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BETSIE VALLEY TRAIL MANAGEMENT AGREEMENT

This Agreement is entered into by and between the Department of Natural Resources ("MDNR") and the Betsie Valley Trailway Management Council ("BVTMC") under Part 721 of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended (MCL 324.721) in order to provide for the development, operation and maintenance of the Betsie Valley Trail, and to establish the relationships between the MDNR and the BVTMC.

I. GENERAL PROVISIONS

1. The MDNR is the owner of the Betsie Valley Trail ("Trail") located within Benzie County, which shall be constructed on the former Ann Arbor Railroad corridor, or easement provided therefore, as more fully described in Attachment "A".

2. The BVTMC is an agency of the Benzie County Board of Commissioners, as provided for in the Board of Commissioners resolution creating the Betsie Valley Trailway Management Council, July 21, 1998 (Attachment B.), and shall have the authority as provided by Public Act 451 of 1994, as amended, Part 721, to operate under Public Act 7, of 1967, as amended, and other pertinent statutes, with full responsibility to carry out the responsibilities described herein.

3. The MDNR and the BVTMC agree to cooperate in the development and construction of the Betsie Valley Trail and each will work with the other to actively pursue funding for such development and construction.

4. The MDNR and the BVTMC shall cooperate to pursue designation of the Trail as a Michigan Trailway pursuant to Part 721 of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended (MCL 324.721). The parties shall also cooperate to maintain such designation if obtained. Therefore, the parties shall seek to develop, operate, maintain, and manage the trail so that it meets all statutory requirements for such designation. All portions of the Betsie Valley Trail covered by this agreement shall comply with the Americans with Disabilities Act.

5. The MDNR authorizes BVTMC to manage the property for public use as a non motorized and, where allowed by mutual agreement of the MDNR and BVTMC, snowmobile trail for recreation and transportation, subject to applicable State laws, State Land Rules for State Lands Other Than State Parks and Recreation Areas, applicable Land Use Orders of the Director, and related guidelines. Where the trail corridor passes through State Forest Lands, the MDNR shall retain authority to utilize the corridor for purposes that are compatible with public trail use. The MDNR shall consult with BVTMC before utilizing the land in any way that may affect public trail use and BVTMC management of the corridor.

III. RULES AND REGULATIONS

1. Rules governing Trail use are "state land rules" (state lands other than state parks and recreation areas, R 229.331 through 229.335 of the Michigan Administrative Code), attached as Attachment C. These rules have been modified by Land Use Order of the MDNR Director (Attachment D) and may be modified in the future by further orders and amendments.

2. Use of the Trail shall be accordance with the Consent Judgment in the case of Bigelow et al v. MDOT et al in the areas described therein (Attachment E).

3. Enforcement of the laws and rules upon the Trail and adjacent related property will be a cooperative effort between local law enforcement personnel. The local units of government and the BVTMC will work with the Benzie County Sheriff's Department and the MDNR to coordinate enforcement action.

IV. MANAGEMENT RESPONSIBILITIES

1. The BVTMC, acting as an agent of the Benzie County Board of Commissioners, shall have the responsibility for the operation and maintenance of the Trail and adjacent property and facilities and shall submit a budget to the Benzie County Board of Commissioners annually.

2. Coordination and supervision of the trail, employees and involvement of other local units of government shall be the responsibility of the BVTMC.

3. The BVTMC is responsible for the following:

A. Routine physical maintenance of the Trail. Major repairs are the responsibility of the MDNR.

B. Routine operation, such as Trail cleanup, trash pickup and rule enforcement.

C. Communication and problem solving with local officials, citizens and trail users.

D. Management of Trail corridor property including response to encroachments on the property and investigating requests for non-conforming use of Trailway property.

E. Approving special events.

F. Providing information to the public concerning the Trail.

ATTACHMENTS TO BETSIE VALLEY TRAIL MANAGEMENT AGREEMENT

A. LOCATION OF THE BETSIE VALLEY TRAIL

B. BENZIE COUNTY BOARD OF COMMISSIONER'S RESOLUTION OF JULY 21, 1998
CREATING THE BETSIE VALLEY TRAILWAY MANAGEMENT COUNCIL.

C. STATE LAND RULES R 229.331 THROUGH 229.335

D. LAND USE ORDERS OF THE DIRECTOR, AMENDMENT NO. 22 OF 1997

E. BIGELOW ET AL V. MDOT ET AL CONSENT JUDGMENT

ATTACHMENT B

Resolution to create the Betsie Valley Trailway Management Council
Approved by the Benzie County Board of Commissioners
July 21, 1998

Moved by Pitcher

Supported by Walterhouse

RESOLVED:

That the Betsie Valley Trailway Management Council (BVTMC) is hereby created as an agency of the Benzie County Board of Commissioners, for the purpose of managing, operating and maintaining the Betsie Valley Trail, a trailway as defined in Act 451 of the Public Act of 1994, as amended.

