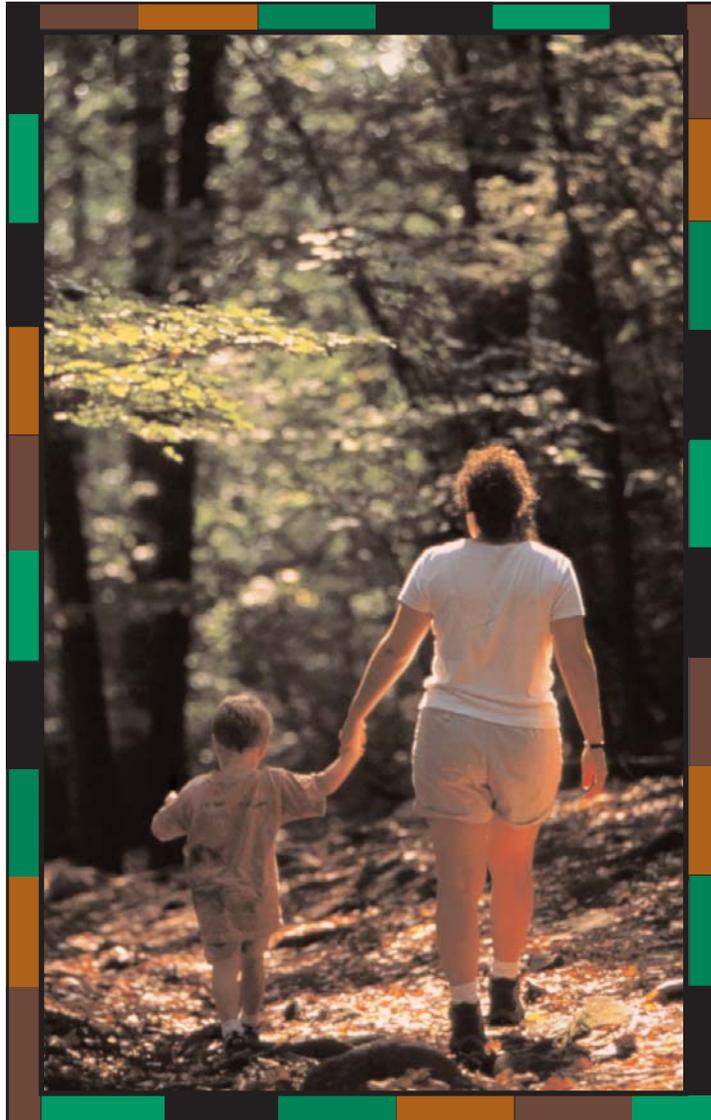


Getting Involved

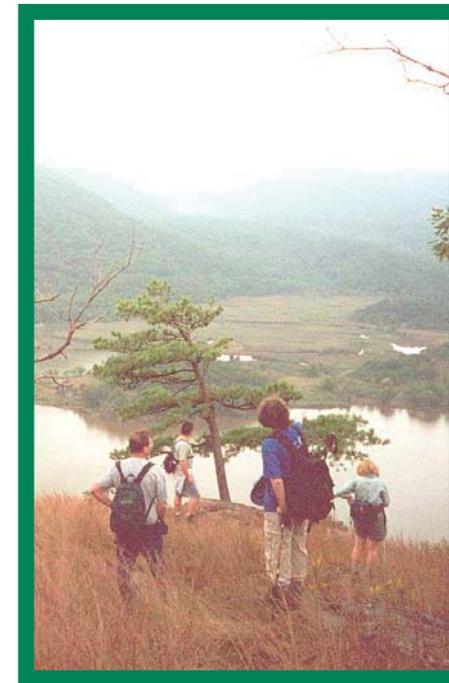
A Community Trail Handbook for Landowners



A Joint Publication of
Greenway Conservancy for the Hudson River Valley
and Parks & Trails New York

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A letter of invitation

Dear Potential Trail Partner:

We invite you to join us in the exciting efforts now underway to establish a system of recreational trails in the Hudson River Valley for the enjoyment of your family, friends, and neighbors. As a private landowner, your support is critical to the success of hundreds of state and community trail initiatives throughout New York. Trails in the Hudson Valley already provide world-class recreational opportunities for our residents and an inspiring experience for tourists. With your help it can be even better.

Imagine a system of trails throughout the Hudson Valley where local routes tie seamlessly into regional corridors. It will be a network of trails connecting residents to their downtowns, waterfronts, parks, open spaces, and historic sites while also linking them to the significant resources of neighboring communities. This trail network will provide routes for our children to walk to school in safety. It will provide inviting places for families to walk, hike, and bike for better health. It will also strengthen local and regional economies through increased property values, bolstered tourism, and new business investment drawn to quality communities.

Reading this handbook will help answer many of your questions about hosting public trails on your land. While the handbook explains the many tangible benefits you may receive through allowing trail access, ultimately it is your sense of community spirit that matters most.

State agencies, local trail organizations, land trusts, and regional programs such as the Hudson Valley Greenway, as well as non-profit trail partners such as Parks & Trails New York, can help answer other questions you may have. We hope you become a local partner in one of these important quality of life improvements for our great state.

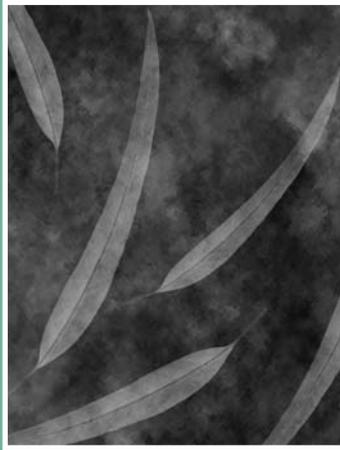
Sincerely, 

Mary Mangione, Acting Executive Director
Greenway Conservancy for the Hudson River Valley



Kevin J. Plunkett, Chairman





*“There is delight in the hardy life of the open.
There are no words that can tell of the hidden
spirit of the wilderness, that can reveal its
mystery, its melancholy and its charm.
The nation behaves well if it treats the natural
resources as assets which must turn over to
the next generation increased and not
impaired in value.”*

~ Theodore Roosevelt
Twenty-sixth U.S. President (1901-09)
1858-1919

Creating a Hudson River Greenway Trail System

WHAT IS THE HUDSON RIVER VALLEY GREENWAY?

