



### 23.1 General

Budgeting and scheduling a utility relocation for a highway project can be problematic for utility companies. In an effort to reduce the problems associated with budgeting for a project, WisDOT created a loan program whereby a utility could obtain a loan to do facility relocations prior to the start of the highway project. Wis. Stat. s. 84.065 (see [Attachment 23.1.1](#)) and Ch. Trans 30 Wis. Adm. Code (see [Attachment 23.1.2](#)) established the loan program.

### 23.2 Eligibility

To be eligible for a loan, the applicant must fit the definition of “public utility” as defined in Wis. Stat. s.196.01(5) or be a telecommunications carrier as defined in Wis. Stat. s. 196.01(8m).

The applicant must have been in business in Wisconsin for a continuous period of not less than 5 years prior to the date of the loan application.

The applicant may not have a total of more than \$200,000 in loan funds outstanding under this program at one time.

The work involved must be related to a highway improvement project on the State Trunk Highway or Connecting Highway system, where “improvement” has the meaning given in Wis. Stat. s. 84.06(1).

**84.06 Highway construction. (1) DEFINITIONS.** In this section, “improvement” or “highway improvement” includes construction, reconstruction and the activities, operations and processes incidental to building, fabricating or bettering a highway, public mass transportation system or street, but not maintenance.

#### Exclusions:

- Work that is reimbursable by the department under other policies or programs is not eligible for a loan.
- Work that is not adversely affecting the ability of WisDOT’s highway contractor to start, progress and complete a highway improvement in accordance with the programmed highway construction schedule is not eligible for a loan.
- Work that is to be carried out concurrent with highway construction is not eligible for a loan.

### 23.3 Loan Requirements/Restrictions

The loan may be repaid without interest before the date on which the contract for the highway improvement project, which the work is associated with, is awarded.

The loan shall require the payment of interest on the outstanding balance of the loan that is not repaid by the date on which the highway improvement project is awarded, accruing from the date on which that contract is awarded. Interest shall be charged at a rate equal to the weekly prime rate for the week prior to the date on which the contract is awarded, as reported by the Federal Reserve board in Federal Reserve statistical release H. 15, plus 1%.

The loan agreement shall require repayment of the principal and payment of any accrued interest within one year of the date on which the contract is awarded.

The loan request must be for at least \$20,000 but not more than \$200,000.

WisDOT may not loan funds more than two years before, or within 90 days of, the scheduled letting of the related highway construction contract.

The utility’s records are subject to audit by the Department. The records shall be retained for at least 3 years from the date the loan was repaid.

The total outstanding balance of all loans under this program may not exceed \$500,000.

### 23.4 Loan Application Process

1. Utility fills out a Loan Application and submits it to the Region Office. See [Attachment 23.4.1](#)
2. The Region determines if the application is in compliance with Wis. Stat. s.84.065 and Ch. Trans. 30 Wis. Adm. Code within 45 days of receipt.
3. If the Region supports the loan request, they submit the application to the Utility & Access Unit of the Bureau of Technical Services for review within 10 days of the completion of the Region's review.
4. The Utility & Access Unit reviews the application and, if in agreement, the Director of the Bureau of Technical Services approves/denies the loan application within 30 days of receipt.
5. The Utility & Access Unit notifies the Region of the approval/denial and the Region sends a letter to the utility notifying them that the application was approved/denied and, if approved, sends the applicant a Utility Loan Agreement (see [Attachment 23.4.2](#)) to be executed by the utility. [Attachment 23.4.3](#) is an example cover letter for an approved loan application.
6. The utility returns the signed agreement to the Region. The Region forwards the agreement to the Utility & Access Unit for signature by the Director of the Bureau of Technical Services. NOTE: A loan agreement is void unless it is executed within 60 days of the approval of the loan application.
7. The signed agreement is returned to the Region. The Region sends a copy of the agreement to the utility along with a cover letter explaining the disbursement of funds procedure.
8. The utility notifies the department when they are ready to start work within 30 days of the receipt of loan funds.
9. The department shall disburse the full amount of the approved loan to the recipient within 30 days of receipt of written notice from the recipient that the relocation or alteration work for which the loan was approved will commence within 30 days after receipt of the loan funds.
10. The loan is repaid according to the terms of the agreement.

