

TRAIL MAINTENANCE AGREEMENT - 12/21/04

IT IS HEREBY AGREED AND STIPULATED by and between Marathon County, a municipal body corporate, and the Town of Rib Mountain, a municipal corporation, that:

1. This Trail Maintenance Agreement shall cover the pedestrian/bike trail along the west side of CTH R from CTH KK to the new Rib River Bridge;

2. The County shall pay the Town of Rib Mountain the sum of \$4,000.00 annually for maintenance work beginning in January, 2005. Each annual payment shall be adjusted by the previous years' CPI. Said payment shall be received by the Town of Rib Mountain no later than April 1st of each year starting in 2006. Payment for 2005 shall be winin 30 days after adoption of this Agreement by both parties.

3. The Town of Rib Mountain shall provide both summer and winter maintenance of the trail, including, but not limited to, snow removal, sanding or salting, grass mowing along the trail and boulevards, trash pickup, and sweeping. Marathon County may, in its discretion, provide additional assistance to the Town of Rib Mountain with snow removal following a heavy snow, but is not obligated to do so pursuant to the Agreement. The Town of Rib Mountain shall not be billed for additional assistance provided under this paragraph.

The County will be responsible for capital maintenance along the trail, including, but not limited to, crack sealing and repairs, wall and fence repair, and replacement of pavement unless said damage was directly caused by the Town of Rib Mountain in the performance of maintenance work.

Both parties herein shall defend and hold harmless the other from and against all claims of any nature or type whatsoever for damages of any type or nature whatsoever arising out of the performance of a party of its contractual obligations herein.

4. The County will deed to the Town a lot located at the Northeast corner of the intersection of Clover and CTH N for use by the Town of Rib Mountain as a fire station. Should the Town of Rib Mountain not use said property for a fire station, the County shall have the first option to buy back said lot at the appraisal value for residential property and not the appraisal value for commercial property. The legal description for the lot shall be Lot 2 of the Certified Survey Map (CSM) duly recorded in the office of the Marathon County Register of Deeds as Document #13745, Vol. 60, Page 122. The Option to Purchase shall be set forth in the Deed from Marathon County to the Town of Rib Mountain.

5. This Agreement is being entered into on behalf of Marathon County pursuant to authority of the Marathon County Board of Supervisors under Resolution R-60-04 duly passed on December 21, 2004.

6. This Agreement is being entered into on behalf of the Town of Rib Mountain pursuant to authority of the Rib Mountain Town Board of Supervisors at its meeting of May 3, 2005.

7. This Agreement shall be effective retroactive to January 1, 2005, and shall not terminate.

8. If a dispute related to this agreement arises, all parties shall attempt to resolve the dispute through direct discussions and negotiations. If the dispute cannot be resolved by the parties, and if all parties agree, it may be submitted to either mediation or arbitration. If the matter is arbitrated, the procedures of Chapter 788 of the Wisconsin Statutes or any successor statute shall be followed. If the parties cannot agree to either mediation or arbitration, any party may commence an action in any court of competent jurisdiction. If a lawsuit is commenced, the parties agree that the dispute shall be submitted to alternate dispute resolution pursuant to §802.12, Wis. Stats., or any successor statute.

Unless otherwise provided in this contract, the parties shall continue to perform according to the terms and conditions of the contract during the pendency of any litigation or other dispute resolution proceeding.

The parties further agree that all parties necessary to the resolution of a dispute (as the concept of necessary parties is contained in Chapter 803, Wisconsin Statutes, or its successor chapter) shall be joined in the same litigation or other dispute resolution proceeding. This language relating to dispute resolution shall be included in all contracts pertaining to this project so as to provide for expedient dispute resolution.

9. This Agreement constitutes the entire Agreement by and between the parties and may be modified only by written amendment duly approved and signed by all parties.

Dated and signed this 13TH day of MAY, 2005.

MARATHON COUNTY

BY: Mort McBain

Mort McBain, County Administrator

BY: Nan Kettke

Nan Kettke, County Clerk

Dated and signed this 17 day of May, 2005.

TOWN OF RIB MOUNTAIN

BY: *Edwin Opail*
Chair

BY: *Patricia J. Johns*
Town Clerk

a:\cob\016\rib mt trail maintenance.agreement