

Dane County Contract Cover Sheet

Res 178

Revised 06/2021

Dept./Division	LWRD/Parks		
Vendor Name	WI DOT	MUNIS #	3022
Brief Contract Title/Description	Interim trail use/ rail banking agreement from the Wisconsin Dept of Transportation for the Great Sauk and Walking Iron Trails.		
Contract Term	50 year term or until terminated		
Contract Amount	\$ 0.00		

Contract # Admin will assign	15225
Type of Contract	
<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	
Name	Ian Herfel	Name	Kimberly Tollers
Phone #	224-3730	Phone #	
Email	Herfel.Ian@countyofdane.com	Email	Kimberly.Tollers@dot.wi.gov
Purchasing Officer			

Purchasing Authority	<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)	RFB/RFP #
	<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	

MUNIS Req.	Req #	Org:	Obj:	Proj:	
	Year	Org:	Obj:	Proj:	
		Org:	Obj:	Proj:	

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.

Resolution Required if contract exceeds \$100,000 (\$40,000 PW)	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works)	Res #	2023
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.		Year
	<input checked="" 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	
Dept. Head / Authorized Designee	
Hicklin, Laura	Digitally signed by Hicklin, Laura Date: 2023.10.17 14:42:19 -05'00'

APPROVAL – Contracts Exceeding \$100,000	
Director of Administration	Corporation Counsel

APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached			
DOA:	Date In: 10/17/23	Date Out: _____	<input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management

Goldade, Michelle

From: Goldade, Michelle
Sent: Tuesday, October 17, 2023 3:57 PM
To: Hicklin, Charles; Rogan, Megan; Gault, David; Lowndes, Daniel
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #15225
Attachments: 15225.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles	Read: 10/18/2023 10:29 AM	Approve: 10/18/2023 10:29 AM
	Rogan, Megan	Read: 10/17/2023 3:58 PM	Approve: 10/17/2023 3:58 PM
	Gault, David	Read: 10/17/2023 3:59 PM	Approve: 10/17/2023 3:59 PM
	Lowndes, Daniel		Approve: 10/17/2023 4:04 PM
	Stavn, Stephanie		
	Oby, Joe		

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

Contract #15225

Department: Land & Water Resources

Vendor: WI Dept of Transportation

Contract Description: Interim trail use/rail banking agreement for Great Sauk & Walking Iron Trails (Res 178)

Contract Term: 50 year term or until terminated

Contract Amount: \$--

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.

AUTHORIZING A STATEMENT OF WILLINGNESS AND INTERIM TRAIL USE / RAIL BANKING AGREEMENT FROM THE WISCONSIN DEPARTMENT OF TRANSPORTATION FOR THE GREAT SAUK AND WALKING IRON TRAILS

The 2018-23 Dane County Parks & Open Space Plan (POSP) identifies a shared-use bicycle/pedestrian trail that connects the Great Sauk Trail in Sauk City to Mazomanie. Public input gathered throughout the POSP planning process showed strong support for development of bicycle/pedestrian trails throughout the county.

Dane and Sauk County are collaboratively leading project planning for a recreational bridge over the Wisconsin River. Dane County is concurrently working on planning and design for a rail to trail conversion from the proposed bridge heading south for approximately three miles towards Mazomanie. The trail is known as the Great Sauk Trail in Sauk County and will likely be known as the Walking Iron Trail on the Dane County side.

The Wisconsin Department of Transportation (WisDOT) rail banked the corridor extending between a point at approximately railroad milepost 7.96 on the Wisconsin and Southern Railroad Company's ("WSOR") Sauk Subdivision in Sauk County and ending at railroad milepost 4.72 of the WSOR Sauk Subdivision (aka the DNR's Lower Wisconsin State Riverway parking lot on the west side of Hwy 78) in Dane County.

Dane County desires to obtain use of the corridor in order to establish a recreational trail. WisDOT has agreed to permit Dane County the temporary use of the Property until such time as WisDOT, or WisDOT's successors in interest, is able to commence restoration and reconstruction of the Property for railroad purposes.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors and the Dane County Executive hereby authorize a Statement of Willingness to Assume Financial Responsibility to the Surface Transportation Board and an Interim Trail Use / Rail Banking Agreement with the Wisconsin Department of Transportation for the construction of a public recreational trail; and

BE IT FINALLY RESOLVED that the County Executive is hereby authorized and directed to sign the documents on behalf of Dane County.