The Hudson River Valley possesses world-renowned scenic, natural, historic, recreational, agricultural, economic, and cultural resources. To acknowledge this and to help Hudson Valley communities become better places to live and work, the New York State Legislature passed landmark legislation in 1991 establishing a Hudson River Valley Greenway.

The goals of the Greenway legislation are to protect and enhance the region's unique heritage, increase awareness and appreciation of its resources, and enhance the sustainability of local economies. The legislation also aims to promote a broader identity for the Hudson River Valley's communities and resources by encouraging municipal cooperation and tourism development on a regional level. To help promote and establish a linked identity among communities and their resources, the Greenway legislation calls for the designation and development of a regional network of trails, the Hudson River Greenway Trail system.

Specifically, the Greenway legislation is designed to assist and encourage communities to incorporate the following into local decision making:

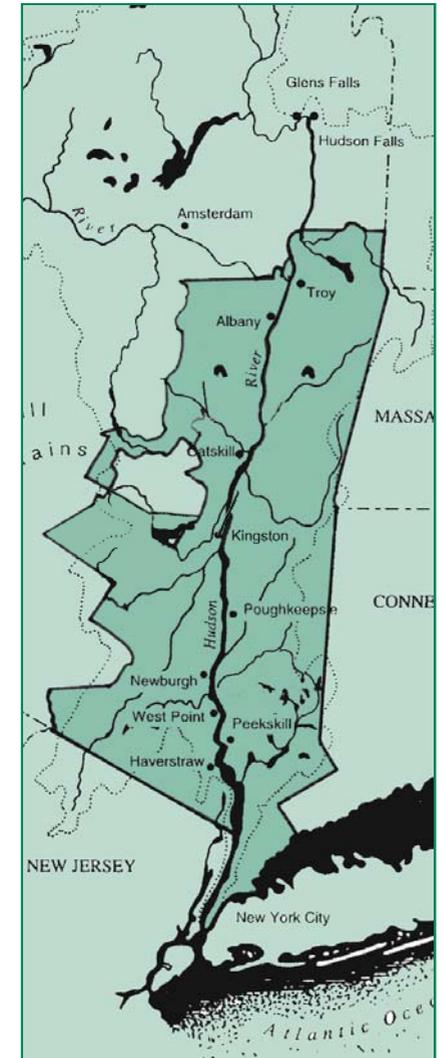
- natural and cultural resource protection
- regional planning
- economic development
- public access to the river
- heritage and environmental education

A STRICTLY VOLUNTARY PROGRAM

All aspects of the Greenway program are voluntary and designed to honor the New York State tradition of home rule by putting the needs of local communities first. Extensive public participation is an integral part of the program.

ONE PROGRAM IMPLEMENTED BY TWO ORGANIZATIONS

The Hudson River Valley Greenway Program is administered jointly by the Greenway Communities Council and the Greenway Conservancy for the Hudson River Valley. Both organizations provide technical assistance and small grants for planning



The Greenway area is defined as the Hudson River coastal areas of Bronx and New York Counties, the entire counties of Albany, Columbia, Dutchess, Orange, Rockland, Westchester, Ulster, the town and village of Waterford in Saratoga County and Greene County, excluding any area within the Catskill Park.

BENEFITS OF A GREENWAY TRAIL SYSTEM



■ Provides a variety of close-to-home recreational opportunities for you, your family, and your community.

■ Enhances the quality of life.

■ Provides safe places to walk or bike to work, school and local stores.

■ Preserves community character and offers people a new way to discover the special places where they live.

■ Provides an enjoyable place for people of all ages to experience the great outdoors and learn about the natural world.

■ Creates an opportunity for attracting tourists and new businesses.

■ Strengthens a sense of connection to the Hudson River and Hudson River Valley as a region.

■ Strengthens community cohesion by bringing people together to plan, build, and use the trail.

■ Promotes greater appreciation and protection of the Hudson River Valley's natural, cultural, historic, recreational, scenic, and agricultural resources.

■ Serves as critical routes for wildlife and protects stream corridors.

and capital projects that reinforce the principles listed above. Local communities and groups can work with either organization or both organizations, depending on their needs, priorities, and interests.

The Greenway Communities Council works primarily at the municipal level with individual communities, groups of communities, and counties to assist in the development of planning projects that support the Greenway criteria and contribute to the development of a region-wide agreement, called the Greenway Compact. Greenway Communities Council projects can include comprehensive plans, main street revitalization plans, open space plans, transportation studies, and agricultural protection plans, as well as zoning ordinances, community design guidelines, and other implementation techniques.

The primary purpose of the Greenway Conservancy for the Hudson River Valley is technical assistance and grants support for local projects and programs that support the principles of the Greenway program. The Conservancy works with a broad range of partners: municipalities, non-profit organizations, citizen groups, and representatives of the tourism and agricultural industries. The Greenway Conservancy focuses, in particular, on development of the Hudson River Valley Greenway Trail system, other efforts to enhance meaningful public access to the Hudson River, and regional tourism and agricultural initiatives.

THE HUDSON RIVER GREENWAY TRAIL SYSTEM

The Hudson River Greenway Trail System will be a diverse network of existing and new trails that connect resources and people and bring a distinctive sense of place to the valley's residents and visitors.

The Greenway Trail System will provide opportunities to experience the unique natural and cultural heritage of the valley. In riverfront communities, it will encourage

access to the Hudson River and provide views of it wherever possible. In other areas, the trail system will highlight and link existing heritage trails, scenic roadways, parks, urban cultural parks, historic sites, nature preserves, public conservation areas, bike-ways, rail-trails, and other regional trails.

The types of trails that make up the Greenway Trail System – and their uses – will depend greatly on the needs and interests of local communities, as well as landowner considerations and the particulars of the landscape. Wherever possible, trail routing will take advantage of existing trails,



such as those in state, county, and municipal parks, and infrastructure such as abandoned rail beds, scenic roads, and waterfront esplanades. The support of local landowners will play a critical role in helping to shape local trails.

The Conservancy becomes involved in community trails at the invitation of local municipalities, community groups, not-for-profit organizations, and individual citizens. The Conservancy's main goal is to help create trails that

enhance the quality of life for local residents. The Conservancy also encourages communities to link local trails to neighboring communities, then into larger regional networks, enhancing the benefits.

