

**MEMORANDUM OF AGREEMENT
BETWEEN
THE AGENCY OF TRANSPORTATION,
AND
THE AGENCY OF NATURAL RESOURCES,
DEPARTMENT OF FORESTS, PARKS, AND
RECREATION**

THIS MEMORANDUM OF AGREEMENT is made and entered into on this _____ day of _____, 20____, by and between the Agency of Transportation (hereinafter referred to as the “Agency”) and the Agency of Natural Resources, through its Department of Forests, Parks and Recreation (hereinafter referred to as the “Department”) as follows:

WHEREAS, the Agency is the owner of a railroad corridor extending from St. Johnsbury to Swanton, Vermont (“the Line”); and

WHEREAS, the Line is railbanked and is to be used for interim trail use, in accordance with authorization from the federal Surface Transportation Board in *Lamoille Valley R.R. Co. – Abandonment and Discontinuance of Trackage Rights Exemption – In Caledonia, Washington, Orleans, Lamoille and Franklin Counties, VT*, STB Docket No. AB-444 (Sub-No. 1X) (served Feb. 13, 2004); and

WHEREAS, the Agency has entered into a Lease with the Vermont Association of Snow Travelers (VAST) granting exclusive control and authority, except as provided in the Lease, to VAST to construct, operate, maintain, replace and manage a multi-use public recreational trail on the Line and such Lease remains in effect until February 28, 2027; and

WHEREAS, the Department manages Outdoor Recreation and operates State Parks and State Forests, including associated recreational trails, recreational rail trails, and outdoor recreation facilities for the responsible enjoyment of the public; and

WHEREAS, the General Assembly has directed that the title or interest held by the State of Vermont in former railroad rights of way should be retained by the State for future transportation purposes; and

WHEREAS, the Agency and the Department consider it mutually advantageous to cooperate in the development, maintenance, and protection of the trail for use as a four-season recreational trail, subject to the cooperation and agreement of VAST with respect to VAST’s rights and obligations under the Lease, as amended.

NOW, THEREFORE, the parties agree as follows:

The Agency HEREBY AGREES, subject to availability of funds, to:

1. Maintain and repair the structure of the existing state-owned railroad bridges in order to

maintain their structural integrity.

2. Perform more complex bridge maintenance, repair or replacement, especially as related to structural concerns, including but not limited to deck and rail and replacement. Maintain and repair the fencing along the property and leased lines according to the Agency's assessment of need.
3. Maintain and repair ditches, culverts, and all drainage systems, including problems caused by beavers. Such maintenance and repair includes large-scale surface maintenance, surface failure, washouts, drainage issues that create dangerous conditions and/or compromise the rail bed.
4. Resolve unauthorized encroachments including encroachments, agricultural crossings, and driveways and any such encroachment related to impact to the rail bed and not to recreational use of the trail.

Third Party Agreements. The Agency shall have the right to any and all rents, license fees and permit fees arising from present and future easements, leases, licenses, or other agreements with third parties (including any renewals thereof) to use or access the Line by utilities for installation of poles and wires and all future revenues arising from use of the Line. The Department will not be a signatory to any agreements entered into for use of the Line; however, use of the Line for future occupations or licensed encroachments shall not unreasonably interfere with the Department's management of the trail. The Agency shall remain responsible for the administration of all present and future easements, leases, licenses or other agreements with third parties as subject to the Lease with VAST. Nothing in this paragraph shall prevent the Department from entering into licenses, special use permits or other agreements specifically related to the public use and management of the Line if authorized to do so and subject to the Lease with VAST.

Agency Obligations under the Lease with VAST. The Agency shall remain responsible for all obligations and responsibilities under the Lease with VAST except as provided herein, subject to agreement of VAST.

The Department HEREBY AGREES, subject to the authority and obligations of VAST under the Lease and any authorization required to be granted by VAST as a result of such Lease, and subject to availability of funds, to:

1. Manage public recreational use of the Line including providing staff oversight, coordinating with stakeholders including VAST, the towns of Hardwick, Walden, Wolcott, Morristown, Cambridge, Fletcher, Bakersfield, Fairfield, Sheldon, Highgate and Swanton, their Regional Planning Commissions among others and correcting inappropriate or illegal use of the Line, managing user conflicts and generally providing operational management of the Line.
2. Coordinate requests for organized events by reviewing and issuing special use permits and licenses, when appropriate, including the right to retain any and all permit or license fees associated with such permits and licenses.