**Interim Trail Use/Rail Banking Long-term Lease Agreement By and Among
The Wisconsin Department of Transportation
and
Wisconsin River Rail Transit Commission
and
Dane County Wisconsin**

This Long-term Lease Agreement (the "Agreement") made and entered into as of this _____ day of 2023 by and among the Wisconsin Department of Transportation (WisDOT), the Wisconsin River Rail Transit Commission (WRRTC) and Dane County Wisconsin:

WITNESSETH

Whereas, WisDOT has received a permanent easement granting certain rights, title and interest in certain railroad property extending between a point at approximately Railroad Milepost 4.72 on the Wisconsin & Southern Railroad Company's ("WSOR") Sauk Subdivision in Dane County, Wisconsin and ending at Railroad Milepost 7.97 (aka the southern right of way line of Water Street) on the Wisconsin & Southern Railroad Company's (WSOR) Sauk Subdivision in Sauk County, Wisconsin, a distance of approximately 3.25 miles (the "Property" or the "Corridor");

Whereas, WRRTC has an interest in the Property by virtue of an agreement between WRRTC and WisDOT dated March 20, 1987, as amended by Amendment 10, dated May 8, 2009;

Whereas, the WRRTC and WisDOT have banked the Corridor until such time as the Corridor can be restored and reconstructed for railroad purposes and placed into railroad operations;

Whereas, Dane County desires to obtain use of the Corridor for the purpose of temporarily establishing a recreational trail to be used in the interim before the restoration and reconstruction of the rail line;

Whereas, WRRTC and WisDOT have agreed to permit Dane County the temporary use of the Property until such time as WisDOT and WRRTC, or their successors in interest, are able to commence restoration and reconstruction of the Property for railroad purposes, subject at all times to the right of WisDOT and WRRTC, or their successors in interest, to reenter the Property and take possession of any part thereof for the restoration and reconstruction purposes aforesaid;

Whereas, in order to establish interim trail use and rail banking consistent with 16 U.S.C. 1247(d) and 49 CFR 1152.29, to the extent provided by law Dane County is willing to assume full responsibility for (1) management, supervision and control of the Property, (2) any legal liability arising out of the transfer or use of the Property and (3) the payment of any and all taxes that may be levied or assessed against the Property owned by WisDOT;

Whereas, Dane County acknowledges that use of the Property is subject to the terms and conditions contained herein and subject to possible future reconstruction and reactivation for rail service.

Whereas, Dane County is to provide the management, control, supervision and maintenance of Corridor, during the interim period of rail banking;

Whereas, Dane County agrees to comply with all WisDOT's obligations, except easement and recordation costs as listed in Sections 5 and 12, as described in the terms of the Permanent Easement attached as Exhibit A hereto and made a part hereof.

Whereas, this Agreement has been negotiated by and among the parties hereto for the purpose of accomplishing the above purposes;

Now, Therefore, WisDOT, WRRTC and Dane County do hereby provide, agree and covenant as follows:

1. WRRTC and WisDOT hereby deliver possession of the Property above described to Dane COUNTY on a temporary basis to be occupied, managed, supervised, controlled, maintained and used as hereinafter set forth.
2. Dane County may take possession of the Property and may establish a trail on, over and across the Property for recreational purposes and shall have use of, possession of and access to the Property for such purposes, subject to the right of repossession of any and all of the Property at any time in the future or on retaking or several retakings whenever WRRTC and/or WisDOT determine that either of them needs repossession for the purpose of restoration and reconstruction on the Property for rail purposes. WRRTC and/or WisDOT shall notify Dane County no less than one year before exercising the right of repossession described in this paragraph.
3. During the period of this Agreement, Dane County agrees and assumes responsibility (which it may assign by separate agreement) to fully manage, supervise, control and maintain the Property and the recreational trail that Dane County has built which shall include without affecting the generality of this Agreement the responsibilities set forth in the following paragraphs. In the event Dane County assigns its rights or obligations under this contract to third parties by separate agreement, copies of any such agreement shall be filed with WRRTC, WisDOT and/or their designee, successors or assigns within ten (10) days of the execution of such agreement.
4. Dane County assumes full responsibility for preserving public order upon the Property and for resolving matters concerning trespass upon and from the Property to adjacent property. Dane County may adopt and enforce any necessary rules in order to protect the Property. Dane County shall have the right to post signs and erect barricades necessary to delineate the Property as a recreational trail and to prevent entrance upon the Property of unauthorized vehicles and individuals. WisDOT and WRRTC acknowledge that the Dane County has sufficient management, supervision and control of the Property for the purpose of enforcing and administering the Agreement.
5. Dane County assumes such responsibility as may exist for providing fencing as may be required by Chapter 90, Wisconsin Statutes, local ordinance or contract.
6. Dane County assumes responsibility for the maintenance, repair or replacement of all infrastructure so as to insure the unrestricted flow of applicable waters and the preservation of the necessary drainage systems that may be affected by the construction and operation of a recreational trail on the Property by Dane County. WRRTC shall be responsible for any drainage problems of which it has received notice prior to the date of this Agreement.
7. Dane County assumes such responsibility as may exist for the maintenance of the Corridor through all highways and streets, including but not limited to keeping brush removed at crossings for improved visibility and the placement of warning signs to notify the motorist of a trail crossing.
8. Dane County hereby restates and commits itself to assuming full responsibility for the management of the property and all recreation operations thereon and for any legal liability

arising out of said transfer of use of the Property to the extent provided by law.