[Attachment 23.4.4](#) is a log for tracking the various steps of the utility loan application and approval process.

## 84.065 RAILROAD AND UTILITY ALTERATION AND RELOCATION LOAN PROGRAM

**(1) PURPOSE.** The purpose of this section is to promote the state's interest in preserving and improving state trunk and connecting highways by means of a program to provide loans for railroad and public utility alterations and relocations associated with highway improvement projects.

**(2) DEFINITIONS.** In this section:

- (a) "Improvement" has the meaning given in s. 84.06 (1).
- (b) "Public utility" has the meaning given in s. 196.01 (5) and includes a telecommunications carrier, as defined in s. 196.01 (8m).
- (c) "Railroad" has the meaning given in s. 195.02 (1).

**(3) ADMINISTRATION.** The department shall administer a loan program to assist public utilities and railroads with the costs of utility and railroad alterations and relocations that are associated with state trunk and connecting highway improvement projects and that are not subject to reimbursement by the department. The department shall have all powers necessary and convenient to implement this section, including the following powers:

- (a) To specify conditions of eligibility for loans under this section. Such conditions shall include the requirement that the utility or railroad alteration or relocation must be part of a planned state trunk or connecting highway improvement project.
- (b) To receive applications for loans under this section and to prescribe the form, nature and extent of the information which shall be contained in applications.
- (c) To establish standards for the approval of loans under this section.
- (d) To enter into loan agreements with applicants to ensure the proper use and prompt repayment of loans under this section. The loan agreement shall permit the loan to be repaid without interest before the date on which the contract for the improvement project with which the utility or railroad alteration is associated is awarded. The loan agreement shall require the payment of interest on the outstanding balance of any loan that is not repaid by the date on which that contract is awarded, accruing from the date on which that contract is awarded. Interest shall be charged at a rate equal to the weekly prime rate for the week prior to the date on which the contract is awarded, as reported by the Federal Reserve board in Federal Reserve statistical release H. 15, plus 1%. The loan agreement shall require repayment of the principal and payment of any accrued interest within one year of the date on which the contract is awarded.
- (e) To audit and inspect the records of loan recipients.

**(4) FUNDS.** Subject to s. 86.255, the department may make loans under this section from the appropriations under s. 20.395 (3) (bv) and (cv). The total outstanding balance of loans under this section may not exceed \$500,000.

**(5) RULES.** The department may promulgate rules as necessary to implement this section.

**History:** 1989 a. 31; 1991 a. 39; 1993 a. 496; 1999 a. 9.

**Cross Reference:** See also ch. Trans 30, Wis. adm. code.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

## Chapter Trans 30

### RAILROAD AND PUBLIC UTILITY ALTERATION AND RELOCATION LOAN PROGRAM

Trans 30.01	Purpose and scope.
Trans 30.02	Definitions.
Trans 30.03	Eligibility.
Trans 30.04	Application procedures.
Trans 30.05	Standards for the approval of loans.
Trans 30.06	Loan agreement.

Trans 30.07	Disbursement of funds.
Trans 30.08	Prosecution of work.
Trans 30.09	Loan repayment.
Trans 30.10	Inspection of work.
Trans 30.11	Audit and inspection of records.

**Trans 30.01 Purpose and scope.** The purpose of this chapter is to provide loans to railroad and public utility companies to encourage them to alter or relocate their facilities in advance of the department awarding contracts on state trunk and connecting highway improvement projects where such alteration or relocation work is not otherwise reimbursable by the department. Loans shall be repaid with or without interest, as prescribed in s. 84.065 (3) (d), Stats.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.02 Definitions.** (1) The definition of words and phrases in s. 84.065(2), Stats., apply to this chapter. In this chapter:

(2) "Alteration" means changing, modifying or adjusting railroad or public utility facilities.

(3) "Applicant" means a railroad company or a public utility company applying for a loan under this chapter.

(4) "Connecting highway" has the meaning given in s. 340.01 (9), Stats.

(5) "Department" means the department of transportation.

(6) "Improvement" has the meaning given in s. 84.06 (1), Stats.

(7) "Loan agreement" means a signed document which sets forth the understandings between an applicant and the department for alteration or relocation of facilities and disbursement and repayment of funds.

