

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT: Cherish Wisconsin Outdoors Fund MOA Approval

FOR: September 2013 Board meeting

TO BE PRESENTED BY: Kurt Thiede, Land Division Administrator

SUMMARY:

2011 Wisconsin Act 148 provided the Department of Natural Resources (DNR) with the authority to request voluntary contributions from the four million citizens who purchase annual services from the DNR to create a habitat management fund. Donated funds will provide a permanent endowment for the management of the 1.5 million acres of state owned or managed lands. The Natural Resources Foundation of Wisconsin (NRF) is partnering with the DNR on this initiative and will be the manager of the endowment.

The Cherish Wisconsin Outdoors Fund will be a key mechanism to provide additional funding for habitat management of state owned lands that does not rely on state funding. Funds will be requested when citizens purchase services from the DNR, such as hunting and fishing licenses. In addition, NRF will solicit large donations from private businesses, corporations and individuals.

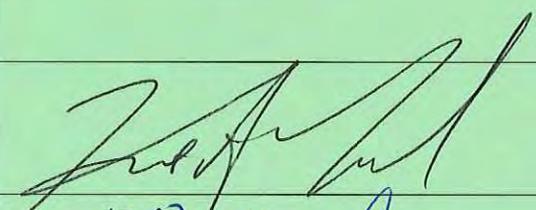
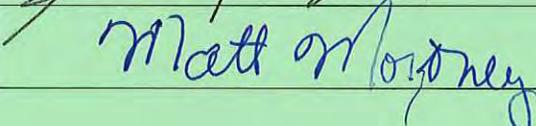
This public/private partnership has broad citizen appeal and bipartisan support. It will enhance our state owned lands without a cost to tax payers. Sportsman, silent sport lovers and businesses will have the opportunity to support the very resources they enjoy using.

The MOA provides details on the administration of the fund, distribution of payments, criteria and selection of projects, and how conservation partners input will be incorporated into the process.

RECOMMENDATION: Approval

LIST OF ATTACHED MATERIALS (check all that are applicable):

- Background memo Type name of attachment or type N/A if not applicable
- Memorandum of Agreement
- Natural Resources Foundation Articles of Incorporation

Approved by	Signature	Date
Not applicable, Bureau Director		
Kurt Thiede, Administrator		9/13/13
Cathy Stepp, Secretary		9/13/13

**Memorandum of Agreement
Between
Wisconsin Department of Natural Resources and
Natural Resources Foundation of Wisconsin, Inc.
For the Creation and Management of the
Cherish Wisconsin Outdoors Fund**

DRAFT

This MEMORANDUM OF AGREEMENT (hereinafter, the Agreement) made by and between Wisconsin Department of Natural Resources (hereafter, WDNR) and Natural Resources Foundation of Wisconsin, Inc. (hereafter, the FOUNDATION), collectively referred to as the Parties.

WITNESSETH:

WHEREAS, the WDNR has habitat management responsibility on the more than 1.5 million acres of land it owns, manages or controls;

WHEREAS, the FOUNDATION, a Wisconsin non-profit corporation exempt from federal tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, (the "Code") is formed to generally promote the knowledge, protection and enjoyment of our state's natural resources and for the purpose of serving as a "friends" group for the WDNR;

WHEREAS, the WDNR has the authority to enter into cooperative agreements with persons and governmental entities for conservation purposes as specified in ss. 23.09 (1) and 23.09 (2)(h), Wis. Stats.;

WHEREAS, the FOUNDATION since 1986 has had a longstanding relationship with the WDNR, as described in the "Natural Resources Foundation of Wisconsin, Inc., Articles of Incorporation" attached as an exhibit to this Agreement;

WHEREAS, the FOUNDATION serves in the capacity as a statewide foundation for conservation in the State of Wisconsin, whereby it may receive and administer funds as endowments for various conservation needs and organizations throughout the state; and