BVTMC will have the legal authority as provided by Public Act 451 of 1994, Part 721, as amended, and may enter into Interlocal Agreements as provided by the Urban Cooperation Act, P.A. 7 of 1967, as amended and other pertinent statutes with full responsibility to carry out the responsibilities described below.

SECTION I: PURPOSE

The BVTMC is created with the powers, functions and duties provided herein for the purposes of planning, developing, operating and maintaining a multi-use recreational trailway within Benzie County and shall have the right to approve any land use consistent with the use of, the management of, and the purposes of a trailway on lands which come under jurisdiction of the BVTMC. The use, management and purpose of said Trailway shall be consistent with the health, safety and welfare of the public as defined within Act 451 of 1994, Part 721, as amended, and for the portion therein described shall also be in accordance with the Consent Judgment in the case of Bigelow et al, attached hereto as Attachment A.

The Trailway shall consist of the Betsie Valley Trail constructed on the former Ann Arbor Railroad corridor in Benzie County, and such other adjacent related properties as may hereafter be submitted to the jurisdiction of the BVTMC which are consistent with the health, safety and welfare of the public, in the best interest of the State, and declared to be a public purpose as defined within Section 72102 of Act 451 of 1994, Part 721, and accepted by the BVTMC, for management.

The BVTMC shall be a public body corporate having the powers and duties as set forth in this Resolution, subject to the limitations set forth.

SECTION II: MEMBERSHIP

MEMBER UNITS of the BVTMC shall be those governmental units which have a written agreement with the BVTMC to transfer to the BVTMC limited use of property in a form acceptable to BVTMC for inclusion in the Trailway and managed by the BVTMC, under all of the terms hereof. The BVTMC may require, as a condition of membership, a fair contribution agreement between the BVTMC and any proposed MEMBER UNIT if the BVTMC determines that such an agreement is necessary to provide fair allocation of costs among present and proposed MEMBER UNITS. This Agreement and any agreement entered into or obligation incurred by any MEMBER UNIT in accordance with this agreement shall be binding upon that MEMBER UNITS successor in interest, if any. --

7. The BVTMC Treasurer shall have control of all BVTMC funds, including appropriations from grants, gifts, bequests and/or surplus funds which shall be deposited, invested, and/or disbursed by the Treasurer as directed by the BVTMC in accordance with SECTION 6: FINANCE, as set forth below. The treasurer shall be charged with assuring complete financial records and reports as required by this Agreement or applicable law or contract provisions.

SECTION IV: MEETINGS

A. SCHEDULE OF MEETINGS

1. The BVTMC shall meet at least quarterly and shall annually establish a regular meeting schedule which shall be posted at the offices of the MEMBER UNIT governing boards in similar form and within similar times as required by law for governmental meeting schedules.
2. Special meetings of the BVTMC may be called by the Chairperson, or in the absence of the Chairperson, by the Vice Chairperson.

B. NOTICE

Five (5) days written notice of all regular meetings and 48 hours written notice of all special meetings shall be given to each BVTMC member with an agenda for that meeting. All notices of all meetings shall also be posted as required by the Michigan Open Meetings Act.

C. RULES

Roberts Rules of Order, when not in conflict with this agreement or written standing rules which the BVTMC may adopt, shall govern all meetings.

D. QUORUM

A simple majority of those appointed and serving shall constitute a quorum.

SECTION V: POWERS

A. GENERAL POWERS

The BVTMC shall have the following powers, authority and obligations:

1. All powers set forth in Section 5 of Public Act 7 of 1967, as amended and as hereafter amended.
2. Plan, develop, implement, build, improve, operate and maintain a recreational trailway on land or easements owned by the Michigan Department of Natural Resources (MDNR) and designated as the Betsie Valley Trail and on land owned by other MEMBER UNITS, provided such land is or will be contiguous to or is part of the BETSIE VALLEY TRAIL. The MEMBER UNIT owning such land must indicate in writing that it wishes that land to come under the jurisdiction of the BVTMC for these purposes and accepted by the BVTMC. The agreement between the BVTMC and the MEMBER UNIT shall describe the specific uses of the land the MEMBER UNIT is transferring to the BVTMC and any restrictions which may apply.

an allocation formula related to the relative trailway mileage owned by each MEMBER UNIT.

C. REPORTS

The BVTMC shall, at least annually, make a full and complete report of all its activities to the Board of Commissioners and to the governing boards of all MEMBER UNITS.

D. LIMITATIONS

The BVTMC shall have no power or authority to levy any tax or issue any bonds in its own name, obligate any MEMBER UNIT in any way except as provided in this agreement and except as provided by law or condemn any land for any purpose.

SECTION VI: FINANCE

A. FISCAL YEAR

The fiscal year of the BVTMC shall be from January 1st to December 31st.