(8) "Loan ceiling" means the maximum amount of money that the department will loan to a single applicant.

(9) "Recipient" means a railroad or public utility company granted a loan under this chapter.

(10) "Relocation" means establishing an existing railroad or public utility facility in a new place.

(11) "Secretary" means the secretary of transportation.

(12) "State trunk highway" has the meaning given in s. 340.01 (60), Stats.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.03 Eligibility.** (1) STATE TRUNK OR CONNECTING HIGHWAY IMPROVEMENT PROJECT. Only a railroad or a public utility is eligible for a loan under this chapter. An alteration or relocation project shall be part of a planned state trunk or connecting highway improvement project to qualify for a loan under this chapter.

(2) EXCLUSIONS. (a) Alteration or relocation work which is reimbursable by the department under other policies or programs is not eligible for a loan under this chapter.

(b) Alteration or relocation projects not adversely affecting the ability of the department's highway contractor to start, progress, and complete a highway improvement in accordance with the programmed highway construction schedule are not eligible for a loan under this chapter.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.04 Application procedures.** (1) APPLICATION PACKET. Applicants may contact either the department's chief utilities engineer or the utilities engineer of a department district office for an application packet containing the application re-

quirements and a description of the application screening, evaluation and loan availability process.

**Note:** The central office address is Chief Utilities Engineer, Wisconsin Department of Transportation, P.O. Box 7916, Madison, WI 53707.

(2) REVIEW PROCESS. Completed applications shall be sent for initial review and recommendation to the department's district office in which the alteration or relocation work is to take place. Applications shall be accepted by the department throughout the year. Applications will not be evaluated for eligibility unless all information required in the application packet is complete. The district office's review shall be completed within 45 days of the receipt of the application material and the district office's recommendation shall be reported to the applicant within 10 days following completion of the district office's review. Applications recommended for approval by the district office shall be forwarded to the department's state design engineer for highways within 10 days following completion of the district office's review. The department shall notify the applicant of its final decision within 30 days of receipt of the district office's recommendation by the state design engineer for highways.

(3) INFORMATION REQUIREMENTS. (a) An application shall demonstrate an applicant's need to alter or relocate its facilities consistent with s. Trans 30.01, and include the following minimum information:

1. An acknowledgement that the applicant will comply with all federal and state laws and local ordinances relating to the alteration or relocation of its facilities.

2. A narrative description, supported by exhibits, plats, maps and an estimate of cost with manhours, quantities, bill of materials and unit costs, of all work to be performed with the loan funds.

3. A statement indicating whether additional land interests are required to accomplish the alteration or relocation work. If additional land interests are required, the applicant shall provide plats, maps and descriptions of the required land interests, and shall indicate whether it will acquire the additional land interests or whether it will occupy lands acquired by the department for highway purposes.

4. A schedule, including specific calendar dates, for starting and completing the work, including dates for completion of significant intermediate phases of the work.

(b) The department may require supplemental information to complete its review of an application. The department shall notify an applicant in writing of any supplemental information required and shall set reasonable deadlines for the receipt of this information. If the supplemental information is not received by the deadlines established, the department may remove the application from consideration.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.05 Standards for the approval of loans.** (1) CRITERIA. The department may approve applications that satisfy the following criteria:

(a) The eligibility requirements of s. Trans 30.03.

(b) The applicant has been in business in Wisconsin for a continuous period of not less than 5 years prior to the date of the loan application.

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(c) The loan request is for at least \$20,000 but not more than \$200,000.

(d) A demonstration of the ability of the applicant to repay the loan within the time frame prescribed in s. Trans 30.09.

(e) An applicant may not have a total of more than \$200,000 in loan funds outstanding under this program at one time.

(f) Sufficient funds are available.

**(2) COMPATIBILITY WITH IMPROVEMENT PROGRAM.** (a) The department may not grant a loan unless it determines that an application is compatible with the department's highway improvement program construction schedules.

(b) The department shall consider loan applications on the basis of state-wide needs and importance.

(c) The department may not loan funds more than 2 years before, or within 90 days of, the scheduled letting of a highway construction contract.

(d) The department may not loan funds to finance work to be carried out concurrent with highway construction.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.06 Loan agreement.** (1) An applicant with an approved loan application shall execute a loan agreement with the department on a form approved by the department.

