



3.5 CONVEYANCE OF DOCUMENTS

This section focuses on the formats to be used when conveying property interests. The goal is to identify the parties, obtain their signatures, and notarize or acknowledge their signatures. This section is meant to provide general guidance and bring attention to some key requirements per statute and per standards of the Register of Deeds Association specific to recordable instruments in the state of Wisconsin. It is meant to be a reflection of WisDOT policy and procedures. This section should also serve as a reminder and illustration of the fact that regardless of the format used, early planning and communication with interested parties is necessary to ensure the requirements of a valid conveyance are met. Throughout this section, the symbol “§” is used where making to reference sections of the Wisconsin Statutes.

3.5.1 Recording Documents

[§706.02\(1\)](#) states the formal requisites of a valid conveyance. A conveyance must identify the parties; identify the land; identify the interest conveyed and any conditions or reservations, et cetera; and, it must be signed by or on behalf of each grantor (to include each spouse if a homestead property); and, it must be delivered to the grantee. (WisDOT is the grantee.) To make a conveyance recordable, it must also be notarized or acknowledged and contain a proper authentication per [§706.06](#) or [§706.07](#). In addition to bearing such signatures and authorization as required by law, any document submitted for recording or filing must provide a legal description suitable for indexing by Register of Deeds per [§706.05](#). All recordable documents used by WisDOT Real Estate must also include the name the drafter per [§59.43\(5\)](#). Unless otherwise printed on the form, the following will suffice: "This instrument was drafted by the state of Wisconsin, Department of Transportation."

Drafter information will be included at the bottom/center of each recordable document. If the instrument was by a consultant or other individual on behalf of WisDOT, the following format should be used, "This instrument was drafted by: on behalf of Wisconsin Department of Transportation."

Black ink should be used for printed information and should be used by all parties signing. A 3” by 3” block in the upper right corner must remain blank for Register of Deed Office use; WisDOT’s name and return address should always appear directly under that upper right corner recording area. If the document is to be returned to a consultant’s office instead of to WisDOT directly, the return address should read, “WisDOT C/O” The parcel identifier number (PIN) or tax ID information should be included directly under WisDOT’s return address. Title of the document must be within top 3 inches of page (on left) and shall not encroach the upper right corner area that must remain blank; entire document must be legible and reproducible; and, can be letter or legal-sized. Top margin must be a minimum of 1/2 inch for every page with other margins being a minimum of 1/4 inch; pages cannot be hinged. Fees are typically required for recording a document; though, the state is exempt from certain recording fees and those exemptions will be displayed under document title. Recording fees are applied to the package as a whole, and not on a per page basis. Documents to be recorded must refer to land within the county where it is to be recorded. If multiple mortgages exist, assignments or satisfactions cannot be placed on the same instrument. Any WisDOT Real Estate recorded document must also include our project ID and parcel number information.

Finally, no changes, alterations, updates and/or corrections to the conveyance may take place after signatures have been applied on to a recordable document. If mistakes are discovered later, such as scrivener errors, or clarification of information other than a legal description, such as a party's name, et cetera, it is preferable to produce a new conveyance. However [§706.085](#) does allow a corrective instrument to make certain repairs of a recorded document. While an Affidavit of Correction would typically not be appropriate or considered sufficient as a standard of practice, the statute describes under which scenario a corrective instrument can be used, and most importantly who must sign, per acknowledgement or authentication in accordance with s. 706.06 or 706.07. Any corrective instrument used shall recite the original document number of the conveyance, the names of the grantor and grantee, et cetera, and it shall include distinct and specific execution requirements and effect of record. For additional guidance in dealing with corrections to recorded or recordable instruments, staff and consultants should seek the advice of the BTS-RE statewide acquisition/litigation facilitator. Any such issues must also be fully documented in the diary of record.

There may be times when it is appropriate and, in fact, necessary to alter or adjust information preprinted on a WisDOT preapproved published form involving a recordable instrument to be used in conjunction with certain unique real estate processes. If/when it may be so appropriate and with good reason for needing to alter any WisDOT approved form, recordable or otherwise, from its current prescribed and approved format, certain steps must be taken to ensure continuity so not to otherwise compromise any part of an eminent domain process, or harm to any part of our records management standards per statute and policy. Use of any unapproved form or format or change(s) to a current WisDOT approved (published) form must first be discussed and supported by a WisDOT staff representative having the knowledge and authority to approve a change(s). Whenever possible, changes to any approved published form, especially to any currently prescribed and approved standard recordable document, should be so highlighted by using a strikeout/strikethrough method for deletion with any additions clearly noted. A description for justification of the form/format change to recordable documents and any instrument of record must be included as part of the diary records of the project/parcel file and uploaded into READS. Applicable references are per [§16.61](#) - records of state offices and other public records; [§16.97](#) - defining forms and agency forms management; [§§19.31](#) to [19.39](#) - defining public records (commonly known as the "Open Records Law"); and, [§19.32\(2\)](#) - clarifying "any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority." Additional forms related guidance is also referenced in the WisDOT Transportation Administrative Manual (TAM) publications. Also, see REPM: Chapter 1/Section 1.2 Open Records.

3.5.2 Notarization or Acknowledgment

One of the requirements for recording a conveyance is that it be properly acknowledged. "Acknowledgment" means a declaration by a person that the person has executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein." [§706.07](#). Failure to follow this formality can result in WisDOT not obtaining proper title to lands. Commonly notaries acknowledge signatures on conveyances. Under no circumstances should a notary notarize or authenticate a document without the signing person appearing before the notary and acknowledging their signature. Signatures include handwritten forms or symbols on a conveyance intended by the person affixing or adopting the signature or symbols to constitute

an execution of the conveyance. §706.01. Preferably, the person will sign in the notary's preference. If the party(s) has already signed the document, they can personally acknowledge that it is their signature and the notary can then notarize it. Wisconsin Statute, [§706.07](#) sets forth requirements for notarization. Note that a seal is not required for a technically correct notarization; affixing a seal is advisable, however, whenever possible. It helps to avoid arguments and reduces the chance of forgery. In addition to criminal penalties and other civil remedies, a person who knowingly falsifies an authentication of an instrument is liable to anyone damaged by the misrepresentation. That means such person could be sued, individually, for such actions. Criminally, prosecution of notaries for false swearing and/or misconduct in public office is possible (as notaries are state officers). Those are Class D and E felonies, respectively. A valid notarization must include the date commission expires, date of notarization, jurisdiction (state of Wisconsin), name of notary, and title (Notary Public).

