \$37,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$37,000 (N/A to Public Works)	
	<input checked="" type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	

<b>MUNIS Req.</b>	<b>Req #</b>	<b>Org:</b>	<b>Obj:</b>	<b>Proj:</b>	
	<b>Year</b>	<b>Org:</b>	<b>Obj:</b>	<b>Proj:</b>	
		<b>Org:</b>	<b>Obj:</b>	<b>Proj:</b>	

Budget Amendment	
<input type="checkbox"/>	A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly.

<b>Resolution Required if contract exceeds \$100,000 (\$40,000 PW)</b>	<input checked="" type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works)	<b>Res #</b>	RES 145
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.		<b>Year</b>
	<input type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.		

CONTRACT MODIFICATIONS – Standard Terms and Conditions		
<input type="checkbox"/> No modifications.	<input type="checkbox"/> Modifications and reviewed by:	<input checked="" type="checkbox"/> Non-standard Contract

APPROVAL	
<b>Dept. Head / Authorized Designee</b>	
Hicklin, Laura	Digitally signed by Hicklin, Laura Date: 2021.08.23 14:25:08 -05'00'

APPROVAL – Contracts Exceeding \$100,000	
<b>Director of Administration</b>	<b>Corporation Counsel</b>

APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached			
<b>DOA:</b>	<b>Date In:</b> 8/23/21	<b>Date Out:</b> _____	<input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management

## Goldade, Michelle

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**From:** Goldade, Michelle  
**Sent:** Tuesday, August 24, 2021 2:57 PM  
**To:** Hicklin, Charles; Gault, David; Lowndes, Daniel; Patten (Purchasing), Peter  
**Cc:** Stavn, Stephanie; Oby, Joe  
**Subject:** Contract #14432  
**Attachments:** 14432.pdf

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>	<b>Response</b>
	Hicklin, Charles	Read: 8/24/2021 3:07 PM	
	Gault, David	Read: 8/24/2021 3:13 PM	Approve: 8/24/2021 3:20 PM
	Lowndes, Daniel		Approve: 8/25/2021 9:55 AM
	Patten (Purchasing), Peter		Approve: 8/24/2021 3:01 PM
	Stavn, Stephanie	Read: 8/25/2021 8:13 AM	
	Oby, Joe	Deleted: 8/25/2021 8:47 AM	

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14432

Department: Land & Water Resources

Vendor: WI Department of Natural Resources

Contract Description: Land Use Agreement to allow construction of a bike/pedestrian trail through Governor Nelson State Park (RES 145)

Contract Term: 8/1/21 – 7/31/23

Contract Amount: \$49,900.00

*Michelle Goldade*

Administrative Manager

Dane County Department of Administration

Room 425, City-County Building

210 Martin Luther King, Jr. Boulevard

Madison, WI 53703

PH: 608/266-4941

Fax: 608/266-4425

TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

## Goldade, Michelle

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**From:** Hicklin, Charles  
**Sent:** Thursday, August 26, 2021 10:38 AM  
**To:** Goldade, Michelle  
**Subject:** Approve: Contract #14432

AUTHORIZING ACCEPTANCE OF A LAND USE AGREEMENT BETWEEN THE  
WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND DANE COUNTY  
FOR CONSTRUCTION OF A BICYCLE AND PEDESTRIAN TRAIL

Dane County Land & Water Resources-Parks Division (County) and the Wisconsin Department of Natural Resources (WDNR) have worked together to plan, design and permit a segment of the North Mendota Trail from North Shore Bay Drive through Governor Nelson State Park to an existing bicycle pedestrian underpass at County Highway M. The off-road, multi-use trail will eventually extend to the City of Middleton.

The WDNR requires a land use agreement to allow the County to construct the new trail segment through Governor Nelson State Park. The County recommends accepting the terms of the agreement including acceptance of \$49,900 in funds from the WDNR.

**NOW, THEREFORE, BE IT RESOLVED** that the Dane County Board of Supervisors and the Dane County Executive hereby authorize the Land Use Agreement with the WDNR for the construction of a public trail through Governor Nelson State Park.

**BE IT FINALLY RESOLVED** that revenue account LWRPKOP 80131 Easement Revenue and account LEWSLUNY 57944 North Mendota Bike/Ped Trail Expense be increased by \$49,900. These funds shall carry forward until expended.

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

**LAND USE AGREEMENT  
(5 Year and Under)**

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 Dane County (Permittee).