WHEREAS, the Wisconsin Legislature passed and the Governor signed into law 2011 Wisconsin Act 148, (enacted 3/23/12 and published 4/06/12, Appendix 1) giving authority for WDNR to request voluntary contributions from applicants for approvals or authorizations issued by the WDNR as provided ch 29, subch. V. of ch. 30, or ss. 23.33(2), 27.01, or 350.12 Wis Stats., to support a public lands endowment known as the Cherish Wisconsin Outdoors Fund (hereinafter, the FUND)) to be created and managed by the FOUNDATION. The FOUNDATION may also solicit contributions from private entities pursuant to its charter and bylaws

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants contained herein, the Parties hereto agree as follows:

1. Establishment of FUND. A FUND shall be established on the books of the FOUNDATION. . The FUND shall constitute a permanent endowment. In a fiduciary sound manner, the FOUNDATION agrees to hold, invest, reinvest, administer and

distribute the FUND in accordance with the terms and conditions of this Agreement and the provisions of 2011 Wisconsin Act 148.

2. Purpose. The FUND shall be used for the sole purpose of habitat management and ecological restoration on Wisconsin owned or managed lands, which includes, but is not limited to: state natural areas, parks, trails, wildlife and fisheries areas, recreation areas, and forests. The FUND may not be used for land acquisition, construction of infrastructure, or other activities not related to habitat management and restoration. Distributions from the FUND shall be made pursuant to Section 7 of this Agreement.
3. Receipt to the FUND. The FUND shall receive contributions from applicants who obtain an approval or authorization from WDNR as provided by ss. 20.370(5)(fv) and 23.09 (23), Wis. Stats, through its automated business systems (hereafter, SYSTEM), including but not limited to hunting and trapping licenses, ATV/UTV, and snowmobile registration, permits, and eventually (when the capability exists) park and trail stickers, campground registrations and such other contributions as it may receive from time to time. To the extent the FOUNDATION solicits and receives private contributions for the FUND, such private contributions will be accounted for separately by the FOUNDATION but such private contributions to the FUND shall be used for the Purpose identified in Section 2 of this Agreement and shall be distributed from the FUND pursuant to Section 7 of this Agreement.
4. Responsibilities of WDNR. WDNR agrees to the following responsibilities related to the FUND:
 - a. WDNR acknowledges its shared responsibility to actively promote the FUND. WDNR agrees to inform prospective applicants of the voluntary contribution opportunity through appropriate and statutorily authorized channels, which may include, but not be limited to its website, electronic communications, in print, at Regional offices and Service Centers, and through the WDNR's agents throughout Wisconsin and such other marketing and sales channels as may be mutually agreed upon by the parties from time to time. Such communication will be planned in collaboration with and reviewed by the FOUNDATION before communications are circulated to the public.
 - b. WDNR agrees that it or its agents, as applicable, will collect, keep records of and set aside SYSTEM Contributions, and provide a receipt of the SYSTEM Contribution to the contributor.
 - c. WDNR will transfer SYSTEM contributions, less any applicable processing fee, directly to the FOUNDATION on a quarterly basis unless otherwise agreed by the Parties. At the time of transfer of the contributions, the WDNR will provide to the FOUNDATION a list of contributors, including, to the extent allowed by law, the name, address and amount of contribution.
 - d. WDNR agrees to seek public input to identify activities and related criteria for projects that will be funded with distributions from the FUND through a process that involves appropriate public input. Such activities and criteria will be used as the basis for the WDNR recommendations consistent with Section 7 of this Agreement. The WDNR's identified activities and related criteria shall be

reduced to writing and shall constitute an Appendix to, and be incorporated by reference into, this Agreement, upon agreement of the Parties.

- e. WDNR agrees to establish a process for recommending specific projects under Section 7 that includes appropriate public input.