3.5.3 Signing, Witnessing and Acknowledging

The grantor's name should be inserted at the top of the conveyance exactly as it appears in the deed by which they acquired the land. If the person has obtained title in different names, a/k/a (also known as) references to each varied name should be provided. Example: "John Doe, a/k/a John E. Doe, a/k/a John Earnest Doe, conveys and warrants...".

Wisconsin law has a concept of "homestead." A homestead in the context of this section is a "dwelling, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home." §706.01. Where property being acquired is not homestead property, the following sentence should be inserted in a suitable space, typically just before the legal description: "This is not homestead property." If the property is a homestead and if the grantor is married, the spouse must join in the conveyance. The words "husband and wife" or "married persons" should be inserted after their names. Use the wife's full name, for example, "Maude L. Smith," not "Mrs. Alfred J. Smith." If she became an owner under a maiden or prior name, list all prior names as a/k/a names. For example: "Joe Johnson and June Johnson, a/k/a June Maidenname, husband and wife, convey and warrant...".

If grantors are joint tenants or tenants in common, designate them as such. If any are married and it is homestead property, their spouses need to be named.

The name(s) under the signature line(s) should be written exactly as the current name(s) appear(s) at the beginning of the deed. Example: June Johnson, a/k/a June Maidenname should sign the deed "June Johnson." Her name should also be typed or written below the signature line as "June Johnson." Note: the notary acknowledges the signature; signatures often do not resemble the letters they represent, and that is sufficient, to think otherwise is nonsensical.

3.5.4 Signature Line Examples

- **Single owner.** Title evidence shows a single individual owns property.

John C. Doe, a single person (or a widow/widower),

 John C. Doe

- **Name variances.** Title evidence shows multiple names for the same person. In extreme cases, an affidavit regarding the name variances may be appropriate.

John Doe, a/k/a John C. Doe, John Carter Doe, and Jon C. Doe, a single person,

John Doe

John C. Doe and Jane C. Doe, a/k/a Jane Doe, Jane Christine Doe, Janie C. Maidenname, and, Jane C. Maidenname, husband and wife,

John C. Doe

Jane C. Doe

- **Homestead property.** Title evidence or other information suggests the property is homestead property owned by a husband and wife. If either party, for example, lives at the house, it is homestead property.

John C. Doe and Jane C. Doe, f/k/a Jane C. Maidenname, husband and wife,

John C. Doe

Jane C. Doe

- **Non-homestead individual property or marital property managed and controlled by one spouse.** Title evidence shows property titled in one person's name, the person is married, and the property is not homestead. (If homestead property, see above). Note: Having a spouse sign too, will not cause a title defect. When in doubt as to whether one person has ownership and control or whether a property is homestead, have both spouses sign.

John C. Doe, a married person,

John C. Doe

- **Non-homestead individual property or marital property managed and controlled by either spouse in the alternative.** Title evidence shows property titled in the names "John Doe or Mary Doe." The persons are married and the property is not homestead. (See Item 3 above if homestead property.) One or both signatures may be required depending on the date the property was acquired and whether the owners have a marital property agreement. Both signatures should be obtained when possible to minimize risk. If obtaining both signatures is not possible, contact BTS-RE for assistance in determining proper signature format.
- **Property owned by individuals with a marital property agreement of record.** Form and number of signatures will vary depending on content of the marital property agreement. Contact BTS-RE for assistance in determining proper format for signatures.

3.5.5 Minors and Guardians

All persons under 18 are minors, [§54.01\(20\)](#). Property vested in a minor must be acquired from the guardian of their estate pursuant to a court order [§54.20\(3\)\(g\)](#) and subject to Wis. Stats. [Ch 786](#). A guardian of the minor, such as a parent, does not have authority to enter into transactions affecting the minor's property unless they are also named guardian of the minor's estate or property, [§54.10\(4\)](#). If a minor gets married, any guardianship is automatically terminated, [§54.46\(6\)](#). Married minors can apply to the court for authority to transfer title to property themselves, [§54.46\(6\)](#). An unmarried minor can convey interest in land only through a duly court appointed guardian of the estate, and then only for the specific property for which the guardian was named, [§54.18\(1\)](#). Parents are NOT usually legal guardians of their children's

estates. The only way anyone can become a legal guardian of a minor's estate is by court order, [§54.01\(10\)](#) and [§54.10\(1\)](#). Therefore, even a parent must be appointed the guardian of a minor's estate before the parent may execute instruments on behalf of minor children. Under [§32.05\(4\)](#), where no legal guardian has been appointed by a court, WisDOT must apply for a special guardian to be appointed under [§32.15](#). WisDOT pays the reasonable fees of the special guardian.

3.5.6 Incompetent Persons

A person who is legally adjudged incompetent or who is incompetent in fact lacks the capacity to sell their property. In all such cases, a guardian of the (person's) estate must be appointed and an order of the court authorizing execution of the deed must be obtained.

3.5.7 Power of Attorney

A power of attorney must be recorded prior to or at the same time as a deed from the attorney-in-fact. If the power of attorney is not recorded, WisDOT will not acquire clean title to the property sought. The power of attorney must grant the attorney-in-fact power to convey real estate in order for the attorney-in-fact to exercise that power. Each power of attorney must be scrutinized to insure that the attorney-in-fact has the power to sell the lands they are conveying to WisDOT. The deed should be drafted in this format:

Joseph S. Citizen conveys and warrants to state of Wisconsin, Department of Transportation...

The signature line is then in the format:

Joseph S. Citizen by Mary H. Lawyer, Attorney-in-fact, pursuant to P.O.A. dated xx/yy/zz
[and recorded in the office of Register of Deeds for _ county
in volume _ of _, page _, and as document no. _.]

If power of attorney is already recorded, refer to sample as shown above. If it is unrecorded, attach a copy to the deed and instead of referring to recording data, add the note "a copy of which is attached hereto." The power of attorney itself probably lacks the statutory requirements for recording if it is not attached to a document such as a deed that contains a description of the property and other pertinent data needed for recording.