PLEDGE OF LANDOWNER RIGHTS

The establishment of the Hudson River Greenway Trail System relies on the cooperation and generosity of local landowners. Participation in the Hudson River Greenway Trail program is strictly voluntary. The property rights and concerns of private landowners are paramount, as is maintaining traditional uses of the land. The Hudson River Valley Greenway legislation authorizing the development of the Greenway Trail therefore expressly forbids the Greenway Conservancy from "taking" any land to create the trail. In addition, it does not establish any land use control on private lands or impose additional or more restrictive environmental or zoning regulations. ■

University's Granting of Trail Easement Creates a Popular Campus Amenity

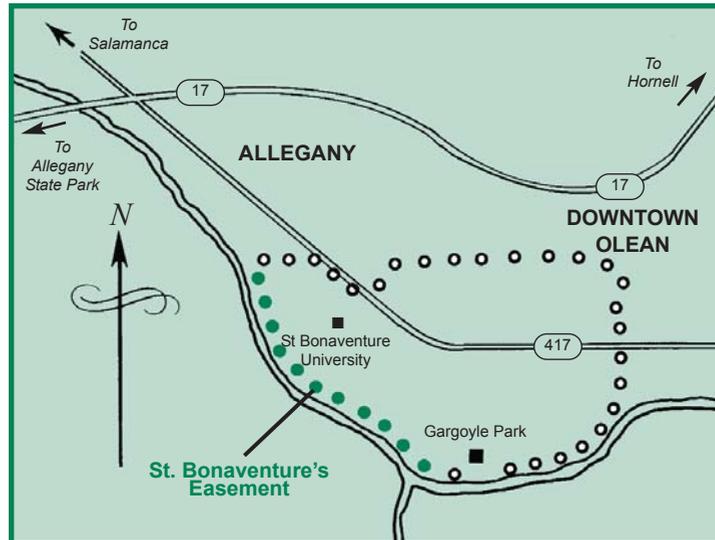
On sunny spring days, many of St. Bonaventure University's 2800 students can be found bicycling, rollerblading, or strolling along the multi-use Allegheny River Valley Trail...

They don't have to go far to get to the trail. Nearly half of the 5.6-mile recreational trail, which runs along the Allegheny River between the communities of Olean and Allegany in New York's southern tier, is located on the St. Bonaventure campus.

St. Bonaventure was initially approached about the trail in the early 1990's by Greater Olean, Inc., a local civic improvement organization. St. Bonaventure President Dr. Robert Wickenheiser was open to the idea but wanted to see what the administration, faculty, and students had to say about the trail and what other universities' experience with trails had been.

An informal survey of other universities that had allowed public trails on their property turned out to be pivotal to the development of the Allegheny River Valley Trail on the St. Bonaventure campus.

"Every university we contacted was extremely positive and strongly endorsed having a trail on campus," says Dr. Donald L Zekan, Vice President for



Nearly half of the 5.6-mile recreational trail, which runs along the Allegheny River between the communities of Olean and Allegany in New York's southern tier, is located on the St. Bonaventure campus.



Breaking ground at Bonaventure: From left, St. Bonaventure University Dr. Robert Wickenheiser, Mayor John Ash, Legistator Catherine Young, Assemblywoman Pat McGee, Greater Olean, Inc. President John Stevens, trail developer Joseph Higgins, and Allegany Supervisor Daniel Eaton

Courtesy: Bill Mueller/ Times Herald



Courtesy: of Office of Public Relations, St. Bonaventure University

Business and Finance at St. Bonaventure, who has been involved with the trail's development from the beginning.

With the results of the survey so positive, the University went ahead and signed a trail easement agreement with the Town of Allegany, the official sponsor of the Allegheny River Valley Trail.

Today, the trail is very popular with both

students and community members.

"My wife and I used to take our dogs down by the river before it was a trail and we never saw anyone. It was like the community had turned its back on the river," says Dr. Zekan. "Now, we see people down there all the time enjoying themselves. People are rediscovering what a great resource the river is." ■



*“When we walk, we naturally go to the fields
and woods: what would become of us, if we
walked only in a garden or mall?”*

~ Henry David Thoreau
American writer and naturalist, 1838-1914

Trail Planning

A COMMUNITY-DRIVEN PROCESS

The process for establishing sections of the Greenway Trail System is community driven and completely voluntary. Each community is distinct, with different goals and opportunities, so each community must determine for itself the types of use, character, and routing of its trail. Some communities may decide to establish a multi-use trail for hiking, bicycling, cross-country skiing, and horseback riding. Others may decide that a narrow dirt walking path through the woods is more appropriate.

LOCAL TRAIL PARTNERSHIPS AT HEART OF EFFORT

Strong local partnerships are the key to successful trails. The best partnerships include broad community interests, including local government, business, community organizations, schools, and private landowners.

The Greenway Conservancy supports the formation of local trail partnerships, usually in the form of trail committees, and provides technical assistance and resources throughout the trail exploration and development process.

Local trail committees most often take the lead in guiding the process to establish local trails. They introduce the trail concept, gauge community interest, and build support. They also work to engage additional partners – such as municipal or county parks departments, departments of public works, sheriff's departments,

or others – whose involvement can greatly contribute to the long-term success of trails.

Local trail committees may be spearheaded by a municipality, community organization, non-profit organization, or interested citizens and may function either in an informal manner or as a more official committee of a municipal or county board or department.

STEPS IN PLANNING A SUCCESSFUL TRAIL

A community workshop early in the trail planning process is extremely helpful to inform the public about the trail and get valuable input regarding concerns and issues. Other steps in trail planning include inventorying resources, mapping, deciding on trail uses, looking at trail route options, establishing the roles of various partners, setting goals and timetables, and developing a trail management and



maintenance plan.

The Greenway Conservancy has developed trail planning recommendations. Contact your local trail committee or the Greenway Conservancy for a copy.

GETTING INVOLVED

Good trail planning ensures that the concerns of various community interests, especially landowners, are met. Your local trail committee offers a good opportunity for you to join your neighbors, friends, and community leaders in planning trails in your community. The committee will help

coordinate the role of various partners – municipality, county, state, land trust, chamber of commerce, community organization, landowners – in designing, developing, negotiating access, managing, and maintaining the trail. The committee will work closely with landowners on trail design and routing decisions that might affect their property, as well as decisions relating to development of trail maintenance and management guidelines.

Local trail committees usually organize community planning workshops

Strong local partnerships are key to successful trails. The best partnerships include broad community interests, including local government, business, community organizations, schools, and private landowners.



to facilitate community involvement. Your participation in these workshops can set the tone for open and productive communication among various community members and interests.