5. Responsibilities of FOUNDATION. The FOUNDATION agrees to the following responsibilities related to the FUND:

- a. The FOUNDATION will keep the required records, as set forth in this Agreement, for the SYSTEMS contributions. The FOUNDATION agrees to comply with its obligations related to audit and reporting as set forth in Sections 10 and 11 of this Agreement.
- b. The FOUNDATION shall manage FUND assets in accordance with the Investment Policy adopted by its Board of Directors (the "Board"), as amended from time to time.
- c. The FOUNDATION agrees to take the necessary steps to facilitate compliance by the recipients of FUND distributions with the requirements of this Agreement.

6. Property of the FUND. The FUND shall be the exclusive property of the FOUNDATION, held by it in its corporate capacity, and shall not be deemed a trust fund held by it in a trustee capacity. The FOUNDATION shall have the ultimate authority and control over all assets in the FUND, and the income derived from them to be used consistent with this Agreement and the constraints of s. 23.09(23), Wis. Stats.

7. Distributions.

- a. Annual Distributions. After consultation with the WDNR, the FOUNDATION shall determine the amount available and method for distribution from the FUND each year, consistent with the FOUNDATION's Investment Policy as amended from time to time by the FOUNDATION Board of Directors (BOARD) and after deduction of administrative fees as set forth in this Agreement.
- b. Allocation of Distributions. The process for allocating distributions from the FUND shall be as follows: i) FOUNDATION will announce the amount available for distribution per Section 7(a); ii) WDNR will be asked to propose a list of projects, ranked in order of priority, that meet the criteria adopted and the process established pursuant to Sections 4(d) and 4(e) of this Agreement; iii) the list of priority projects will be presented to the WDNR Advisory Team who shall make recommendations from among the projects referenced in above (Section 7(b)(ii) to the FOUNDATION BOARD; and iv) the BOARD shall make the final decision in its sole discretion regarding allocation of the funds.
- c. Distributions may be made solely to tax-exempt entities including, state or federal agencies and "Qualified Exempt Organizations" meaning that it: (i)

is a nonprofit organization that is recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code and (ii) is not a private foundation nor a Type III supporting organization as defined under the Code. The FOUNDATION shall be responsible for confirming that recipients of distributions from the FUND meet these criteria.

8. Administrative Fees. The FOUNDATION shall impose an annual administrative fee of up to 1.5% of the average fund value based on the average value of the FUND. The fee will be deducted quarterly from the FUND, calculated as one-quarter (1/4) of the annual fee multiplied times the average FUND value of the prior four quarters. In addition, the FUND shall be subject to internal investment and management fees imposed on FUND assets by mutual funds or other assets held in the FUND. The FOUNDATION reserves the right to: (a) charge the FUND for any extraordinary costs, provided the costs are reasonable and necessary, directly related to management or operation of the FUND, including costs associated with the initial marketing of the FUND. It is understood that in Year 1 and Year 2 of the FUND, the FOUNDATION may pay for the initial marketing of the FUND by accessing FUND principal and that such expenditure shall be deemed an appropriate and reasonable means to support the viability and growth of the FUND.
9. Reporting. At the time of each disbursement, consistent with Section 7, the FOUNDATION agrees to provide to WDNR a summary list of project grant recipients and grant amount.
10. Audit. The FOUNDATION'S records relating to the SYSTEMS contributions, less any applicable processing fee, shall be available for an audit requested by the State of Wisconsin. It is further understood that the allocation of distributions, and reports related to use of those distributions shall be available for audit.
11. Representations.
 - a. The execution, delivery and performance of this Agreement and of all of the other documents and instruments required hereby are within the authority of the respective Parties. The execution and delivery of this Agreement by the undersigned and the consummation of the transactions contemplated hereby have been duly authorized by the respective Parties.
 - b. It is intended that the FUND shall be a component part of the FOUNDATION and that nothing in this Agreement shall affect the status of the FOUNDATION as an entity that is a qualified exempt organization. This Agreement shall be interpreted in a manner consistent with this intention and so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant thereto applicable to the intended status of the FOUNDATION. Furthermore, this Agreement shall be interpreted consistent with the spirit and intent of 2011 Wisconsin Act 148.
12. Amendments This Agreement, including its Appendices, may only be amended by mutual written agreement of the Parties.