3.5.8 Persons Unable to Write

Persons unable to sign their names may sign by mark ("X"). The name of the grantor must be subscribed near the mark by one of the two required witnesses to such signature by mark, [§990.01\(38\)](#). Signatures of witnesses should be clearly and separately shown and should be identified as "Witness to the signature of grantor who is unable to write." Deeds so executed may be acknowledged in the same manner as if the grantor had personally subscribed the signature. The following witness clause is permissible:

former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee. (5) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

701.1013 Certification of trust.

(1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information: (a) That the trust exists and the date on which the trust instrument was executed. (b) The identity of the settlor. (c) The identity and address of the currently acting trustee. (d) The powers of the trustee. (e) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust. (f) The authority of a cotrustee to sign or otherwise authenticate and whether all cotrustees or less than all cotrustees are required to sign or otherwise authenticate in order to exercise powers of the trustee. (g) The manner in which title to trust property may be taken. (2) A certification of trust may be signed or otherwise authenticated by any trustee. (3) A trustee shall include in a certification of trust that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect. (4) A certification of trust does not need to contain the dispositive terms of a trust. (5) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments that designate the trustee and confer upon the trustee the power to act in the pending transaction. (6) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification. (7) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct. (8) A person making a demand for copies of the trust instrument or excerpts from the trust instrument, other than those excerpts described in sub. (5), in addition to a certification of trust is liable for costs, expenses, reasonable attorney fees, and damages if the court determines that the person did not act in good faith in demanding the copies. (9) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

Include a copy of the Certification of Trust, or equivalent documentation, as part of the parcel file. In addition, when dealing with a trust, as part of the conveyance document, insert language as shown in the sample below to show that WisDOT is relying on the trustee's own assertions as to their powers, duty, and authority:

John C. Doe, trustee of the John C. Doe Living Trust, in executing this instrument, certifies and affirms that he is the duly appointed trustee of the John C. Doe Trust and that he has authority to execute this instrument on behalf of the trust.

Signature format should be:

By: _____ John C. Doe Living Trust
John C. Doe, Trustee

3.5.10 Estates

When people die, their property generally becomes part of an "estate" divided among the person's heirs, unless the person has made other arrangements for distribution of the property (such as creating a living trust or holding the property in a joint tenancy). Where property is vested in the name of an estate, the personal representative of the estate should sign a deed to WisDOT. A personal representative has complete authority to sell property. Personal representatives, however, may only give Quit Claim Deeds. They may not convey by Warranty Deed, [§860.07](#). WisDOT has no recourse against the estate if there is a defect in the title to

property conveyed to it by a personal representative. A personal representative's deed should have a signature line in a format such as this:

J.M. Smith, as personal representative of the estate of T.N. Johnson, for valuable consideration conveys, without warranty, to the state of Wisconsin, Department of Transportation, the following described real estate:

[legal description]

Personal representative conveys to state of Wisconsin, Department of Transportation all of the estate's interest in the property which decedent had immediately prior to decedent's death and all interest in the property which personal representative has since acquired.

Dated: _____

Estate of T.N. Johnson

By: _____

J.M. Smith, Personal Representative

This format includes several key elements of a personal representative's deed:

- It is a Quit Claim Deed, not a Warranty Deed.
- It conveys all estate's interest, whether derived from decedent or otherwise.
- Signature indicates person signing does so as personal representative of estate.

Copies of the domiciliary letters for the personal representative should be obtained. They can be obtained from the register of probate where the action is being probated. They are part of the court's file. When a person dies, his/her estate is automatically subjected to a lien in favor of the IRS under I.R.C. s. 6324. This lien *can* affect property WisDOT condemns. The lien is for taxes. Because there are no estate taxes due on an estate unless the estate is of sufficient size to be taxed, often concerns about the IRS estate tax lien can be addressed by obtaining assurances that the estate is too small to be taxed.

- Small estates - Evaluate/assess the risk. Review the probate file, especially the inventory and make a judgment as to whether the net value of the estate is "close" to the minimum taxable estate. ("Close" is a relative term that requires the exercise of judgment. Look at a situation carefully when the reported value of the estate is $\frac{3}{4}$ of the minimum for taxable estate.) If it is not close to the minimum amount, accept an affidavit from the personal representative setting forth the total value of the estate. The amount passing to a surviving spouse is NOT part of a taxable estate. Therefore, when determining whether an estate is "small," exclude the value of any assets passing to a surviving spouse.
- Large estates - Get IRS closing letter and assess the risk. If the value of the estate is above or "close" (see above) to the statutory minimum for a taxable estate, require a closing letter for the estate from the IRS. The IRS will issue a closing letter stating that all estate taxes have been paid.
- Safe approach - WisDOT's insurance policy = condemnation. The approaches described in #1 and #2 above are how ordinary attorneys deal with the risk of a potential IRS lien in the "outside world." In that situation, if the personal representative, for example, falsifies the inventory and the IRS comes back later to assess a tax on the estate, that tax will constitute a lien on all the estate's property NOT withstanding its transfer to third parties. The "outside world" deals with this risk by either (1) doing their own assessment/audit of the estate and then assuming the risk or (2) buying title insurance and letting the title company insure over the risk. WisDOT has a third option that is cheap and clean: condemnation. The safest approach to dealing with estates is to do a "friendly condemnation." We agree to a price with the estate, work out all the details, but follow through with a Jurisdictional Offer and

Award. The Award names the IRS as an interested party. The estate can then deal with the IRS on its own. This process vests fee simple title in WisDOT, free and clear of liens.

- **Minimal value parcels** - Where probate has not been commenced, take a deed and a chance. With respect to very small parcels of minimal value (say less than \$500) that have not been distributed in an estate, it may be possible to balance risk and thereby avoid the probate process. In such cases, name all heirs of the decedent in the deed and have them convey and warrant the property to WisDOT. This is an inherently risky proposition. If an heir is omitted, if there is unpaid estate tax, or if some other problem arises, WisDOT have to re-condemn the parcel.

For example, below were the applicable exclusion amount for decedent's dying and gifts, by year from 1997 to 2006.