If you would like to find out if your community has an active trail committee and how to get more involved, the Greenway Conservancy will provide you with contacts. If a committee doesn't currently exist, and you are interested in helping to form one, the Greenway Conservancy will be happy to work with you.

ESTABLISHING TRAILS WITH THE SUPPORT OF PRIVATE LANDOWNERS

Local trail committees generally route their trails through public lands. However, in areas where that is not possible, private landowners' generous permission for a segment of trail to cross their properties

will greatly enhance the Greenway Trail System's integrity.

Initially, landowners unfamiliar with public trail systems may be hesitant to allow a portion of their land to become part of the Greenway Trail System. However, landowners who have allowed access on other public trails in New York, both local and long-distance, have been quite satisfied with the arrangement.

Some examples of long-distance trails that cross private lands include the 150-mile Highland Trail in New York and New Jersey, the 300-mile Long Path through the Hudson Valley, the 800-mile Finger Lakes Trail in western New York, and the 1,800-mile Appalachian Trail, which crosses the Hudson River at Bear Mountain. Several shorter trails in the region that benefit from private landowners' permission to access their property include the Hyde Park Trail, Village of Croton trail system, the LaGrange Wappinger Creek Trail and the D&H Canal trail in Kingston and the towns of Hurley and Ulster.

If you would like to talk with one of these landowners or others who live along trails, please contact your local trail committee or the Greenway Conservancy and we'll put you in touch with them.

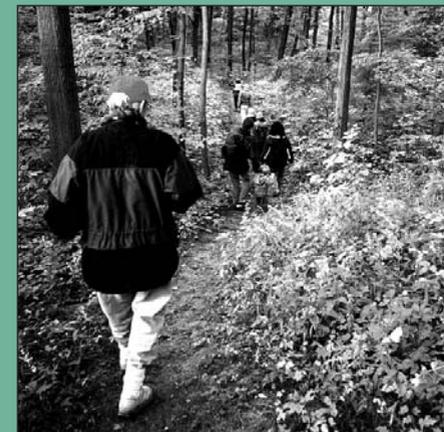
TYPES OF TRAIL SYSTEMS WITHIN THE GREENWAY



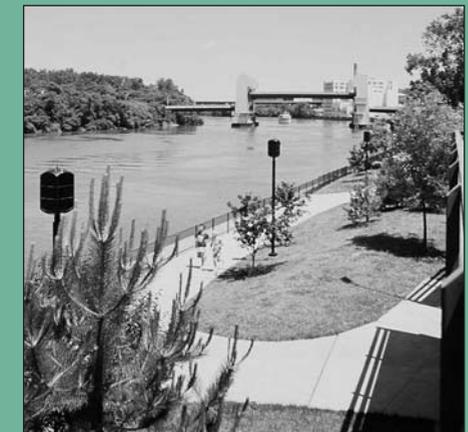
Carriage Road



Rail Trail



Footpath



Waterfront

Chapter 3 of this publication, beginning on page 14, addresses some common landowner concerns, including liability, privacy, vandalism, litter, safety, and other management issues.

A SIGNIFICANT LEGACY FOR FUTURE GENERATIONS

When you open a portion of your land to public use, you are bestowing a significant legacy that will enhance the quality of life in your community and the entire Hudson Valley today and far into the future. You will be creating a wonderful outdoor recreation amenity for you and your family without, in most cases, giving up any privacy, since

trails can be located, designed, and maintained to provide continued privacy to private landowners. You may even benefit from some improvements to your property, such as a bridge to a previously inaccessible portion of your land.

A major goal of establishing the Greenway Trail System is to help maintain the natural beauty and economic vitality of the Hudson River Valley. The Trail will help build appreciation for the region and the river. In sharing a small part of your land, you will help strengthen the resolve of others to help care for the magnificent resources found here. ■

Easing Into A Permanent Easement

John and Gloria Golden have lived along the Hudson River in Hyde Park for 28 years. They love the River and the woods along its banks...

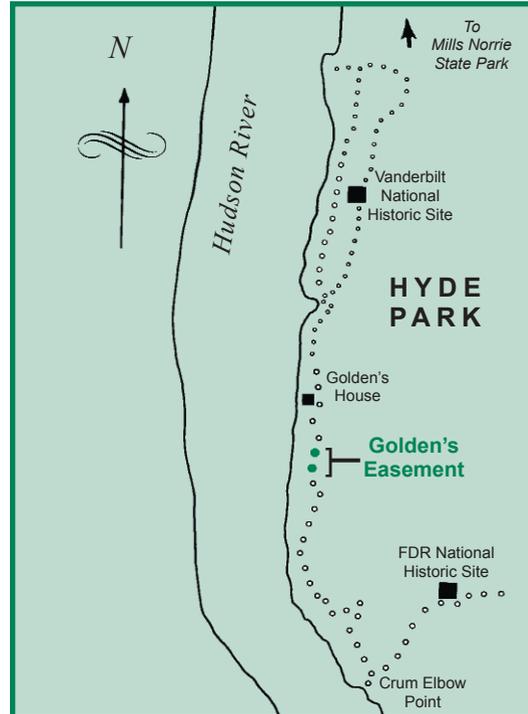
When they were approached in 1990 about allowing the Hyde Park Trail* – a 10-mile trail that connects the Roosevelt and Vanderbilt National Historic Sites – to cross their property, they were open to the idea but had some concerns about littering and illegal use of the trail by motorized vehicles. With this in mind, they granted a right-of-way trail easement on a ½-mile of woods road on their property that included a two-year renewable clause.

"The flexibility in the terms of the easement allayed our concerns and allowed us to test the waters," notes John.

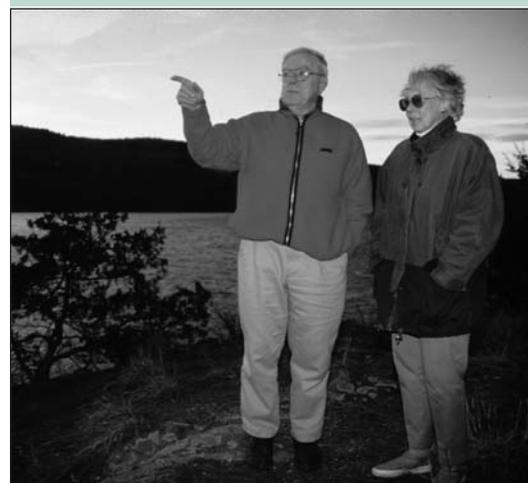
Now, after eight years of satisfaction with the trail as a neighbor, the Goldenes are taking steps to make the easement permanent. "Trail users are nice, responsible people. They take good care of the trail and respect the private residences along it. I'm happy to be able to share this marvelous place with as many people as possible," says John.