13. Miscellaneous.

- a. This Agreement may be executed in several counterparts and also executed shall constitute one agreement, binding on the Parties hereto, notwithstanding that all of the parties may not be signatories to the same counterpart, provided that each party is a signatory to at least one counterpart.
- b. This Agreement constitutes the entire agreement of the Parties. All prior agreements among the parties, whether written or oral, are merged herein and shall be of no force or effect.
- c. This Agreement shall be binding upon and inure to the benefit of each of the Parties and their respective administrators, successors, assigns, and legal representatives.
- d. This Agreement and the validity and the construction hereof shall be determined and governed in all respects by the laws of the State of Wisconsin.
- e. All support derived from the FUND will be described as having been made available by the **Cherish Wisconsin Outdoors Fund**.
- f. In the event the FOUNDATION is dissolved or loses its status as a qualified exempt organization, the balance of the FUND shall be distributed to another 501(c)(3) organization in accordance with the FOUNDATION's Articles of Incorporation to be managed consistent with this Agreement and the provisions of 2011 Wisconsin Act 148.
- g. The WDNR and the FOUNDATION retain and reserve all rights and remedies provided in law or equity in order to obtain full and complete compliance with the terms of this Agreement, any and all amendments hereto and the provisions of 2011 Wisconsin Act 148.

Executed this _____ day of September, 2013

By: _____
Cathy Stepp, Secretary
Wisconsin Department of Natural Resources

By: _____
Ruth Oppedahl, Executive Director
Natural Resources Foundation of Wisconsin, Inc.

NATURAL RESOURCES FOUNDATION OF WISCONSIN, INC.

Articles of Incorporation

These articles of incorporation are executed by the undersigned for the purpose of forming a Wisconsin corporation under Chapter 181 of the Wisconsin Statutes, WITHOUT STOCK AND NOT FOR PROFIT.

ARTICLE I

The name of the corporation shall be NATURAL RESOURCES FOUNDATION OF WISCONSIN, INC.

ARTICLE II

The period of existence shall be perpetual.

ARTICLE III

The purposes shall be exclusively charitable, educational and scientific as follows:

To raise funds and provide grants to the Wisconsin Department of Natural Resources and other Natural Resources support entities;

To preserve, protect and enhance the natural resources of the State of Wisconsin;

To promote, through acquisition, development and maintenance projects, the preservation and wise management of parks, recreation areas, forests, fish and wildlife areas, and natural and scientific areas within the State of Wisconsin; and

To exercise those powers granted by Chapter 181, Wisconsin Statutes, which are necessary or appropriate to accomplish the foregoing purposes.

ARTICLE IV

The location of the principal office of the corporation is One South Pinckney Street, Suite 913, Madison, Wisconsin 53703.

ARTICLE V

The name of the initial registered agent of the corporation is Thomas E. Klancnik.

ARTICLE VI

The address of the initial registered agent is One South Pinckney Street, Suite 913, Madison, Wisconsin 53703.

ARTICLE VII

These articles may be amended in the manner authorized by law at the time of amendment.

ARTICLE VIII

The number of directors shall be fixed by the bylaws of the corporation, but shall not be less than three (3).

ARTICLE IX

The names and addresses of the initial directors are as follows:

Donald Anderson
206 Saratoga Circle
Madison, WI 53705

Paul Hasset
1630 Capital Avenue
Madison, WI 53705

Nash Williams
2400 Waunona Way
Madison, WI 53713

Daniel Flaherty
Box 1626
La Crosse, WI 54601

ARTICLE X

The corporation shall have no members. Directors shall be appointed as provided in the bylaws.

ARTICLE XI

The Chairperson of the Board of Directors and the President shall have the authority to sell, lease, exchange, mortgage, pledge or otherwise convey or dispose of all or any part of the real property, fixtures, improvements or chattels real of this corporation, by instruments duly executed according to law and attested by the Secretary or the Treasurer.