1997 - \$600,000 / 1998 - \$625,000 / 1999 - \$650,000 / 2000 - \$675,000 / 2001 - \$ 675,000 2002 - \$700,000 / 2003 - \$700,000 / 2004 - \$850,000 / 2005 - \$950,000 / 2006 - \$1,000,000

Note: For local units of government - Because WisDOT is a part of the state of Wisconsin, this discussion disregards any estate or inheritance tax lien issues that may arise under state law. Local entities and others who condemn lands, however, must pay attention to potential lien rights of the Wisconsin Department of Revenue under state law. They should consult with their own counsel regarding these issues prior to acquiring lands from an estate.

Sometimes only heirs remain, for example if there had not been an update in title. In such a situation, contact BTS-RE for assistance.

3.5.11 Partnerships

3.5.11.1 General Partnerships

Any association of two or more persons to carry on a business for profit is a general partnership. No formal documents, agreements, or other paperwork is needed. If two people, such as a husband and wife or two friends, are involved in the operation of a business from which they split the profits or losses, and they have never incorporated or taken other action to formalize their business arrangement, they are probably a partnership. General partnerships may also be created by formal agreements. These partnership agreements often spell out explicitly who has authority to do what. Partnerships may authorize one partner to act as agent for the others to execute conveyances, [§706.03](#). In the absence of any express authorization, it may be possible for one partner to bind the partnership, [§178.06\(1\)](#), *Wyss v. Albee*, 193 Wis.2d 101 (1995). It is strongly recommended, however, that WisDOT obtain signatures from ALL general partners whenever possible. First, it provides assurance that WisDOT will actually obtain good title to the property. Second, it keeps WisDOT from becoming embroiled in internal feuds and fights between partners. Sometimes we run into partnerships that may have hundreds of partners. In such cases, we have no choice but to deal with one or just a few partners. Those partners, however, should obtain a written resolution of the partnership or have some other expressed authority explicitly granting them authority to convey real estate. These situations can be complex, and we recommend requesting BTS-RE assistance.

Family Farmers, a partnership:

GENERAL PARTNERSHIP <i>(each partner signs)</i>		Father Farmer, partner
		Mother Farmer, partner
		Son Farmer, partner
		Son's Wife Farmer, partner

3.5.11.2 Limited Partnerships

A "limited partnership" is a partnership formed by using the formalities of Wis. Stats. [Ch 179](#). It has one or more general partners (who conduct the business), and one or more limited partners (who invest money and do nothing else). Limited partnerships are commonly used to buy commercial property because they have the tax benefits of a partnership but provide liability protection to the investing limited partners. All Wisconsin limited partnerships have a name. That name must contain the words "limited partnership." Any general partner may execute deeds and convey property held in the name of the limited partnership unless the certificate of limited partnership otherwise provides, [§178.06\(1\)](#). If the property is not owned in the name of the limited partnership, but in the name of one or more partners, or is held in some other fashion, more complex rules regarding authority to convey and sign apply, [§§178.07\(2\) to \(5\)](#). Contact BTS-RE for guidance. A recitation should be added to a limited partnership deed as follows:

In executing this conveyance, Randy RE Manager certifies that he is a general partner of Real Estate Investors, a limited partnership, and that he has authority to convey the lands described herein on behalf of the limited partnership.

Real Estate Investors, a limited partnership

By: _____
Randy RE Manager, General Partner

3.5.12 Corporations

3.5.12.1 Private Corporations (usually incorporated for a business purpose, technically any non-public corporation)

Standard corporations - Unless a different authorization is recorded or is contained in articles of incorporation duly adopted and filed, any officer of a private corporation, whose signature is attested by another officer, is authorized to sign conveyances in the corporate name. A corporate seal is not required, [§706.03\(2\)](#). Any private corporation may authorize one or more officers, agents or employees on its behalf, [§706.03\(3\)](#). If a corporation has done this, there should be a recorded document in the county's Register of Deed's attesting to the corporate resolution. The resolution must:

- Identify persons authorized to execute instruments by name or title.
- State scope of their authority.

Banks, for example, may authorize loan officers to execute mortgage releases, but not grant those officers authority to convey bank owned real estate. These resolutions must be

recorded in the county where the condemnation is to take place. In other words, an authorization recorded in Dane county, may not be relied upon for a Monroe county conveyance. A separate authorization must be recorded in Monroe County.

Limited liability companies (LLC's) - Wis. Stats. [Ch 183](#) governs LLC's. A limited liability company's articles of incorporation will state whether the LLC has one or more "managers." A copy of the articles of for the LLC may be obtained from the Department of Financial Institutions (www.wdfi.org) to determine whether there are managers for the LLC. The LLC is required to maintain a list of members and, if it has managers, of the managers, [§183.0405](#). The LLC should be able to identify its members and managers upon request. Any LLC manager has the capacity to execute a deed in the name of the LLC, [§183.0702\(2\)](#). If there are managers, ordinary members of the LLC cannot execute a deed, [§183.0702\(2\)\(b\)](#). If there are no managers, any member may sign a deed, [§183.0702\(1\)](#). Where (manager)(member) appears, you need to select the appropriate title and use it. Typical language for deeds involving LLC's is as follows:

Ninja, LLC, a Wisconsin limited liability companies, conveys and warrants to WisDOT the following...
 [legal description]
 In executing this document, the undersigned affirms that he/she is a (member)(manager) of Ninja, LLC, and is duly authorized by the company to execute this document...
 Ninja, LLC
 By: _____
 Joseph Jones, (manager)(member)

3.5.12.2 Public Corporations (local units of government)

A person must look to the state statutes and local ordinances for that unit of government (and, if applicable, any resolutions authorizing the sale) to determine who has authority to (1) decide to sell or convey land to WisDOT and (2) sign the deed, [§706.03\(2\)](#). Contact BTS-RE for guidance. See below for discussions of school boards and cemetery associations and the rules applicable to them.