The Goldenes, natives of the area, are proud of the legacy they're leaving behind. "We feel that we've made a significant contribution to the community. And we think the community feels that way, too." ■

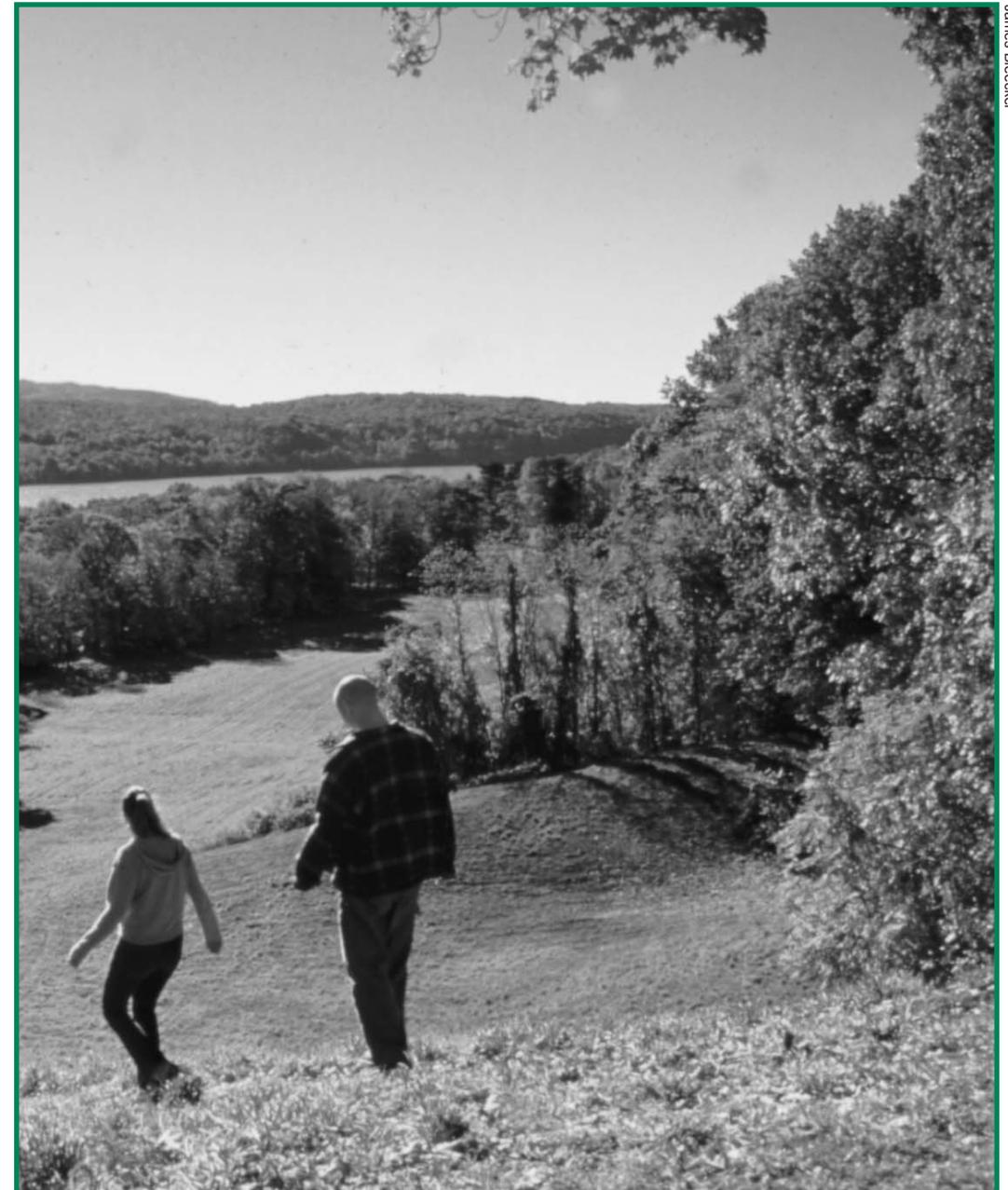
*The Hyde Park Trail was developed and is maintained through a partnership of the Hyde Park Recreation Department, Adirondack Mountain Club, Scenic Hudson, National Park Service, Boy Scouts, Hudson Valley Railroad Society and the Winnakee Land Trust. The Goldenes' easement is held by the Winnakee Land Trust.



The Hyde Park Trail is a 10-mile trail that connects the Roosevelt and Vanderbilt National Historic Sites with Val Kill.



James Bleecker



James Bleecker

"As Hudson River Valley landowners, we've enjoyed sharing our corner of the world with trail users who appreciate its beauty and value. We encourage you to join with others in your community, as we did, to further the Hudson River Valley Greenway Trail System, for yourself, your children, and your grandchildren."

~ John and Gloria Golden



“What a joy it is to feel the soft, springy earth under my feet once more, to follow grassy roads that lead to ferny brooks where I bathe my fingers in a cataract of rippling notes, or to clamber over a stone wall into green fields that tumble and roll and climb in riotous gladness.”

~ Helen Keller
deaf and blind American lecturer, 1880-1968

Landowner Opportunities

FLEXIBLE OPTIONS TAILORED BY YOU TO MEET YOUR PARTICULAR NEEDS

Landowners interested in opening a portion of their land to public use have a number of options. These range from a simple, informal handshake to granting an easement or donating property. Most of these alternatives derive from the many different interests an owner has in a piece of land.

Think of owning land as holding a bundle of rights. A landowner may sell or give away the whole bundle, known in legal terms as the "fee simple interest" or just one or two of those rights. These may include, for example, rights associated with the use of the land such as the right to hunt or walk on the property. As a landowner, you may extend one or more of these rights to the general public while retaining other rights and setting limitations on specific uses.

No two landowner situations are alike; each landowner will have different goals and concerns regarding trail development. That's why there are no set rules about how the Trail is planned, managed, or how trail access is obtained. The alternatives described here are flexible and can usually be creatively tailored to address your needs. Careful attention to the specifics of your situation, combined with guidance from your attorney and accountant, will likely yield the best results for you.