ARTICLE XII

At all times, and notwithstanding merger, consolidation, reorganization, termination, dissolution, or winding up of the corporation (voluntary or involuntary or by operation of law), of any other provisions hereof:

(a) The corporation shall not possess or exercise any power or authority, whether expressly, by interpretation, or by operation of law, that would pose a substantial risk

of preventing it at any time from qualifying and continuing to qualify as a corporation described in section 501(c)(3) of the Internal Revenue Code of 1954, or any successor statute (hereinafter referred to as "the Code"), contributions to which are deductible for federal income tax purposes, nor shall the corporation engage directly or indirectly in any activity that would pose a substantial risk of causing the loss of such qualification under section 501(c)(3) of the Code.

(b) At no time shall the corporation engage in any activities that are unlawful under the laws of the United States, the State of Wisconsin, or any other jurisdiction where any of its activities are carried on.

(c) No part of the assets or net earnings of the corporation shall ever be used, nor shall the corporation ever be organized or operated, for purposes that are not exclusively charitable, scientific, educational or literary within the meaning of section 501(c)(3) of the Code.

(d) The corporation shall never be operated for the primary purposes of carrying on a trade or business for profit.

(e) The corporation shall not carry on propaganda or otherwise attempt to influence legislation to an extent that would disqualify it for tax exemption under section 501(c)(3) of the Code by reason of attempting to influence legislation. Nor shall the corporation, directly or indirectly, participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

(f) No solicitation of contributions to the corporation shall be made, and no gift, bequest, or devise to the corporation shall be accepted, upon any condition or limitation that would pose a substantial risk of causing the corporation to lose its federal income tax exemption.

(g) Pursuant to the prohibition contained in section 501(c)(3) of the Code, no part of the net earnings, current or accumulated, of the corporation shall ever inure to the benefit of any private individual.

(h) Notwithstanding any other provision of these Articles, if at any time or times the corporation is a private foundation within the meaning of section 509 of the Code, then during such time or times:

(1) The corporation shall never be controlled, directly or indirectly, by one or more disqualified persons (as defined in section 4946 of the Code) other than Foundation managers;

(2) The corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Code;

(3) The corporation shall not engage in any act of self-dealing as defined in section 4941(d) of the Code;

(4) The corporation shall not retain any excess business holdings as defined in section 4943(c) of the Code;

(5) The corporation shall not make any investments in such a manner as to subject the corporation to tax under section 4944 of the Code; and

(6) The corporation shall not make any taxable expenditures as defined in section 4945(d) of the Code.

(i) Subject to the foregoing, the corporation shall apply so much of its net income and/or principal as the Board of Directors shall determine to the purposes of the corporation (1) by distributing money or property to organizations which are described in paragraphs (1), (2) or (3) of section 509(a) of the Code; (2) by distributing money or property to organizations which are not exempt from taxation under section 501(c)(3) of the Code, but only to the extent that the corporation is able to ensure the use of such funds or property for section 501(c)(3) purposes by (i) limiting distributions to specific projects in furtherance of its own exempt purposes, (ii) retaining control and discretion as to the use of the funds or property, and (iii) maintaining records establishing that the funds or property were used for section 501(c)(3) purposes; or (3) by carrying on such activities itself.

ARTICLE XIII

In the event of dissolution of the corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the corporation, transfer all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for educational, scientific, literary and charitable purposes as shall at the time qualify as an exempt

organization or organizations under section 501(c)(3) of the Code, as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the Circuit Court for Dane County, Wisconsin, exclusively for such purposes or by transfer to such organization or organizations as said Court shall determine, which are organized and operated exclusively for educational, scientific, literary or charitable purposes.