3.5.13 School Boards

3.5.13.1 Common or Union School Districts

2015 Wisconsin Act 55 amended the statutes so the sale of school district real estate no longer needs elector approval. Instead, school boards of common or union school districts now have the statutory authority to sell property. Under [§120.13\(19m\)](#) common or union school districts have the power to sell school district property by simply approving the motion at a board meeting in accordance with [§120.11](#). Ask the board to send a copy of the meeting minutes for our records. In any event, particular care must be taken when reviewing title to school-owned property. It is very common for school districts to receive gift donations of lands that carry with them reversionary rights if the subject lands are no longer used for school purposes. In such cases, WisDOT must include these reversionary interest holders in the condemnation/acquisition process. This fact may suggest that a "friendly condemnation" will often be the easiest and quickest way for WisDOT to obtain clear title to common or union school district property. If a conveyance is used, the president and a clerk of the school board may execute a conveyance containing the following recitation:

The sale of the above-described real estate was duly authorized by motion at the school board's meeting held on _<date>.

Anytown School District

By: _____
Mary Johnson, President, Anytown School Board

By: _____
John Stevens, Clerk, Anytown School Board

3.5.13.2 Unified School Districts

Pursuant to [§120.44\(1\)](#), the school board of a unified school district may sell lands. Therefore, a deed may be obtained from a unified school district. Care must be taken, however, to avoid reversionary interest holders (see discussion under common school districts above). The signature format will be the same as above in subject 3.5.13.1.

3.5.14 Cemetery Associations

Cemetery associations and their powers are described in [§157.062](#). Each association has three to nine trustees who run the association much like a board of directors for a corporation, [§157.062\(1\)](#). The board has a chairperson and a secretary. Like a corporation, a cemetery association has the ability to convey unsold vacant lands to the state if authorized by the board. Where plots have been sold, however, each plot holder is a separate landowner who must be dealt with individually. Heirs and the Wisconsin State Historical Society will be involved if the plots are occupied. Because of the time, money and effort to move graves, this option is used as a last resort and should be avoided unless the cost and expense of avoidance outweighs the problems. In any such situation, BTS-RE and WisDOT's general counsel's office should be involved early in the process. A deed from a cemetery association should contain the following recitation and signature lines:

The sale of the above-described property was duly authorized by resolution of the Cemetery Association's board of trustees at a meeting held _ <date>.

Plantem Cemetery Association

By: _____
Peter Smith, Trustee and Board Chairperson

By: _____
Tommy Anderson, Trustee and Board Secretary

3.5.15 Religious or Fraternal Societies and Churches

Religious societies and churches may incorporate under Wis. Stats. [Ch 187](#); and, fraternal societies may incorporate under [Ch 188](#). Consult with BTS-RE if questions arise regarding conveyances from these types of organizations.

3.5.16 Cooperatives

Cooperatives may take an almost infinite variety of forms. In Wisconsin, many cooperative associations are incorporated under Wis. Stats. [Ch 185](#). Incorporation is neither an indispensable nor a significant mark of the cooperative. No one plan of business organization

can be labeled as truly cooperative to the exclusion of others. However, a cooperative association organized in corporate form is a corporation and is generally treated as such. Control of a cooperative association is usually vested in a board of directors chosen by the membership in the manner prescribed by [§185.31](#). All powers of the cooperative are vested in the board except as otherwise provided in [§185.31\(1\)](#). Assuming the cooperative's bylaws permit, the board may authorize its officers, such as the president or secretary to sell real estate, [§185.35](#). The board may not authorize nor approve, however, a sale of substantially all of a cooperative's assets, [§185.38](#). A two-thirds majority of the membership must vote to approve such a sale, [§185.38\(1\)\(b\)](#). Therefore, it may be possible to take a deed from a cooperative association that is signed by two officers for a small strip of cooperative lands. If WisDOT seeks to acquire an entire cooperative property, however, getting a deed may be a practical nightmare: negotiation with the entire membership would be required. For this reason, if most or all of a cooperative association's property is sought, negotiation followed by a friendly jurisdictional offer is the recommended course of action. If a deed is sought for a small piece of cooperative property, the corporate signature line structure should be used.

3.5.17 Land Contracts

Land contracts are conveyances and security agreements between a seller (called land contract "vendor") and a buyer (called "vendee"). The effect of a land contract is very similar to the effect that would result from the seller giving a deed to the buyer and taking a mortgage on the property for a land contract, execution of the contract vests equitable title to the real estate involved in the land contract vendee (buyer). The vendor (seller) retains legal title to the property as evidence of his lien on the real estate. If all goes well, the vendee eventually pays off their debt to the vendor and receives a deed as evidence that the debt is paid in full. The deed serves the same function as a mortgage release in a more typical mortgage situation. When WisDOT becomes involved, however, the vendee has not finished paying off their loan from the vendor. Therefore, just as we must obtain a mortgage release from a bank if we take encumbered property, we must obtain a deed from the land contract vendor as well as the vendee to obtain clear title to a piece of the property. Land contract vendors and vendees can be individuals, partnerships, corporations, estates, trusts, or other entities. You must follow the correct formalities for those entities when they execute deeds to WisDOT. The land contract will usually call for a Warranty Deed at the termination of the contract. WisDOT, too, should demand a Warranty Deed. (Where estates are involved, Quit Claim Deeds are required; see estate discussion above.) The vendor's deed should contain the following recitation:

Farmer Sellitall, vendor(s) in that land contract by and between Farmer Sellitall, vendor(s), and Jurgen Buyitup, vendee(s), dated _<date>, and recorded _<date>, in volume _ of records, page _ and as document no. _, executes this conveyance for the purpose of conveying and releasing any interest they may have in the above-described lands by virtue of said land contract.

3.5.18 Federal Land Transfers

Federal land transfers provide for the transfer of lands or interests in the lands owned by the United States to WisDOT or its nominee (Local Public Agency) for highway purposes. The regulations, which prescribe the procedures relating to federal land transfers, are found in [23 CFR 710.601](#). If lands or interests in lands owned by the United States are needed for highway purposes, WisDOT must first file a land transfer application with FHWA. There is exception to this process when lands and interests are managed or controlled by an agency with independent transfer authority such as the Army, Air Force, Navy, Veterans Administration,

or Bureau of Indian Affairs, for example. Transfer application can be made directly to these agencies or their land acquisition agent. WisDOT should ascertain if the agency being impacted desires or will entertain direct application. Information on the contents of the application, the deed for conveying the lands or interests and other details on the transferring of lands can be found in the '[Manual for Federal Land Transfer for Federal-Aid Projects](#),' published in 2009 by the FHWA. This manual provides systematic procedures for transferring federal lands, as well as examples of application and conveyance deeds. Note: Any nominee (Local Public Agency) desiring a federal land transfer should apply through WisDOT to FHWA to assure state requirements are met.

