

**AGREEMENT BY AND BETWEEN THE WISCONSIN DEPARTMENT OF  
TRANSPORTATION AND THE CITY OF LA CROSSE FOR THE MAINTENANCE OF THE  
WIS 16 BICYCLE /PEDESTRIAN PATH  
WITHIN THE RIGHTS-OF-WAY OF WIS 16**

This AGREEMENT for Maintenance of WIS 16 Path between the Wisconsin Department of Transportation and the City of La Crosse is made and entered into this 13th day of April 2023 by and between the City of La Crosse hereinafter called the “City”, and the State of Wisconsin, Department of Transportation, hereinafter called the “State”. This Agreement shall be effective upon last signature below.

**WITNESSETH:**

WHEREAS, the State and City have agreed to the development of a bicycle/pedestrian path, hereinafter called the “Path”, located along the south or east side of WIS 16 from the intersection of WIS 16/La Crosse Street/Losey Boulevard to the intersection of WIS 16/CTH VP. For the purposes of this agreement, we are specifically addressing the segments of the Path from the intersection of WIS 16/La Crosse Street/Losey Boulevard to the intersection with WIS 16/Bluff Pass and from the intersection of WIS 16/CTH B/Gillette Street to the intersection with WIS 16/PH. The total length of the Path is approximately 8.7 miles, but again for this agreement the segments are approximately 0.4 and 2.1 miles in length respectively.

Said Path includes an area approximately 4-feet on each side of the Path plus any drainage pipes and structures constructed for the Path. (See attached location map.)

WHEREAS, within said limits the initial construction of the Path and appurtenances will be financed and completed cooperatively by the City and the State.

WHEREAS, Wis. Stat. Sec. 66.0301 authorizes municipalities, including the City and the State, to contract with one another for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law.

**AGREEMENT:**

NOW, THEREFORE, the City and the State, in consideration of the mutual covenants herein set forth, and other good and valuable considerations, the receipt of which is hereby acknowledged, agree to make this Intergovernmental Agreement under Wis. Stat. sec. 66.0301 for the purposes stated herein, as follows:

1. **Path Location.** The paved Path general limits are as described above in the first “Whereas” paragraph and shown on the attached exhibits.
2. **Path Construction.** The Path shall consist of an eight to ten-foot asphaltic paved surface and two-foot turf shoulders generally within the WIS 16 Rights-of-Way. The initial construction of the Path will be financed and completed cooperatively by the City and the State.
3. **Path Lighting.** None. The City shall be responsible for the financing, maintenance, rehabilitation, and replacement of Path Lighting. The City shall also be responsible for the energy costs for Path lighting.

4. **Path Signing.** Within the said limits any required signage will be financed and installed by the City. Any additional desired signing, as approved by the state, shall be provided, and financed by the City and installed during initial construction.
5. **Path Maintenance.** The City shall maintain the Path, at its own expense. For purposes of this agreement, maintenance shall mean keeping all existing surfaces, signing and marking in good repair, which includes routine sealing of asphalt cracks and pothole repair of asphalt; repair of damage due to unauthorized use, vandalism, graffiti or theft; removing dirt and debris from the Path surface; removing litter from the paved surface and nearby adjacent grassed areas; mowing grass areas; keeping any other landscaping in healthy and neat condition; keeping all drainage ditches in good working condition; and keeping drainage structures free of debris and in good repair. The City shall be responsible for any other maintenance needs that are not listed above and within the Path corridor. Winter maintenance shall be at the discretion of the City.
6. **Use of Path.** The use of the Path by the City shall be for bicycle and pedestrian transportation and may also include public access for recreational activities, including bicycling, pedestrian use, and skating, as defined in Wis. Stat. sec. 895.52.
7. **Prohibition of Motorized Vehicles.** Use of this Path by motorized vehicles of any type, except as needed for maintenance, rehabilitation, or emergency rescue purposes, or under the following provisions herein, is prohibited, except for motorized wheelchairs. The City at its discretion may prohibit electric personal assistive mobility devices, as defined in state statute 340.01 (15pm). Snowmobiles are allowed to cross or run adjacent to the Path unless local ordinance prohibits the use. The City shall inform the State of snowmobile trail locations adjacent to or crossing any Path before those trails are put in place.
8. **Path Corridor Encroachments.** The City shall be responsible for keeping the Path corridor right-of-way free of encroachments.
9. **Path Rehabilitation.** The State shall resurface or replace, at its own expense, timeline, and as it deems necessary, some portions or the entire paved surfaces within the Path segment.
10. **Path Fees.** The City shall not charge fees for the use of the Path.
11. **Removal of Equipment.** All Path signs, lighting, and appurtenances, which remain the property of the City, shall be removed by the City, at its own expense, upon termination of the Maintenance Agreement.
12. **Enforcement.** Promulgation and enforcement of noise, littering and loitering restrictions and the prohibition of motorized vehicles on and along the Path shall be the sole responsibility of the City. The City may pass such ordinances and resolutions as it deems appropriate to govern these restrictions on the Path and may use such methods as it deems appropriate to assure compliance with said restrictions. Any other restrictions proposed by the City shall require written concurrence from the State.
13. **Liability.** The City shall defend and hold harmless WisDOT and the WisDOT's agents, servants, and employees against all loss, damages, legal expenses, and other claims which WisDOT may sustain or become liable for on account of injury to or death of persons, or on account of damage to, loss or destruction of property from activities conducted by WisDOT as part of this Lease and as to itself, any contractor, contractor's employees, subcontractors, or agents. Notwithstanding the foregoing, nothing contained within this Lease is intended to be a waiver or estoppel of the City or its insurer's ability to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including, but not limited to, those contained within Wisconsin Statutes Sections 893.80, 895.52 and 345.05.