B. OPERATING BUDGET

The BVTMC shall each year develop an operating budget sufficient to allow it to meet its functions and obligations. Except for operating expenses the BVTMC agrees to pay, each MEMBER UNIT will be responsible for all expenses of property it owns. The County of Benzie shall maintain office facilities and specifically designated personnel for operation of the BVTMC and for operating and maintaining the Betsie Valley Trailway, in accordance with the budget developed by the BVTMC and approved by the Benzie County Board of Commissioners.

Funds specified for operation of the trailway will be deposited with the County Treasurer in a separate BETSIE VALLEY TRAILWAY MANAGEMENT COUNCIL FUND and will be used only for the Trailway in a manner approved by the BVTMC.

C. PROJECT BUDGETS

The BVTMC shall develop separate project budgets, as it deems appropriate, for all other costs and may recommend and contract with MEMBER UNITS or other parties as necessary to pay such costs.

D. FINANCIAL AUDITS AND REPORTS

The Treasurer shall make or cause to be made a full and complete financial report to MEMBER UNITS of all financial transactions and affairs of the BVTMC at the end of each fiscal year. Said report shall include a complete audit by a certified public accountant. State and federal audit requirements shall be fully met as applicable.

SECTION VII: TERMINATION AND DISSOLUTION

A. MEMBER UNIT TERMINATION

A MEMBER UNIT may terminate its membership not less than ninety (90) days after giving written notice to the BVTMC, pursuant to the resolution of said MEMBER UNIT'S governing body. A MEMBER UNIT terminating its membership shall remain liable for all obligations incurred by it pursuant to this agreement and prior to termination.

ATTACHMENT D
LAND USE ORDERS OF THE DIRECTOR

Amendment No. 22 of 1997

By authority conferred on the Director of the Department of Natural Resources by Section 504 of Act No. 451 of the Public Acts of 1994, as amended, being section 324.504 of the Michigan Compiled Laws, and in accordance with R299.302, R299.321, R299.331, R299.671 and R299.1003 of the Michigan Administrative Code, the Director of the Department of Natural Resources orders that the following orders of the Land Use Orders of the Director shall read as follows:

4.40 Certain state-owned trailways, prohibited conduct.

Order 4.40. (1) The Musketawa trail means the former railroad right-of-way in the city of Muskegon, Muskegon county, T10N R16W, beginning at Ottawa avenue in section 20 and ending at Vulcan street in section 33, and the former railroad right-of-way beginning approximately ¼ mile northwest of the intersection of the right-of-way with Black Creek road in section 34, T10N R16W, Muskegon County, and extending southerly and easterly to the junction with the active railroad right-of-way located in section 36, T8N R13W, Ottawa county and commonly known as "Penn Junction." A person shall not do any of the following upon the Musketawa trail:

(a) Discharge a firearm or bow and arrow.

(b) Operate a motorized vehicle without written permission from the state trails coordinator, except that a registered snowmobile may be operated between Points A and B described as follows:

(i) Point A -- approximately ¼ mile northwest of the intersection of the trailway with Black Creek road in section 34, T10N R16W, Muskegon county.

(ii) Point B -- the intersection of the trailway with Eighth avenue, section 25, T8N R13W, Ottawa county.

(2) The Bay View-Oden trail means the former railroad right-of-way extending between Division street in Bear creek township, section 33, T35N R5W and Blumke road in Littlefield township, section 17, T35N R4W, Emmet county. A person shall not operate a motorized vehicle upon the Bay View-Oden trail without written permission of the state trails coordinator, except that a snowmobile may be operated on this trail between highway M-119 in Bear Creek township, section 27, T35N R5W and Blumke road in Littlefield township, section 17, T35N R4W, Emmet county.

(3) The Ionia-Lyons trail means the former railroad right-of-way extending between Quarry road in section 21 and Riverside drive in section 23, T7N R6W, Ionia county. A person shall not operate a motorized vehicle upon the Ionia-Lyons trail without written permission from the state trails coordinator.

(4) The Mackinaw-Alanson trail means the former railroad right-of-way extending between Nicolet street in the village of Mackinaw City, section 12, T39N R4W, and M-68 extended, in the village of Alanson, section 10, T35N R4W, Emmet county. A person shall not operate a motorized vehicle, except a snowmobile, upon the Mackinaw-Alanson trail without written permission from the state trails coordinator.

(5) The Mackinaw-Hawks trail means the former railroad extending between Nicolet street in the village of Mackinaw City, section 18, T39N R3W, Cheboygan county and the section line between sections 25 and 36, T34N R4E, Presque Isle county. A person shall not do any of the following on the Mackinaw-Hawks trail:

(a) Operate a motorized vehicle, except a snowmobile, without written permission from the state trails coordinator.

(b) Use any portion of the trail or trail structure for swimming or diving.

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