Project coordination - Early coordination directly with the federal agency, whose lands are being impacted, is necessary to determine whether the proposal is consistent with the agency management plan, and to appropriately document and address the findings necessary in gaining approval of those reports required in filing an application with FHWA. Note: There is no requirement to have the property or interests appraised because there is no exchange of compensation.

Application - WisDOT must submit an application to the FHWA division administrator with attention to its division realty officer requesting the federal land transfer. All required information must be noted and verified. (See Exhibit 1 – sample below.) Attachments to the application should include three copies of the right of way plat and three copies of the proposed conveyance with description. Upon review and acceptance, the FHWA will forward the request to the appropriate federal agency along with a request for the agency to appropriate the needed right of way land interests. Information to be addressed on the application is as follows:

- Approval dates on CDR, EIS or equivalent, DSR, Pavement Design Report.
- Brief description of project and parcel interests being affected.
- Controlled access project or not, with extent of the control.
- Date of bid letting and construction.
- Federal aid project number or other appropriate references.
- Historic Preservation Act statement of compliance with concurrence date from State Historical Society.
- Name and address of contact person of acquiring agency, WisDOT or LPA.
- Name of contact person in the federal agency.
- Project funding state and/or federal participation.
- Project on federal aid system or not.
- Provisions for Preservation of Parklands (4f) if applicable.
- Purpose and use of the land.
- Statement to Wis. Stats. [Ch 32.25](#) relocation requirements or none if applicable.
- Statement verifying coordination with federal agency and their acknowledgement of project.

Letter of consent - The federal agency response will be in the form of a Letter of Consent that may include stipulations to be included in the final conveyance. FHWA will forward a copy of the Letter of Consent to WisDOT. If all stipulations are acceptable, and if the Letter of Consent grants a right-of-entry, this document is sufficient to allow for construction letting while the final conveyance is being processed.

Conveyance - The final conveyance will be a Highway Easement ([DT1565](#)) prepared by WisDOT. All stipulations noted in the Letter of Consent will be made part of the conveyance along with those nondiscrimination clauses defined in [49 CFR 21.7 \(a\) \(2\)](#). (See Exhibit 2 –

sample below.) The conveyance will be sent to the FHWA division administrator with attention to its division realty officer for review and execution. Prior to submitting the conveyance document to FHWA, WisDOT or Local Public Agency must sign the acceptance section of the conveyance document before a notary public of Wisconsin. When FHWA executes the conveyance document, it will be returned to WisDOT/DTSD/BTS-Real Estate for recording, or through BTS-Real Estate to be forwarded to the Local Public Agency for recording. After the deed is recorded, three (3) copies of the recorded deed are to be sent to FHWA along with three (3) copies of the TPP pages showing the right of way interests conveyed.

Exhibit #1 – ‘Sample’ letter of application to FHWA requesting federal land transfer.

	<p>Executive Office/Division Name Bureau/District or Section Name PO Box City, State, Zip</p>	<p style="text-align: right;"> __, Governor __, Secretary Internet: www.dot.wisconsin.gov Area Code-Phone # __ Area Code- FAX # __ Email __ </p>
~ SAMPLE ~		
<p>State Project ID Termini IH/USH/STH/CTH County Parcel # USDA Forest Service, __ National Forest</p>		
<p>This letter is presented as the application by the Wisconsin Department of Transportation (WisDOT) requesting a federal land transfer under Title 23 U.S.C., Sections 107(d) and 317 for the subject project identified above. This acquisition is necessary because of the planned improvements to IH/USH/STH/CTH __, which traverses through a portion of the national forest lands. Planned improvements consist primarily of reconstructing and reconditioning the existing roadway on the current horizontal alignment. However, the vertical alignment will be reconstructed in this area to accommodate a 60 mph design speed resulting in the need for the proposed easements as identified on the enclosed Transportation Project Plat and Highway Easement Deed.</p>		
<p>This project is not being constructed as a controlled access highway.</p>		
<p>This state highway improvement project is being acquired by WisDOT. Real estate is being acquired with 100% state funds, and the construction will be funded 80% by US Dept of Transportation-Federal Highway Administration funds and 20% by WisDOT state funds.</p>		
<p>The property from which the easement interests are to be acquired is under the jurisdiction of the Department of Agriculture Forest Service (federal agency) with its current use being in National Forest lands. Contact information for this agency is __.</p>		
<p>The following reports have been generated in preparation for this project and have been approved as listed with the respective approval dates:</p>		
<ul style="list-style-type: none"> • Concept Definition Report, approved __ • Design Study Report, approved __ • Environmental Report, approved __ • Pavement Design Report, approved __ 		
<p>In addition to those reports listed above, the following statements apply:</p>		
<ol style="list-style-type: none"> 1. A section 4(f) statement was not necessary for this project. 2. After coordination with __, museum archaeology program director, Wisconsin Historical Society, WisDOT historic preservation officer, and state historic preservation officer, on __ __, 20__ the project received Section 106 Screening List clearance for archaeology and historical. 3. No business, farm, non-profit organizations, or residential units will be relocated by this project. 4. The proposed bid letting for this project is scheduled for __ __, 20__ with construction to begin in calendar year 20__. 		

- 5. WisDOT has fully reviewed and discussed this project and parcel with the federal agency being affected prior to this application. The federal agency being affected has been notified and informed of the need and proposed use of this property and/or interests.
- 6. If there is a need to contact the acquiring agency, that contact information is _.

Enclosed you will find three copies of the proposed Highway Easement Deed with attached legal descriptions and three 11" x 17" copies of the Transportation Project Plat for the proposed project.

WisDOT requests that with your concurrence, we would receive a Letter of Consent from the federal agency to proceed with our highway improvement project until the Highway Easement Deed document can be finalized. The proposed language for the Highway Easement Deed is presented for your review. Any stipulations defined in the Letter of Consent, or required additions and deletions to the easement document will be made.