**RECITALS**

**WHEREAS**, the Owner owns certain real property located in the **SW ¼ of the SW ¼, the NW ¼ of the SW ¼, the SE ¼ of the SW ¼ and the NE ¼ of the SW ¼ of Section 28, Town 8 North, Range 9 East, Town of Westport, Dane County, Wisconsin**, that is further described below and referred to in this Agreement as the Premises;

*Those areas of the SW ¼ of the SW ¼, the NW ¼ of the SW ¼, the SE ¼ of the SW ¼ and the NE ¼ of the SW ¼ of Section 28, Town 8 North, Range 9 East, Town of Westport, Dane County as further describe on attached Exhibit A.*

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

**WHEREAS**, the Permittee desires to construct a new public trail; and

**WHEREAS**, the Owner is willing to allow the construction of the new public trail under the terms of this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration of the sum of **One Dollar (\$1.00)**, the receipt and sufficiency of which are hereby acknowledged, the Owner and Permittee agree to the following terms and conditions:

- Purpose.** Owner agrees that Permittee may construct a new public trail
- 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.
- Term.** This Agreement shall be in effect for a two (2) year period commencing August 1, 2021 and ending July 31, 2023.
- Termination.** The Owner may terminate this Agreement by providing 30 days' written notice to Permittee if the Owner determines that the continued use of the Premises by the Permittee will interfere with the future management objectives of the Owner. If the Owner determines that Permittee breached any term or condition contained in this Agreement, Owner may terminate the Agreement immediately.

Recording Area

Return: Department of Natural Resources  
Bureau of Facilities & Land - LF/6  
P.O. Box 7921  
Madison, WI 53707-7921  
(LaTS:)

Parcel Identification Number (PIN):

080928385200, 080928385602, 08092831400,  
080928390007,080928395002

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.** The Permittee has or shall submit for approval to the Owner a plan describing the intended placement or construction of any items on the Premises. No deviations from this approved plan shall be allowed except with the prior written approval of the Owner. Within ten (10) 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 10 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. **Indemnity.** The Permittee agrees to save, keep harmless, defend and indemnify the Owner and all its officers, employees and agents, against any and all liability claims, costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this Agreement or with any actions or omissions of Permittee's employees, agents or representatives. Nothing in this agreement may be interpreted as a waiver of the limitations on liability and other protections granted to Dane County under State law, including, but not limited to, the protections set forth in Wis. Stats. §893.80.
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 Enforcement.** The Owner retains management, supervision and control over the Premises for the purpose of enforcing pertinent state laws needed to protect the Premises, its natural resources or the general public, including Chapter NR 45, Wis. Admin. Code, which governs the conduct of visitors to state lands.
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 two 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. **Non-Discrimination.**
  - a) In connection with the performance of work under this contract, the contractor 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 contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer 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.
18. **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.
19. **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 or to the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.
  - a) To the Owner: Wisconsin Department of Natural Resources, Bureau of Facilities and Lands, 101 South Webster Street, Madison, WI 53707.
  - b) To the Permittee: Chris James, Dane County Parks Senior Landscape Architect, 5201 Fen Oak Drive, Rm 208; Madison, WI 53718.
20. **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.
21. **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.

22. **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.
23. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
24. **Additional Conditions.** Additional terms and conditions that apply to this Agreement are enumerated below:
  - a. Prior to Permittee's use, Permittee will provide the Owner with a Certificate of Insurance, demonstrating adequate liability coverage and naming the Owner as an additional insured.
  - b. Permittee, as the Project sponsor, will be responsible for construction oversight and coordination and will provide opportunity for Owner input.
  - c. The Project is intended to have the design phase completed prior to September 1, 2021, and to begin the construction phase no earlier than September 1, 2021.
  - d. DNR shall pay (not to exceed) \$49,900 to Dane County upon receipt of billing from Dane County.
  - e. Either party may terminate this agreement upon written notice due to non-appropriation of funds.
  - f. The DNR may terminate this agreement by written notice in the event that Dane County fails to perform or breaches any terms or condition contained in this agreement and said breach remains uncorrected for a period of sixty (60) days from the receipt of the DNR's written notification of said breach by Dane County. In the event of this method of termination, Dane County will retain compliance responsibility for any state or federal grant assistance requirements.
  - g. Dane County may terminate this agreement by written notice to the DNR ninety (90) days prior to termination. In the event of this method of termination, Dane County will retain compliance responsibility for any state or federal grant assistance requirements.
  - h. This Agreement shall not be construed as creating a public debt on the part of the DNR in contravention of Article VIII, Wisconsin Constitution and all payments or obligations hereunder are subject to the availability of future appropriations.

END OF TERMS AND CONDITIONS



IN WITNESS WHEREOF, the Permittee and Owner hereby accept and consent to the terms and conditions of this Agreement.

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Joe Parisi, County Executive  
Permittee

Date

State of Wisconsin  
Department of Natural Resources  
For the Secretary

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Steve Schmelzer, Parks and Recreation District Supervisor  
Program Signatory

Date

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Michael LaBissoniere  
Real Estate Specialist

Date