You have many alternatives when it comes to granting access to your property for a trail. If you are unsure about

establishing a public trail on your property, we encourage you to start with one of the less permanent options. Then, as your confidence and satisfaction with the trail and the partnership grows, you can consider committing to a more permanent arrangement.

WORKING WITH YOUR LOCAL TRAIL PARTNER

Different communities have created various trail committee and management structures. Therefore, the organization you will be dealing with regarding trail issues may differ from town to town and county to county. If you are considering allowing access to your land, you will most likely be discussing trail access alternatives and negotiating agreements with a representative from your local municipal government or local land trust, acting on behalf of the local trail committee.



HANDSHAKE AGREEMENT

While local trail partners welcome long-term agreements, they are often happy to accept a simple "handshake" agreement. This option gives you full freedom to cancel the agreement at any time. It also may provide a comfortable way for you to ease into a more long-term relationship with your local trail partner.

REVOCABLE WRITTEN AGREEMENT

You can grant a revocable agreement to your local trail partner to use part of your property for specific purposes. Such an agreement gives permission for



POSSIBLE LOCAL TRAIL PARTNERS

- Land Trusts
- Conservation Organizations
- Municipalities
- Counties
- Historical Societies
- Friends Groups
- Chambers of Commerce
- Town Recreation Committees
- Conservation Advisory Committees
- Town Trail Committees

a particular activity (hiking) or group of activities (hiking, bicycling, and cross country skiing) on your land without granting any permanent access to the land. It is a temporary agreement which can be revoked at any time if circumstances change.

EASEMENTS

Many landowners find easements one of the most flexible and adaptable alternatives. Easements also may offer significant tax and financial benefits (see page 21). Easements are voluntary legal agreements between you and a local trail partner which establish certain rights or restrict certain activities or land uses. Landowners retain full title to the land and are free to sell, lease, and mortgage their property and pass it on to their heirs. An easement is recorded with the property deed at your local county clerk's office.

Although the majority of easements are permanent, term-limited easements are possible. However, only perpetual conservation easements qualify a landowner for income and estate tax benefits. If an easement is to be amended in the future, the original easement must contain an amendment clause.

There are two types of easements most commonly used by private landowners: trail easements and conservation easements.

TRAIL EASEMENT

Simple right-of-way trail easements establish rights to use a defined trail or corridor for a specific recreational purpose or purposes. For example, a trail easement may extend a right to the general public to use a limited and defined portion of land for hiking and cross country skiing. In granting a trail easement, you can restrict the specific uses of the trail corridor or require the local trail partner, the holder of the easement, to meet special management requirements such as landscape screening.

Some landowners prefer floating trail easements, which allow trails to be relocated within a certain section of their property. That way, as the use of your land changes, the location of the trail can be changed to accommodate your needs.

CONSERVATION EASEMENT

Landowners who want to further protect their land and potentially receive tax benefits may want to consider conservation easements. Conservation easements protect wildlife habitat, farmland, wetlands, scenic areas, or other special characteristics of the property which the landowner wishes to preserve. Conservation-minded landowners who have a desire to protect and enhance these resources and let others enjoy them may want to consider



granting a conservation easement that also allows public use of a portion of the land for a trail.

Conservation easements can include any arrangements agreed to by the landowner and holder of the easement, including provisions for timbering, agriculture, and allowing a public access trail corridor. Conservation easements can create a very desirable trail buffer zone, protecting the trail from development and other uses incompatible with trail enjoyment, while providing the landowner with an extra measure of privacy from the trail.

For more information on conservation easements, contact the Greenway Conservancy, your local trail committee, or your local land trust. (See Appendix)

LAND SALES OR DONATIONS

Landowners may choose to donate or sell a portion of their land to establish a trail. In doing so, full ownership of the land, the fee simple interest, is transferred to the local trail partner, which then holds title to the land.

The ability of your trail partner to purchase land at full market value may be very limited. To facilitate a sale transaction, you may want to consider a "bargain" sale, in which you sell your land at less than its market value and donate the difference. You may also wish to consider donating full or partial interest in your land. Both bargain sales and outright donations may offer significant income, property, and inheritance tax benefits (see page 20).

LIFE ESTATE

Landowners may donate property to a trail partner and retain an interest in it that lets them continue to use it for the rest of their lives or some other fixed term. For example, Mr. and Mrs. Smith want to donate some of their property, part of which is an apple orchard, for use as a public trail. They can donate the land, yet still retain the right to maintain and harvest the apple trees until they die. ■

Samples of revocable letters of agreement, trail easements, and conservation easements can be found in the Appendix, page 30.

Developer Views Trails As Quality of Life Amenity

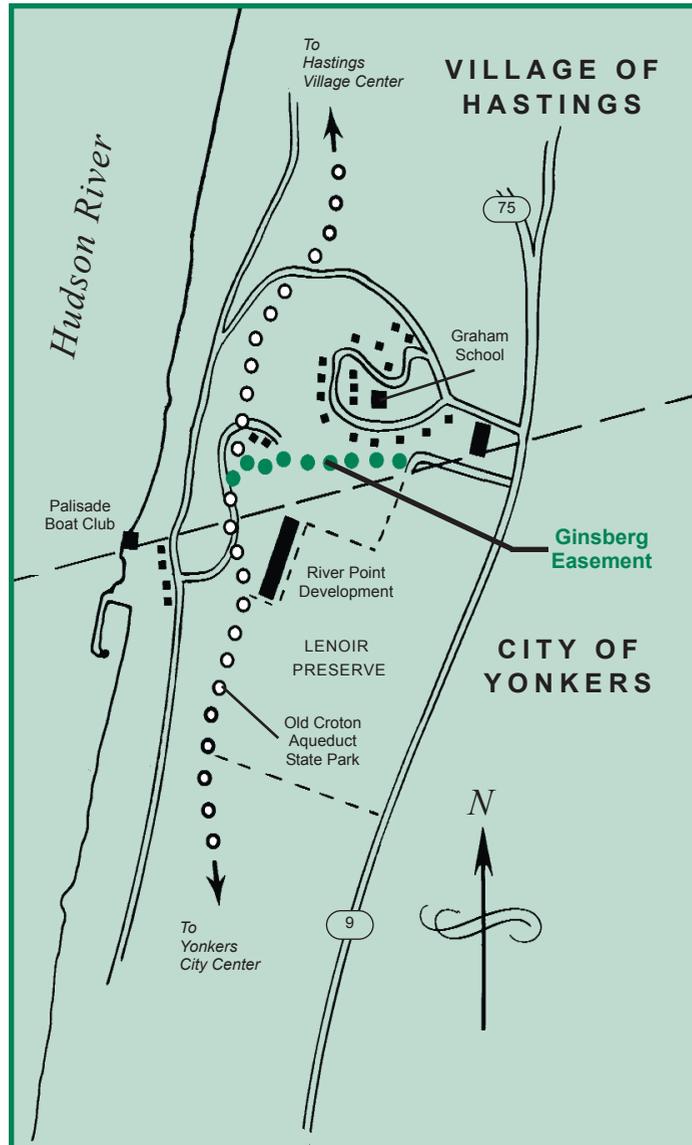
Martin Ginsburg, owner of Ginsburg Development Corporation, a high-end residential development company based in Westchester County, considers himself a community builder...