If you have questions or concerns, or require any additional documentation, please contact: () _-; email _.
Thank you in advance for your prompt attention to this matter.

Respectfully,

Acquisition Facilitator
Bureau of Technical Services
Wisconsin Department of Transportation

Enclosures

cc. Region Real Estate Supervisor
Project RE Specialist

Exhibit #2 – ‘Sample’ Highway Easement Deed language.

~ SAMPLE ~

HIGHWAY EASEMENT DEED

THIS DEED, made this_ day of _, 20_, by and between the United States of America, acting by and through the DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, hereinafter referred to as the Grantor, and the state of Wisconsin, Department of Transportation, hereinafter referred to as the Grantee: _ ||

WITNESSETH: _ || WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. 317), for the right of way of a highway over certain land owned by the United States in the state of Wisconsin, which is under the jurisdiction of the Department of Agriculture, Forest Service, and || WHEREAS, this transfer is further authorized under the provisions of the Act of Congress approved October 15, 1966 (80 Stat. 931.937, Section 6 (a) (1) (A). || WHEREAS, the Federal Highway Wisconsin division administrator, pursuant to delegations of authority from the Secretary of Transportation and the Federal Highway administrator, has determined that an easement over the land is covered by the application and is reasonably necessary for the right of way for Project _-_-_, IH/USH/STH/CTH _ , _ County, Termini: _-_. || WHEREAS, the United States Department of Agriculture, acting by and through the Forest Service, has agreed to the transfer by the Grantor of an easement over the land to the Grantee. || NOW THEREFORE, the Grantor as authorized by law, does hereby grant to the Grantee an easement for right of way for the construction, operation, and maintenance of a highway and use of the space above and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described land of the United States within the _ National Forest, county of _ , state of Wisconsin: these lands lying within || Township _ , Range _ , (_ corner and section data _ , Town of _ , _ County, Wisconsin. || The land being more particularly described and defined as Parcel _ of Transportation Project Plat Page _ , recorded _ , 20_ in Vol. _ Pg. _ TPP Plats, Document #_ ; _ County. Said Transportation Project Plats are attached hereto and made a part hereof (Exhibit A). || **Subject, however, to the following terms and conditions:** || (1) Outstanding valid claims, if any, existing on the date of this grant, and the Grantee shall obtain such permission as may be necessary on account of any such claims. || (2) The Grantee and the forest supervisor of the _ National Forest (herein after referred to as Forest Supervisor) shall make determination as to the necessity for archeological and paleontological reconnaissance and salvage within the right of way, and

such reconnaissance and salvage to the extent determined necessary because of construction of the highway facility is to be undertaken by the Grantee in compliance with the Act entitled, the "Archeological Resources Protection Act of 1979." (93 Stat. 721, 16 U.S.C., Sections 470aa-47011), and state laws, where applicable. || (3) Unless the Grantee and the Forest Supervisor stipulate as to a shorter time, the easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event construction of a highway on right of way is not started during such ten-year period. || (4) The easement herein granted is limited to use of the described right of way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance, of a highway in accordance with the approved plans described in the following condition number 5 and does not include the grant of any rights for non-highway purposes or facilities: Provided, that the right of the Forest Service to use or authorize the use of any portion of the right of way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Grantee and the Federal Highway Administration shall be consulted prior to the exercise of such rights; and provided further, that nothing shall preclude the Forest Service from locating Forest Service and other Department of Agriculture information signs on the portions of the right of way outside of construction clearing limits. || (5) The design and construction of highway project(s) situated on this right of way will be in accordance with the provisions of Title 23, United States Code-Highways, and amendments; the regulations for the Administration of Federal Aid for Highways, effected May 11, 1960; and amendments and established procedures for federal-aid projects, including the requirements of Title 23, Code of Federal Regulations, part 771 and the construction specifications of the State Highway Department as approved by the Federal Highway Administration for use on federal-aid projects. The Forest Service will be provided an opportunity to review plans relative to effects, if any, that the project works and plans will have upon adequate protection and utilization of the land traversed by the right of way and adjoining land under the administration of the United States Department of Agriculture, Forest Service, for the purposes for which such land is being administered. Those features of design, construction, and maintenance of the highway facility and of use of the right of way that would have effect on the protection and utilization of the land under the administration of the United States Department of Agriculture, Forest Service are to be mutually agreed upon by the Forest Supervisor and the Grantee by conference or other communication during the preparation of the plans and specifications for each construction project, and the plans shall be revised, modified, or supplemented to meet the approval of the Forest Supervisor, or when deemed appropriate, supplemented by written stipulation between the Forest Supervisor and the Grantee, prior to start of construction. The final design and the construction specifications for any highway construction project on the right of way will be presented to the Forest Supervisor for approval and construction shall not begin until such approval is given: Provided, that if it is subsequently deemed necessary that the approved plans, specifications, or stipulation be amended or supplemented, any amendment or supplement shall be approved by the Forest Supervisor and the Grantee before being placed in effect. || (6) Consistent with highway safety standards, the Grantee shall: Protect and preserve soil and vegetative cover and scenic and esthetic values on the right of way outside of construction limits. Provide for the prevention and control of soil erosion within the right of way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for re-vegetation or other areas on which ground cover is destroyed where it is deemed necessary during a joint review between the Forest Supervisor and the Grantee prior to completion of the highway and the Grantee shall maintain all terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction. || (7) The Forest Service will retain the right to any merchantable timber and all other resource materials not specifically appropriated, within the boundaries of the appropriation. The highway agent will notify the Forest Service which timber or other resource materials within the appropriation are scheduled to be removed and the Forest Service will determine whether a timber sale or other authorization for removal is appropriate. || (8) The Grantee shall establish no borrow sand or gravel pits, stone quarries, permanent storage areas, sites for highway operation and maintenance facilities, camps supply depots, or disposal areas within the right of way, unless shown on approved construction plans, without first obtaining approval of the Forest Supervisor. || (9) The Grantee may maintain the right of way clearing by means of chemical only after specific written approval has been given by the Forest Supervisor. Application for such approval must be in writing and specify the time, method, chemicals, and the exact portion of the right of way to be chemically treated. || (10) The Grantee, in consideration of the grant of this easement, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that (a) no person, shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed, (b) that the Grantee shall use said easement and right of way so conveyed, in compliance with all requirements imposed by or pursuant to Title 49 Code of Federal Regulations,