(2) A loan agreement is void unless it is executed by an applicant and by the department within 60 days of approval of the loan application by the department.

(3) Recipients are subject to all relevant statutes, rules, and agreements of the department, including the obligation to obtain a permit from the department to occupy highway rights-of-way.

(4) The amount of loan provided by the department shall be stated in the loan agreement.

(5) Recipients shall make periodic progress reports to the department if required by the agreement.

(6) The department shall require repayment of loan funds advanced to a recipient if the railroad or public utility alteration or relocation project for which the loan funds are granted is not completed in accordance with all terms of the loan agreement.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.07 Disbursement of funds.** After a loan agreement is executed in accordance with s. Trans 30.06, the department shall disburse the full amount of the approved loan to the recipient within 30 days of receipt of written notice from the recipient that the relocation or alteration work for which the loan was

approved will commence within 30 days after receipt of the loan funds.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.08 Prosecution of work.** (1) Upon receipt of loan funds, the recipient shall carry out the alteration or relocation work for which the loan was approved to completion in a timely and expeditious manner in accordance with a schedule approved by the department.

(2) The recipient may not suspend or delay work without approval of the department.

(3) The department may not unreasonably withhold approval for suspension or delay of the recipient's work if there is just cause for the delay or suspension.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.09 Loan repayment.** (1) Loans may be repaid with or without interest, as prescribed in the loan agreement. The interest rate shall be as prescribed in s. 84.065 (3) (d), Stats.

**Note:** Principal and interest, if any, shall be repaid within one year of the date the highway construction improvement contract is awarded, s. 84.065 (3) (d), Stats.

(2) In the event alteration or relocation work for which the loan was approved is suspended or delayed for more than 90 days as approved under s. Trans 30.08, the recipient shall, upon the department's request, refund to the department the outstanding balance of any loan, plus interest as prescribed in s. 84.065 (3) (d), Stats.

(3) The recipient shall refund to the department the outstanding balance of any loan after completion of the alteration or relocation work for which the loan was approved, plus interest as prescribed in s. 84.065(3)(d), Stats.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.10 Inspection of work.** The department may inspect the alteration or relocation work for which the loan was approved, without prior notice and at reasonable times, for compliance with the provisions of the loan application and the loan agreement.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

**Trans 30.11 Audit and inspection of records.** The department may audit and inspect the records of a recipient to ascertain that the costs for the alteration or relocation work for which the loan was approved are in substantial conformity with the approved loan application. Recipients shall retain all records related to a loan granted under this chapter for at least 3 years from the date the loan was repaid, and shall make these records available for inspection and copying by the department upon request.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91.

## APPLICATION INSTRUCTIONS

### RAILROAD AND UTILITIES ALTERATION AND RELOCATION LOAN PROGRAM

1. Read the attached Administrative Rule Trans. 30 to confirm eligibility.
2. Complete Application.
3. Complete Statement of Work/Estimate of Cost.
4. Submit all of the above in triplicate to the WisDOT office in which region the work will be performed along with a letter of transmittal signed by an officer of applicant and containing:
  - a. An acknowledgement that applicant will comply with all federal and state laws and local ordinances relating to the alteration or relocation of its facilities.
  - b. A statement indicating whether additional land interests are required to accomplish the alteration or relocation work. If additional land interests are required, provide plats, maps and descriptions of the required land interests, and indicate whether the applicant will acquire the additional land interests or whether it will occupy lands acquired by WisDOT. If applicant will acquire lands, indicate status of acquisition.
  - c. Statement indicating when the loan will be repaid.