All of his projects contribute to the community in a big way. Among the contributions of a recent project in the Village of Hastings is an easement which allows a trail to be built linking two nearby open space resources: Old Croton Aqueduct State Historic Park and a Village park.

River Point, a development of one- and two-family homes, is located close to Old Croton Aqueduct, a 26-mile multi-use trailway owned and managed by the NYS Office of Parks, Recreation and Historic Preservation. The Aqueduct is designated as part of the Hudson River Valley Greenway Trail System.

Mr. Ginsburg views trails as an important quality of life amenity. His company highlights the proximity of Old Croton Aqueduct in its marketing to prospective buyers and actively promotes it in the welcome packet new owners receive.

"Trails provide recreational opportunities which enable people to live a healthier lifestyle. In addition, longer regional trails help create an identifiable sense of

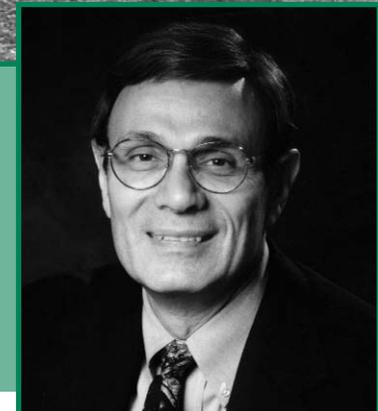


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"Trails provide recreational opportunities which enable people to live a healthier lifestyle ..."

~ Martin Ginsburg



place," says Mr. Ginsburg.

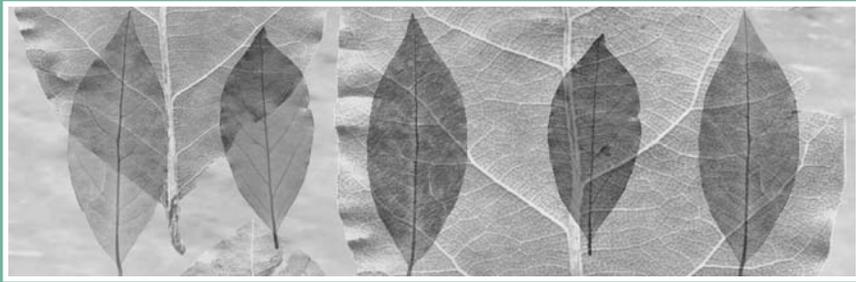
Mr. Ginsburg's intrinsic understanding of the value of trails prompted him to work with the community to create more trail linkages within Hastings. A Village Trail Committee, with the help of the Greenway Conservancy, had developed a community-wide trails plan that included using one of River Point's borders as a link between Old Croton Aqueduct and a Village park.

Mr. Ginsburg, always looking for ways to promote trails and create linkages, liked the idea and deeded an easement to the Village. He also included a provision in the official offering to buyers which allowed development of a trail through or adjacent to lots.

Later, when one of the residents expressed concern about how close the trail was to his backyard, Mr. Ginsburg worked with the Trail Committee to erect a fence that more clearly defined the public area.

"A common concern about trails is security," notes Mr. Ginsburg. "Often, however, perceptions don't jive with reality. Any negative incidents that occur on a trail are almost certainly less than would occur on nearby streets which are just as publicly accessible."

"I use the Aqueduct. People who use local trails are mostly people who live in nearby communities," concludes Mr. Ginsburg. ■



“Successful greenways grow out of the grassroots. They depend on local enthusiasm, local money, local leaders, local priorities, local agreements and local governments. They depend on highly motivated volunteers including individuals, groups and businesses. They are dependent, in short, on a strong sense of community responsibility and on the willingness of each community to link its destiny to that of its neighbors.”

~ David Burwell
President, Rails-to-Trails Conservancy, 1996

Financial Issues and Potential Tax Benefits

Easements, land donations, and bargain sales may offer you reductions on federal and state income taxes, as well as on federal estate taxes and local property taxes. In some situations, donations and bargain sales may generate tax benefits that equal or outweigh what you may receive in a conventional sale.

It's important to keep in mind that tax benefits are not guaranteed and depend on a variety of factors, including surrounding real estate values, local development pressures, and variable market and assessment issues affecting property. However, many landowners have realized substantial tax savings from easements, donations, and bargain sales.

Before a donation takes place, landowners should get an appraisal from a NYS-certified appraiser.

An appraisal establishes the property's fair market value, the value of the trail corridor, and the tax benefits you may enjoy from the transaction. Landowners generally bear the cost of an appraisal, but can include it and other costs associated with completing the transaction in the value of the charitable gift or, if applicable, deduct it as a business expense. Landowners are responsible for complying with current tax regulations, obtaining a qualified appraiser, and supporting the value of the donation. However, your local trail partner – the recipient of your generous donation – can help guide you through the process.

In addition, be sure to seek the advice of other professionals, such as your accountant and attorney.

EASEMENTS

A conservation easement qualifies as an income tax-deductible charitable gift as long as it is perpetual and is donated "exclusively for conservation purposes" to a qualified recipient, as defined by Internal Revenue Code Section 170 (h). According to the Code, "the preservation of land areas for outdoor recreation by, or the education of, the general public" is considered a conservation purpose.

To determine the value of a conservation easement, the appraiser determines the fair market value of the property with and without the easement in place. The difference between the

two is the value of the easement. For example, Mr. and Mrs. Smith own 100 acres of woodland with a fair market value of \$200,000. They decide to donate a conservation easement to their local land trust which limits future development to two additional residences and establishes a 25-foot wide public access corridor with a trail located within the corridor. An appraiser determines the fair market value of the property with the easement to be \$150,000. Thus, the gross amount of the Smiths' donation is \$50,000, which can be used to reduce the Smiths' adjusted gross income for tax purposes.