Department of Transportation, Subtitle A, Office of the Secretary, Part 21, non-discrimination in federally-assisted programs of the Department of Transportation, effectuation of Title VI of the Civil Right Act of 1964, and as said regulations may be amended. || (11) The Grantee agrees that in the event of breach of the above mentioned nondiscrimination covenants, the Grantor reserves the right to declare the terms of this grant terminated in whole or in part and to re-vest title in the United States and to control of the Department of Agriculture, Forest Service, and its assigns, as such interest existing prior to this instrument. || (12) When need for the easement herein granted shall no longer exist, the Grantee shall give notice of that fact to the Secretary of Transportation and the rights herein granted shall terminate and the land shall immediately revert to the full control of the Department of Agriculture, Forest Service. || (13) Stipulations written below herein, or attached hereto, become a term or condition hereof: _ ||

IN WITNESS WHEREOF, I, _, pursuant to delegations of authority from the Secretary of Transportation, the federal highway administrator, and chief counsel, Federal Highway Administration, by virtue of authority vested in me by law, have hereunto subscribed my name as of the day and year first above written. || United States of America ||

Department of Transportation || Federal Highway Administration || Witness: _; _ || By: _ || Division Administrator
_ || Federal Highway Administration _ || UNITED STATES OF AMERICA || State of Wisconsin || I, _, a Notary Public in and for _, do hereby certify that on this the _ day of _, 20_, before me personally appeared the foregoing instrument bearing date of _, 20_, was executed by him in his official capacity and by authority vested in him by law, for the purposes and intents in said instrument described and set forth, and acknowledge the same to be his free act and deed as division administrator, Federal Highway Administration. Witness my hand and seal this _ day of _, 20_. || State of Wisconsin || County of _ || _ Notary Public || _ (print name) || My commission expires _ ||

In compliance with the conditions set forth in the foregoing deed, the State of Wisconsin, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right of way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed. || By: _ || Department of Transportation

I, _, a Notary Public in and for said County, hereby certify that _ whose name appears for the Wisconsin Department of Transportation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, in their capacity as such for the Wisconsin Department of Transportation, executed the same voluntarily on this day. Given under my hand and seal of office this _ day of _ 20_. || State of Wisconsin || County of _ || _ Notary Public || _ (print name) || My commission expires _.

3.5.19 Condominiums

A condominium is specific type of property ownership. It is created by a condominium declaration, governed by an association, either through a nonstock, nonprofit corporation or an unincorporated association, and operates under condominium bylaws and declaration. A condominium consists of living units and common elements. Common elements are those areas of the condominium which are not the individual living units and may include a swimming pool, storage areas, the grounds and walkways, laundry areas, meeting rooms and other such areas used by the owners outside of their living unit. Individual unit owners may have different rights with respect to one or more of the common elements. For example, in some condominiums the parking area is an undivided common area, while in other condominiums the parking area consists of individually owned parking spaces. A condominium living unit, including individually owned parking or storage space, together with an undivided interest in the common elements, constitute real property. **NOTE: WisDOT should obtain and examine the condominium declaration, bylaws and other related documents of the condominium to understand its organization and the property interest of owners affected by the acquisition before initiating talk of acquisition or use of condominium land.**

The Condominium Ownership Act, Wis. Stats 703, together with Chapter 32 of the Wisconsin Statutes, describes the creation, governance and requirements for the acquisition of condominium property, either by negotiation or award.

3.5.19.1 Acquisition by Negotiation

Acquisition by negotiation is with each unit owner. Absent a declaration or bylaw provision to the contrary, each unit owner is entitled to the entire compensation for the acquisition of all or part of the living unit as well as damages to the unit. In addition, each unit owner is entitled to the designated percentage compensation for the acquisition or damage to those common areas to which the unit owner has use rights. **NOTE: The condominium declaration and bylaws will determine the percentage ownership of common areas and will affect the negotiated settlement. The condominium documents may also specify who may negotiate, who may sign the deed as to the common areas, and how any payment may be made. In addition, it is necessary to review the owner's purchase documents to determine what interest the owner has in the common areas of the condominium.**

3.5.19.2 Acquisition by Eminent Domain

Like acquisition through negotiation, compensation is for a unit and a respective percentage of interest in the common area. An award is allocated to those condominium owners whose units or common areas are affected and or damaged by the acquisition, unless modified by the declaration or bylaws. Acquisition of a unit by Eminent Domain will be completed with each unit owner.

Condemnation of common elements is governed by Wis. Stats 703.195(2) and applies to condominiums created six or more months after November 1, 2004. **NOTE: WisDOT must determine when the condominium was created to apply this section of the law.**

Under this law and when using Eminent Domain to acquire common elements, WisDOT may negotiate with the condominium association rather than with individual owners after giving proper notice. Wis Stats. secs 703.195(3-4) details the process and timing of giving notice to all unit owners, the wording of the notice, the required type and font size, placement of signature of any one objecting to the association acting as an agent and payment for the notice. WisDOT must provide the association and the unit owners a written list of the unit owners who object to group representation. Any owner who does not timely object is assumed to have agreed to representation by the association. **NOTE: WisDOT must review and adhere to the timing, method of giving notice, the distribution of required materials, and the content and format of the notice to be in compliance. It is important to read and understand the statute before giving notice.**

The unit owner who objects to the association acting as their agent also has specific requirements to create a valid objection. Sec 703.195 (4-5), Wis. Stats. Unit owners who object to the association acting on their behalf must be treated as separate property owners. Failure to object does not affect the unit owner's rights.

The condominium association shall act as the agent for all owners who did not timely object to the association acting on their behalf. The association shall execute any conveyance of common elements as the agent of

those unit owners who did not timely object. The conveyance document must name each unit owner who did not timely object to the condominium association negotiating on their behalf.

NOTE: It is recommended that the following language be used on the deed: "The condominium owners of [ABC Condominium] who received notice under Wis Stats.

703.195(3) and (4) who did not object to the Condominium Association acting on their behalf, and their heirs and assigns, are as follows:”