

Cooperative Agreement  
For  
West River Parkway on Grand Island - Alternative-Use Path Infrastructure Improvements  
Between  
New York State Office of Parks, Recreation and Historic Preservation  
And  
The Town of Grand Island

THIS COOPERATIVE AGREEMENT is made and entered into between the New York State Office of Parks, Recreation and Historic Preservation (“State Parks”) Albany, NY 12238 (USPS) whose offices are located at 625 Broadway, Albany, NY 12207 (deliveries) and in the Niagara Region at Prospect Park, Niagara Falls, NY 14303 and the Town of Grand Island (“Town”) located at 2255 Baseline Rd., Grand Island, NY 14072.

WHEREAS, pursuant to Section 3.09(2) of the New York State Parks, Recreation and Historic Preservation Law (“PRHPL”), State Parks is authorized to directly or indirectly operate and maintain New York State historic sites, parks, parkways and recreational facilities by contract, lease or license; and

WHEREAS, pursuant to PRHPL Section 3.09(6), State Parks is authorized to encourage, promote and engage in cooperative recreational, educational, historic and cultural activities, projects and programs undertaken by any local governmental agency for the benefit of the public; and

WHEREAS, State Parks and the Town are each authorized to improve real property for public recreational purposes and to maintain, operate and administer any property so improved directly, or by contract, lease or license; and

WHEREAS, State Parks seeks to provide further improvements to enhance public use of the West River Parkway between Buckhorn Island and Beaver Island for an alternative use path and its connection to the Town (the “Project”); and

WHEREAS, State Parks is applying to the State Department of Transportation for a TAP grant to construct an alternative use path; and

WHEREAS, State Parks and the Town are mutually interested in the provision of recreational and cultural opportunities, enhancing public health, and benefiting the environment and the public; and

WHEREAS, the parties desire to cooperate in the application for and administration of the grant and in the design and construction of the necessary improvements, with each party contributing to the Project; and

WHEREAS, improvements to the Parkway will benefit the citizens of the Town, as well as other citizens of New York State.

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained it is hereby agreed between the parties as follows:

1. Description of Project. Create an alternative transportation path adjacent to West River Parkway, connecting the South Parkway with an existing alternative transportation path which provides direct access to the north grand Island Bridge, in the Town of Grand Island. The path would be constructed solely on State Park lands and complete the alternative transportation connection between the city of Tonawanda and the City of Niagara Falls and points north.

2. Cooperation. State Parks and Town agree to work cooperatively and share resources to facilitate funding and construction of the alternative transportation path, along with connections to existing roadways under the ownership of the Town of Grand Island.

3. The Town agrees to:

a. Recognize State Parks and the Town as partners pursuant to the purposes outlined in this Agreement and provide appropriate acknowledgement and endorsement of their activities in implementing this Agreement.

b. Provide engineering services to assist in the planning and designing of the Project, to assist in applying for the TAP grant and to provide in kind materials and other staff support as may be subsequently agreed in accordance with the New York General Municipal Law and all other applicable federal and state laws, rules and regulations.

c. With respect to the portion of the multi-use path outside of the Parkway and on Town Property, assume responsibility for the operation and maintenance following completion of the Project for twenty (20) years.

d. Coordinate on a regular basis with State Parks of not less than once quarterly to keep each other informed of progress in implementing this Agreement.

4. Key Officials and Notice. The personnel specified below are considered to be essential to ensure maximum coordination and communication between the parties. Any party, on notice to the other parties, may designate another person or persons to act in his/her place in an emergency or otherwise.

For State Parks:

Ron Peters; Western District Deputy General Manager

Jason Gac; Niagara Region Senior Engineer

For the Town:

Mary Cooke, Supervisor, Town of Grand Island

John Whitney, Town Engineer, Town of Grand Island

State Parks and the Town shall give written notification to the other party reasonably in advance of any change in key officials.

Notices between the parties hereto regarding the subject matter of this Agreement shall be faxed and mailed with certified return receipt requested.

5. Funding

The estimated total cost for this project is \$2,475,390.

6. Termination

This Agreement may be terminated in whole or in part by either party with or without cause or, at any time, upon no less than 60 days written notice to the other party. Such notice shall include the effective date of said termination and, in the case of partial termination, the portion to be terminated. In the event of termination without cause, each party shall be responsible for their own costs.

7. General and Special Provisions

a. This Agreement is subject to the availability of authorized funding appropriations available to State Parks and the Town. The Town shall not be required to expend, any Town funds in connection with the proposed Project, except for in kind contributions as may be agreed.

b. Insurance and Related Liability: The Town will require that each contractor in connection with the Project will comply with the insurance and indemnification requirements of State Parks.

c. Nothing in this Agreement shall be deemed to impose any liabilities or obligations of any kind upon either the Town or the State Parks in favor of any contractors or subcontractors engaged by the other for the Project. Subject to the availability of lawful appropriations and applicable law, the Town shall be responsible to State Parks for a final judgment issued by a court of competent jurisdiction arising from the negligence or wrongful breach of a legal obligation on the part of the Town, its agents, officers or employees acting within the scope of their employment in relation to the Project. Subject to the availability of lawful appropriations and consistent with Section 8 of NYS Court of Claims Act and Section 17 of the Public Officers Law, State Parks shall be responsible to the Town for a final judgment of a court of competent jurisdiction arising from the negligence or wrongful breach of a legal obligation on the part of State Parks, its agents, officers or employees acting within the scope of their employment in relation to the Project.

d. Nothing in this Agreement shall create or be deemed to create any relationship between the State Parks and any contractor, subcontractor, supplier, or other person engaged by the Town in connection with the Project, and State Parks shall not be responsible to any of the foregoing for any payments due or to become due for the performance of any portion of the Project, or for materials purchased in connection therewith, except as expressly set forth herein. Nothing in this Agreement shall create or be deemed to create any relationship between the Town and any contractor, subcontractor, supplier, or other person engaged by the State Parks in connection with the Project, and the Town shall not be responsible to any of the foregoing for any payments due or to become due for the performance of any portion of the Project, or for materials purchased in connection therewith, except as expressly set forth herein.

8. Amendments

This Agreement may be amended only in writing, signed by authorized representatives of all parties.

9. Appendix A STANDARD CLAUSES FOR NYS CONTRACTS is attached hereto and made part hereof and applicable to all contractors performing work on the Project.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers or representatives:

Town of Grand Island New York State Office of Parks,  
Recreation and Historic Preservation

By: \_\_\_\_\_ By: \_\_\_\_\_

Date: Date:

TOWN ACKNOWLEDGEMENT  
STATE OF NEW YORK )

( SS: COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 2014, before me, the undersigned a notary public in and for said state, personally appeared \_\_\_\_\_, personally known, to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is described within the instrument and acknowledged to me that he/she executed the same in his/her capacity as \_\_\_\_\_ of the Town of Grand Island and that by his/her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public