**RAILROAD/UTILITIES ALTERATION AND RELOCATION LOAN PROGRAM****APPLICATION**

Application Date:
Mailing Address:
Street Address (If Different):

Name of Road/Utility:
City, State, and Zip Code:
City, State, and Zip Code:

**Railroad/Utility Contact Person(s):**

Name:
Title:
Telephone No.:

Name:
Title:
Telephone No.:

**Railroad Utility Person(s) Authorized To Execute The Agreement:**

Name:
Title:
Telephone No.:

Name:
Title:
Telephone No.:

**Applicant Is A (Check One):**

- PUBLIC UTILITY as defined in s. 196.01(5) or s. 196.01(8m) WISCONSIN STATUTES
- RAILROAD as defined in s. 195.02(1) WISCONSIN STATUTES

**AMOUNT OF LOAN REQUEST: \_\_\_\_\_**

**Note: Minimum amount is \$20,000, maximum amount is \$200,000.**

Related Highway Project ID:
Highway:
Letting Date:

Section:
County:

Benefits to WisDOT of performing alteration or relocation work in advance of awarding highway improvement project contract:

Date of Charter or Incorporation of Railroad/Utility:
Length of time applicant has done business in Wisconsin:
Other loans with WisDOT under this program:

Status of WisDOT Permit (if needed):

**Construction Schedule**

	Estimated Date
Materials available:	
Mobilization:	
Begin Field Relocation:	
Significant Construction Milestones (if any):	
1.	
2.	
3.	
Complete Field Relocation:	
Final Project Accounting Complete:	
Final Accounting Cost Data Furnished to WisDOT:	

**ESTIMATE**

Provide a narrative description of work to be performed with supporting exhibits, plats, and maps. Attach an estimate of project cost with labor classifications, materials, equipment, quantities and unit costs. (Similar to a compensable utility or railroad agreement.)

**Approved For Wisconsin Department of Transportation by:**

\_\_\_\_\_ Bureau of Technical Services Director

\_\_\_\_\_ Date

RAILROAD AND PUBLIC UTILITY  
ALTERATION AND RELOCATION LOAN AGREEMENT

BETWEEN

THE WISCONSIN DEPARTMENT OF TRANSPORTATION

AND

\_\_\_\_\_ RAILROAD/PUBLIC UTILITY

ARTICLE 1

The parties to this contract are the Wisconsin Department of Transportation (WisDOT) and \_\_\_\_\_ Railroad/Public Utility.

ARTICLE 2

The requirements set forth in Wis. Stat. s. 84.065, and Wis. Admin. Code ch. Trans 30, are incorporated in this contract.

ARTICLE 3

WisDOT shall lend the Railroad/Public Utility [\$ \_\_\_\_\_]. WisDOT shall disburse the full amount to the Railroad/Public Utility within 30 days after WisDOT receives from the Railroad/Public Utility a written notice of intent to commence the alteration or relocation work identified in the attached loan application, as provided in Wis. Admin. Code ch. Trans 30.07.

ARTICLE 4

The Railroad/Public Utility shall commence work on the alteration or relocation project identified in the attached loan application within 30 days after receiving the funds paid by WisDOT under Article 3.

ARTICLE 5

The Railroad/Public Utility shall complete the alteration or relocation project by not later than \_\_\_\_\_.

ARTICLE 6

The Railroad/Public Utility shall provide WisDOT with periodic reports on the progress of the alteration or relocation project within 10 days of the following dates:

ARTICLE 7

WisDOT reserves the right to audit and inspect the records of the Railroad/Public Utility, as authorized in Wis. Admin. Code ch. Trans 30.11.

ARTICLE 8

WisDOT reserves the right to inspect the alteration or relocation project identified in the attached loan application without prior notice and at reasonable times, as authorized in Wis. Admin. Code ch. Trans 30.10.

## ARTICLE 9

The Railroad/Public Utility shall immediately repay all of the funds identified in Article 3 if the alteration or relocation project is not completed in accordance with the terms of this agreement.

The Railroad/Public Utility may repay all of the funds identified in Article 3 without interest before the date on which the contract for the highway improvement project associated with the alteration or relocation project is awarded.

The Railroad/Public Utility shall repay all of the funds identified in Article 3, with interest as prescribed in Wis. Stat. section 84.065(3)(d), within one year after the highway improvement contract associated with the alteration or relocation project is awarded.

## ARTICLE 10

WisDOT represents and warrants that it has the power and authority to enter into this Agreement under Wis. Stat. section 84.065.