9. Dane County agrees that it will make a good faith effort to coordinate its activities with recreational trail activities being implemented on the portion of the rail line located north of the Property in Sauk County.
10. This Agreement constitutes a long-term lease and does not convey or transfer any other ownership or rights of ownership. All other rights of property ownership are retained by WisDOT and WRRTC and any invasion of said ownership rights can only be granted by WisDOT and WRRTC.
11. WRRTC and WisDOT retain full and final authority regarding sale, disposal or lease of the Property, or any portions thereof. Further, this Agreement is subject to existing leases and permits.
12. Under s. Trans29 WisDOT retains exclusive authority for the issuance of permits allowing a public or privately owned utility the right to construct, place and operate, repair and replace any power or communications line, gas or other pipeline, water mains and sewer lines over, across, upon and within the Property. WisDOT shall notify the trail authority of utility permit applications prior to granting the permit. If a utility permit is granted under this paragraph, it shall be a condition of the permit that the permittee not unreasonably impair the use of the recreational trail and that the permittee shall repair and return Property to the condition specified in the trail construction specifications. Utility installations made without obtaining a WisDOT issued Trans29 permit are prohibited in which case the utility shall remove the utility facility from the property, and restore the property in accordance with s. Trans 29.09.
13. WRRTC and WisDOT retain complete authority as to approving applications for new public or private crossings of the Property, including the setting of design and specification requirements, but will coordinate with Dane County on matters pertaining to said applications.
14. The parties agree that, as related to this Agreement, any loss or expense (including costs and attorney fees) by reason of liability imposed by law, will be charged to the agency responsible for the officer, employee or agent whose activity caused the loss or expense to the extent provided by law.
15. The term of this Agreement shall be fifty (50) years from the date of its execution or until terminated by WRRTC, WisDOT or their designee, successors or assigns, upon their retaking the Property for restoration and reconstruction for rail purposes. If at the end of the fifty (50) years WRRTC, WisDOT, or their designee, successors or assigns have not retaken the Property for rail purposes, the Agreement may be extended for up to another fifty (50) year term. If seeking an extension, Dane County shall, no later than one (1) year prior to the expiration date of this Agreement, request such extension from WRRTC, WisDOT or their designee, successors or assigns who shall, within ninety (90) days of the filing of the request, determine whether or not the extension shall be granted and advise Dane County in writing of such action. WRRTC and WisDOT covenant and agree that if and when they or either of them retakes any portion of the Property for rail restoration and reconstruction purposes, that they will give Dane County at least one (1) year's written notice to the County Executive of Dane County or the Executive's designee. During the one (1) year period, Dane County shall have the right to remove any and all improvements that Dane County has placed on the Property. WRRTC and WisDOT further covenant and agree that if and when they retake any portion of the Property for rail restoration and reconstruction purposes, that they will allow Dane County to relocate that portion of the trail that is displaced somewhere else on the rail corridor if it is reasonably safe to do so and

such relocation does not interfere with normal railroad operations. In the event that WRRTC and WisDOT retake the Property or a portion of the property during the first ten (10) years of this Agreement, and Dane County is required under the terms of any grant agreement to repay all or a portion of grant money it has received to implement this agreement, WRRTC and WisDOT further covenant that they will reimburse Dane County for funds it is required to repay under the terms of such grant agreement due to the retaking of all or any portion of the Property.

16. It is hereby stated and agreed by the parties hereto that the consideration for this Agreement is the assumption of the management, control, supervision and maintenance responsibility by Dane County.
17. If any term, covenant, condition or provision (or part thereof) of this Agreement, or the application thereof to any part or circumstance, shall at, any time or to any extent, be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, (or remainder thereof) to parties or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
18. No term or provision of this Agreement, or any of its exhibits, may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by all parties to this Agreement. Consents and approvals required under this instrument and interpretation of this Agreement may be made or granted by exchange of letters among the parties.
19. This Agreement together with those documents referred to herein contain the entire Agreement of the parties and supersedes any and all prior agreements and draft agreements, or oral understandings between the parties.
20. This Agreement shall not be construed as creating a public debt on the part of Dane County in contravention of article VIII, Wisconsin Constitution; and all obligations and responsibilities hereunder are subject to the availability of future appropriations. If no funding is available, the parties shall work together towards resolution.
21. Any notice required to be made in writing or any filing required to be made with any party to this Agreement shall be sent to the following addresses:

FOR WRRTC:

Chair Date
Wisconsin River Rail Transit Commission
Southwestern Regional Planning Commission
One University Plaza
717 Pioneer Tower
Platteville, WI 53813

For WisDOT:

Chief Date
WisDOT Railroads and Harbors Section
4802 Sheboygan Ave, Rm 701
P. O. Box 7914
Madison, Wisconsin 53707-7914

For Dane County

Joe Parisi, Dane County Executive Date

Each —party shall have an affirmative obligation to provide each other party with any permanent change of address within thirty (30) days of such change.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their duly authorized officers as of the date and year first above written.