14. The City and State agrees to conduct their activities along and, on the Path, so as not to endanger any person or property thereon. The parties agree that each party shall be responsible for its own acts or omissions and those of its officers, employees, and agents, and those of its boards, commissions, agencies, and officials, if any; and shall be responsible for any loss or expense (including costs, damages, and attorney fees) by reason of liability imposed by law, attributable to such acts or omissions to the extent provided by law.
15. **Wisconsin Department of Transportation (WisDOT) Property Rights.** This Agreement is not a lease and does not convey or transfer any ownership or rights of ownership in WisDOT right-of-way to the City. This instrument is a permit, and the extent of the permit is to allow the use of the Path temporarily for certain activities as set forth herein. The State retains all rights of property ownership, and only the State can grant an invasion of said ownership rights.
16. The State retains the authority for the issuance of permits to allow a public or privately owned utility the right to construct, operate, and maintain a utility facility over, across, upon, and within WisDOT right-of-way. If a permit is issued under this paragraph, it shall be a condition of the permit that use of the right-of-way needed for the Path shall not be impaired, the utility permittee shall repair said right-of-way and return it to its pre-existing condition, normal wear and tear considered, as soon as possible.
17. Both WisDOT and City shall coordinate with each other on any permitting matter that may have an effect on the Path or WisDOT ROW. The coordination, in the form of written correspondence, shall begin within five business days after being contacted by a utility, developer, citizen, etc. regarding any proposed project that requires a permit. Nothing in this section shall override either WisDOT's or the City authority to issue permits under their respective maintenance jurisdiction.
18. The State shall provide the City with written notice prior to the issuance of any permit under this paragraph and shall coordinate with the City on matters pertaining to utility permit applications.
19. The State retains full and final authority regarding the sale or disposal of the right-of-way or any portions thereof. Furthermore, this Agreement is subject to existing permits.
20. The State retains the right to close all or any portion of the Path at any time if it needs the right-of-way for future highway improvements or other operational needs, without compensating the City to relocate the Path should the City decide to do so.
21. **Term.** The term of this Maintenance Agreement shall be twenty (20) years from the effective date written above. This Agreement shall automatically be renewed under the same terms and conditions for additional one-year terms, unless either party shall give written notice to the contrary to the other party at least 90 days before the renewal date.
22. **Applicability.** 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 invalid or unenforceable, the remainder of the Agreement, or the application of such term or provision (or remainder thereof), to parties and 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.
23. **Changes.** No term or provision of this Agreement, or any of its attachments, 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 may be made or granted by exchange of letters between the parties.

- 24. **Non-Discrimination.** The parties agree to abide by their own respective non-discrimination policies and procedures during the term of this agreement. Further, the parties agree that this agreement does not subject either party to the other's jurisdiction for the administration of such matters.
- 25. **Entirety.** The Agreement together with any 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 regarding the Path.
- 26. **Notices.** 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 the State:**

Region Director  
 WisDOT Southwest Region  
 3550 Mormon Coulee Road  
 La Crosse, WI 54601

**For the City:**

City Clerk/City Mayor  
 La Crosse City Hall  
 400 La Crosse Street  
 La Crosse, WI 54601

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

**WISCONSIN DEPARTMENT OF TRANSPORTATION, STATE OF WISCONSIN:**

\_\_\_\_\_  
 Brett Wallace  
 Southwest Region Director  
 Wisconsin Department of Transportation

\_\_\_\_\_  
 Date

**CITY OF LA CROSSE, LA CROSSE COUNTY, WISCONSIN:  
 A municipal corporation**

By: \_\_\_\_\_  
 Mitch Reynolds, Mayor

By: \_\_\_\_\_  
 Nikki Elsen, City Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_