## ARTICLE 11

The Railroad/Public Utility shall save and hold WisDOT, its officers, employees and agents, harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or operation of the Railroad/Public Utility, its officers, employees or agents, its contractors, or its contractors' agents, servants, subcontractors or employees, or which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or operation which happens, or is alleged to have happened, in or about a place where such act, omission or operation is performed or should be performed or in the vicinity thereof: (1) while a Railroad/Public Utility contractor or subcontractor is performing its work on the approved project, or (2) during the period this Agreement between WisDOT and the Railroad/Public Utility is in effect, or (3) while any of the Railroad/Public Utility's contractor's or subcontractor's property, equipment, or personnel, are in or about such place or the vicinity thereof by reason of or as a result of the performance of Railroad/Public Utility's contractor's or subcontractor's operations including, without limiting the applicability of the following: all liabilities, damages, losses, claims, demands and actions on account of personal injury, death or property loss to WisDOT, its officers, employees, agents, contractors, subcontractors or frequenters, or to any other person or legal entity whether based upon, or claimed to be based upon, contract or tort or having its basis in worker's compensation under federal or state statutes or having any other code, or statutory basis, or based upon administrative laws or other provisions, or other liability of WisDOT, the Railroad/Public Utility, or any other persons, and whether or not caused or claimed to have been caused by the negligence, or other breach of duty by WisDOT, its officers, employees, agents, contractors, subcontractors or frequenters, the Railroad/Public Utility, its officers, employees, agents, contractors, subcontractors or frequenters, or any other person or legal entity. Without limiting the applicability of the foregoing, the liability, damage, loss, claims, demands and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trade-mark, copyright or patent infringement, for unfair competition or infringement of any so-called "intangible" property right, for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatsoever. The Railroad/Public Utility shall cause its contractors to, at its or their own expense, investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claim, demand or action identified in this section.

## ARTICLE 12

The WisDOT officials authorized to execute any changes in the terms, conditions, or amounts in the Agreement on behalf of WisDOT are the Secretary or Deputy Secretary of WisDOT or the Administrator of the Division of Transportation System Development of WisDOT. The Railroad/Public Utility official authorized to execute any changes in the terms, conditions, or amounts herein on behalf of the Railroad/Public Utility is \_\_\_\_\_.

## ARTICLE 13

This Agreement shall be binding upon and inure to the benefit of the parties to this contract and their respective successors and assigns. The Railroad/Public Utility's rights under this Agreement shall not, however, be assignable whether by way of assignment, sublease, license or otherwise, directly or indirectly, without WisDOT's prior written consent.

## ARTICLE 14

If any term, covenant, condition or provision of this Agreement, or its application to any party or circumstance, shall at any time or to any extent be held invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant, condition or provision to parties or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

## ARTICLE 15

No term or provision of this Agreement or any of its attachments may be changed, waived, or terminated orally, but only by an instrument in writing signed by both parties to this Agreement.

## ARTICLE 16

The parties to the Agreement shall be excused from the scheduled performance of their respective obligations under the Agreement occasioned by an event beyond their respective control (not due to their own fault, actions, or inactions), which shall include, without limitation: acts of God; strikes or other labor troubles; explosions, fires, vandalism, or malicious mischief; or other causes beyond the reasonable control of the parties. Such excuse shall remain, however, only so long as the event excusing performance shall continue and shall not excuse continued non-performance thereafter.

## ARTICLE 17

- (a)** The Railroad/Public Utility agrees that facilities or equipment shall not be acquired, constructed, or improved as a part of this approved project unless such facilities or equipment are designed and equipped to limit water and air pollution in accordance with all applicable state and federal standards, statutes, and regulations.
- (b)** The Railroad/Public Utility agrees to conduct all aspects of the approved project in compliance with all the requirements of Section 114 of the Clean Air Act, 42 USC 7414, and of Section 308 of the Federal Water Pollution Control Act, 33 USC 1318, and of all applicable regulations issued under those Acts.
- (c)** The Railroad/Public Utility agrees that the environmental impact of the approved project has been assessed in accordance with the requirements of the Wisconsin Environmental Policy Act, Wis. Stat. section 1.11.
- (d)** The Railroad/Public Utility agrees to include, or cause to be included, the criteria and requirements contained in this section in any contract or subcontract under which any of the obligations incurred are to be paid from funds provided under this Agreement.