3. Maintain trail surface including:
 - Performing routine hazard tree removal according to the FPR Hazard Tree Procedure
 - Performing minor surface repair such as filling in potholes, rodent holes, minor ruts or other small surface fissures with the appropriate techniques.
4. Perform minor bridge maintenance including minor repair of railings, decking or other repairs that do not require heavy equipment.
5. Perform routine brush cutting/mowing of trail surface as needed throughout field season. The Department may seek the help of Agency when necessary to re-establish trail corridor.
6. Develop a Long-Range Management Plan (LRMP) and/or Parks Operation Plan to address long-term needs for the Line as well as other necessary attendant infrastructure including specific areas needed for trail heads, parking, restrooms, signage, wayfinding, maps and areas of special public interest. The Plan(s) shall address user conflict issues and management strategies that may develop as problems arise. The interests and concerns of the prospective parties to this agreement will be adequately and appropriately addressed; the Agency will be given the opportunity to review and comment as these plans are drafted. The LRMP will also provide a formulation of an Agency policy that will address prohibition of additional vehicular crossings on the trail. The development of a LRMP / Parks Operation Plan shall occur upon resolution of conflicting existing authority and responsibility of VAST under the Lease.
7. Report all unauthorized encroachments to Agency.
8. Report maintenance needs to Agency – Maintenance/work plans will be discussed at spring and fall meetings between Agency and Department. Communication should occur between the organizations throughout the year as unexpected projects arise.
9. Install and maintain all Trail Signage according to FPR wayfinding and signage standards – installation and maintenance of signs and kiosks excepting that which may be performed under a project or grant.

To the extent that any or all of the responsibilities listed herein are superseded by authority granted to VAST in the Lease, the Department may reach separate agreement with VAST to obtain authorization to perform such responsibilities.

It is mutually agreed between the Agency and the Department that:

1. The designees of the Agency and Department will communicate through regularly scheduled meetings to discuss work plans, management needs, concerns:
 - Spring – 2nd Wednesday in March
 - Fall – 3rd Wednesday in October
 - Regular communication will include notification of any planned or needed work regardless of time of year
 - Department Designees: Parks Director, Parks Regional Managers or assigned designee(s)
 - Agency Designee: Rail & Aviation Bureau Director and Property

Management Section Chief, or assigned designee(s)

2. The agreement is subject to review and modification by either party upon written notification to the other party or upon mutual agreement.
3. This agreement may be terminated by either party with six (6) months written notice to the other party or upon mutual agreement.
4. The parties agree and acknowledge that this agreement is subject to the terms and conditions of an October 2, 2006 Lease Agreement and Amendments (1) through (6) between the Agency and The Vermont Association of Snow Travelers Inc., and as such the parties' ability to perform the responsibilities identified herein is subject to the agreement and approval of VAST. Neither Party shall be responsible for breach if VAST does not grant such approval or agree to a Party performing such responsibility.
5. This agreement with the terms and provisions contained herein constitutes the entire agreement between the parties hereto and supersedes and replaces all other agreements and representations in connection with the use and management of the Line herein described.

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IN WITNESS WHEREOF, the **AGNECY OF TRANSPORTATION** has caused this instrument to be subscribed, this ____ day of _____, 20_, by Joe Flynn, its Secretary of Transportation and duly authorized agent.

**AGENCY OF TRANSPORTATION
("AGENCY")**

By: _____
Joe Flynn
Its Secretary of Transportation and
Duly Authorized Agent

STATE OF VERMONT)
WASHINGTON COUNTY, ss.)

At Barre, this ____ day of _____, 20_, personally appeared Joe Flynn and he acknowledged the foregoing instrument, by him as Secretary of Transportation and duly authorized agent of the **AGENCY OF TRANSPORTATION** subscribed, to be his free act and deed and the free act and deed of the **AGENCY OF TRANSPORTATION**.

Before me,

Notary Public
(My commission expires January 31, 2023)

APPROVED AS TO FORM:

DATED: _____

ASSISTANT ATTORNEY GENERAL

**IN WITNESS WHEREOF, AGENCY OF NATURAL RESOURCES,
DEPARTMENT OF FOREST, PARKS AND RECREATION.** has caused this instrument to
be subscribed, this ____ day of _____, 20_, by Michael Snyder, its Commissioner
of the Department of Forest, Parks and Recreation and duly authorized agent.

**DEPARTMENT OF FOREST, PARKS,
AND RECREATION
("DEPARTMENT")**

By: _____
Michael Snyder
Its Commissioner and Duly Authorized
Agent

STATE OF VERMONT)
WASHINGTON COUNTY, ss.)

At Montpelier, this ____ day of _____, 20_, personally appeared
Michael Snyder and he acknowledged the foregoing instrument, by him as Commissioner and
duly authorized agent of the **DEPARTMENT OF FOREST, PARKS AND RECREATION**
subscribed, to be his free act and deed and the free act and deed of the **DEPARTMENT OF
FOREST, PARKS AND RECREATION.**

Before me,

Notary Public
(My commission expires January 31, 2023)