ARTICLE XIV

The names and addresses of the incorporator(s) are:

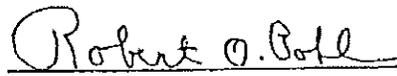
Collins Ferris
830 Charing Cross Road
Madison, WI 53704

Robert Pohl
321 Woodland Lane
Oconomowoc, WI 53066

Executed in duplicate this 23rd day of July, 1986.



Collins Ferris



Robert Pohl

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 23rd day of July, 1986, the aforementioned incorporator(s) Collins Ferris and Robert Pohl, to me known to be the person(s) who executed the foregoing instrument, and acknowledged the same.



Notary Public, State of Wisconsin
My Commission: is permanent

This Document Drafted By:

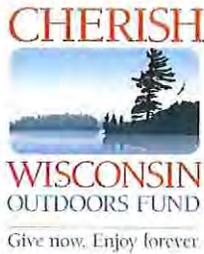
Thomas E. Klancnik, Esq.
Michael, Best & Friedrich
One South Pinckney Street
P.O. Box 1806
Madison, WI 53701-1806

STATE OF WISCONSIN
FILED

JUL 24 1986

DOUGLAS LA FOLLETTE
SECRETARY OF STATE

This document should be recorded in Dane County, Wisconsin.



Cherish Wisconsin Outdoors Fund

Communication Highlights of the Cherish Wisconsin Outdoors Fund

Completed: Rack cards, folded business cards, a testimonial video, an article in the October issue of the Natural Resource Magazine, created donation logo for Reserve America site, communicated initiative with ALIS vendors, and created the Cherish Wisconsin Outdoors Fund website www.cherishwisconsin.org.

Week of September 23: GovDelivery footer on each message that is sent out to the DNR's 382,000 subscribers, articles in DNR internal newsletters, multiple news releases, official announcement at September NRB meeting, the use of social media, and message to staff.

Rollout Timeline of the Cherish Wisconsin Outdoors Fund

June 11, 2013 DNR Division Leadership Team meeting

Representatives from the DNR and NRF presented a power point to the DNR division leaders giving a background on Cherish Wisconsin.

June 26, 2013 Natural Resource Board meeting

A DNR and NRF representative presented the current progress of the fund to the Natural Resource Board.

July 9-11, 2013 DNR Office of Communication staff meeting

Representatives from NRF and DNR attended.

July 26- 28, 2013 Wisconsin Outdoors Writers Conference

The conference was the first event that individuals outside of DNR and NRF saw the publication materials for Cherish Wisconsin.

August 1- 11, 2013 Wisconsin State Fair

Cherish Wisconsin Outdoors Fund had booth with materials at the DNR Park. This was the first "public" reveal of the endowment.

The Department of Tourism displayed rack cards on their tables at the state fair.

DNR video crew collected testimonials at the Wisconsin State Fair ; video completed and will posted the week of September 23, 2013 for official roll out. The question, "what do you cherish about Wisconsin," was asked of fairgoers.

September 2013

Meeting with Department of Tourism to leverage their marketing reach and expertise.

September 23-28, 2013 Official Roll Out of Cherish Wisconsin Outdoors Fund.

During the week of September 23-28 news releases will go out, message to staff, announcement from NRB, social media, internal newsletters, and GovDelivery.

September 25 and 28, 2013 Natural Resources Board Meeting and Public Lands Day

September 25 will be the official launch date of the Cherish Wisconsin Outdoors Fund. Beginning on September 23, license buyers, online and in vendor locations, will be asked this question when purchasing a license, "Would you like to donate \$2 or more to the Cherish Wisconsin Outdoors Fund?" Each donation will be put into the endowment and vendors have been informed of what the fund is and its goals. Promotional materials will be offered to vendors as well. September 28 is the 20th Anniversary for National Public Lands Day. This is the nation's largest, single-day volunteer effort for public lands.

Following the official roll out staff will evaluate and track the progress of the fund and will move forth with ongoing communication efforts on an as needed basis. Participation at future outdoor/sport shows in Wisconsin are already planned.