## ARTICLE 18

**(a)** In connection with the performance of work under this Agreement, the Railroad/Public Utility agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, sex, physical condition, sexual orientation, or national origin. The Railroad/Public Utility agrees to take affirmative action to ensure equal employment opportunities, except with respect to sexual orientation. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Railroad/Public Utility agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by WisDOT setting forth the provisions of this nondiscrimination clause.

**(b)** Pursuant to Wis. Stat. section 16.765, the Railroad/Public Utility shall insert into all agreements entered into by it in connection with the approved project, and shall require its contractors to insert in each of their subcontracts, the provision in paragraph (a), except that the word "Railroad/Public Utility" shall be stricken and replaced by the word "contractor" and the word "WisDOT" shall be stricken and replaced by "Railroad/Public Utility."

**(c)** The Railroad/Public Utility shall comply with the following laws, policies, regulations, and pertinent directions as may be applicable and will require its contractors and subcontractors through contractual agreement to similarly comply:

- 1) Title VI of the Civil Rights Act of 1964, 78 Statutes. 252, 42 U.S.C. 2000d et seq.
- 2) Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq.
- 3) Subchapter II of Wis. Statute Chapter 111.

## ARTICLE 19

**(a)** The Railroad/Public Utility assures WisDOT that funds received under this Agreement will be used solely for the purposes for which the assistance is granted and in conformance with any limitations on any allowable expenditures set forth under the federal or state laws applicable to the funds granted.

**(b)** The Railroad/Public Utility accepts all attendant responsibilities and liabilities associated with its use of WisDOT grant funds including, if applicable, liability for accidents and responsibility for erection and maintenance of fencing and other safety and protective devices.

## ARTICLE 20

This Agreement and its attachments contain the entire agreement of the parties and supersede any and all prior agreements or oral understandings between the parties.

## ARTICLE 21

This agreement is void unless it is executed by the parties within 60 days of WisDOT's approval of the Railroad/Public Utility's loan application.

ARTICLE 22

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

**RAILROAD/PUBLIC UTILITY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**WISCONSIN DEPARTMENT OF TRANSPORTATION  
DIVISION OF TRANSPORTATION SYSTEM DEVELOPMENT**

\_\_\_\_\_  
Division Administrator

\_\_\_\_\_  
Date

**STATE OF WISCONSIN  
OFFICE OF THE GOVERNOR**

\_\_\_\_\_  
Governor

\_\_\_\_\_  
Date

## Wisconsin Department of Transportation

May 15, 2001

Sam Grandys  
Rock River Telephone Company  
1234 Fort Wayne Drive  
Barnes, WI 54873

Dear Mr. Grandys:

I am pleased to inform you that your company's loan application pursuant to Wis. Stat. 84.065 and Ch. Trans 30 Wis. Adm. Code has been approved.

Enclosed is a loan agreement form that must be signed by your company and returned to WisDOT within 30 days of the date of this letter.

After our Central Office executes the loan agreement, the department will disburse the full amount of the approved loan within 30 days of receipt of written notice from your company that the utility relocation work will commence within 30 days after receipt of the loan funds.

The repayment of the loan will be as specified in the loan agreement. The associated highway improvement project (5225-02-71) is scheduled to be let on March 10, 2003.

If you have any question regarding the loan agreement please contact me.

Sincerely,

Patrick Robert Fasick  
Region Utility Coordinator  
(608) 266-3438

**UTILITY LOAN APPLICATION TRACKING LOG**

<b>TASK</b>	<b>DATE</b>	<b>DATE COMPLETE</b>
Application received (Region review 45 days)		
Region submits to the Utility Engineer in the Bureau of Technical Services Utility & Access Unit for review (Region submits within 10 Days of completed review).		
Utility & Access Unit reviews, then sends to Director of the Bureau of Technical Services for approval/denial (30 days)		
Utility & Access Unit notifies Region, Region sends a letter to utility, includes Utility Loan Agreement.		
Utility signs agreement, returns to Region. Region forwards to Utility & Access Unit for signature of the Administrator and the Governor. (Must be executed within 60 days of approval of loan application).		
Utility & Access Unit returns Agreement to Region. Region sends signed agreement to utility, includes letter regarding disbursement of funds procedure.		
Utility notifies department when ready to start work within 30 days after utility gets loan funds.		
Department disburses full amount of loan (within 30 days of written notice).		
Work complete.		
Loan repayment/File closed		