A gift of an easement may also help reduce estate and inheritance taxes on your property and may lead to a reduction in real property taxes. It's a good idea to meet with your local assessor to discuss this potential benefit.

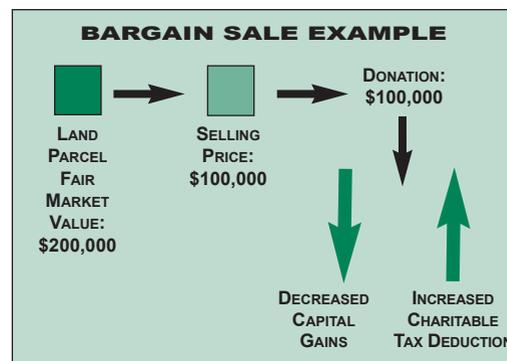
DONATIONS OR BARGAIN SALES OF LAND

An outright donation of land offers the maximum tax advantages, since you may be able to claim a tax deduction based on the full appraised value of your land. A gift of land also offers potential estate tax benefits. Donations and bargain sales may generate tax benefits that equal or outweigh what you may receive in a conventional sale.

A bargain sale is part donation and part sale and may entitle you to an income tax deduction for a charitable contribution and a reduction in capital gains tax. Capital gains must be calculated on the sale part of any transaction. A gain is recognized if the property is sold for more than its basis, usually equal to the original cost, plus improvements and minus depreciation. For bargain sales, the basis of the property must be allocated proportionately between the part sold and the part donated.

For example, Mr. and Mrs. Smith own a parcel of land with a fair market value of

\$200,000. Under a bargain sale, they might sell the property for \$100,000, thereby "donating" the remaining \$100,000. This would greatly decrease their capital gains tax and provide them with a \$100,000 charitable tax deduction which will offset a varying percentage of their adjusted gross income for the current year and five subsequent years (see *Tax Deduction Sidebar*.)



TRAILS AND PROPERTY VALUES

Many landowners are concerned about the impact that a trail might have on the value of their property. National studies undertaken to assess impacts of trails on property value have found that property values typically increase slightly or remain constant. For example:

■ A 1993 National Park Service study conducted by the Pennsylvania State

University and U.S. Department of the Interior, which conducted interviews with 663 property owners and 71 realtors and property appraisers along three trails, concludes that trail development does not have adverse effects on property values.

■ A 1998 study prepared by the Schenectady County Department of Planning on the impact of the 35-mile Mohawk-Hudson Bike-Hike Trail on adjoining residential properties concluded that, out of the 215 adjacent landowners who responded to the survey, the majority believed the trail increased or had no effect on the value of their property. In addition, 86 percent of landowners felt that the trail increased or had no impact on their ability to sell their homes.

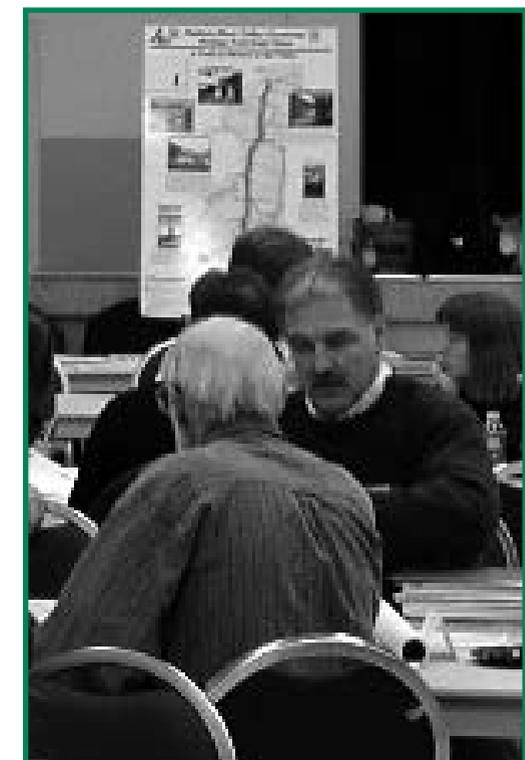
■ In Minnesota, a 1997 study on adjacent property owner perceptions of a trail within the Minneapolis/St. Paul area found that the majority of respondents thought the trail would increase or not affect the resale value of their property.

■ A 1997 survey of residents along the Iron Horse Trail in Contra Costa County, California found that one-third of the respondents bought their homes, in part, because of the trail. Most of the other respondents said the trail was neither a positive or negative factor in their decision to buy their homes.

Your trail partner or the Greenway Conservancy will be happy to provide you with a copy of these and other relevant studies.

SEEK PROFESSIONAL ADVICE

Because each landowner's tax situation is unique, you'll want to obtain up-to-date tax and legal advice from experienced professionals to accurately evaluate the tax benefits of any land transaction. Your local trail partner or land trust may be able to help and suggest professionals with experience in these types of land transactions. ■



TAX DEDUCTION DETAILS

Deductions for charitable contributions by individuals are currently limited to 30 percent of the taxpayer's contribution base (usually the same as the tax payer's adjusted gross income) in the year of the gift and for up to five years following the donation. The deduction must be claimed up to the maximum amount each year before carrying any unused portion forward. Rules for land owned by estates, trusts, partnerships, and corporations may be different.

On gifts of appreciated property, you can deduct up to 50 percent of your contribution base in the year of the gift if the amount of the gift is reduced by the unrealized appreciation on the donated property. Any unused portion of the gift can be carried forward and up to 50 percent of the remainder deducted in each of five subsequent tax years. ■

GETTING THE APPRAISAL RIGHT

Internal Revenue Service (IRS) regulations require that all charitable contributions worth over \$5,000 must be valued by a qualified appraiser. The IRS Code defines a qualified appraiser as one qualified to make appraisals of the type of property donated, but who is not one of the following: the taxpayer, a party to the transaction in which the taxpayer acquired the property, the public agency or non-profit organization (local trail partner) receiving the donation, any person employed by or related to any of the foregoing persons, and any person whose relationship to the taxpayer would cause a reasonable person to question the independence of the appraiser.

The appraisal must be made no more than 60 days before the contribution date and no later than the due date for that year's tax return. An appraisal summary (*IRS Form 8283*), must be attached to the landowner's tax return and signed by the appraiser and the recipient of the donation. ■

Strong rural ethic behind permission for trail to cross private land

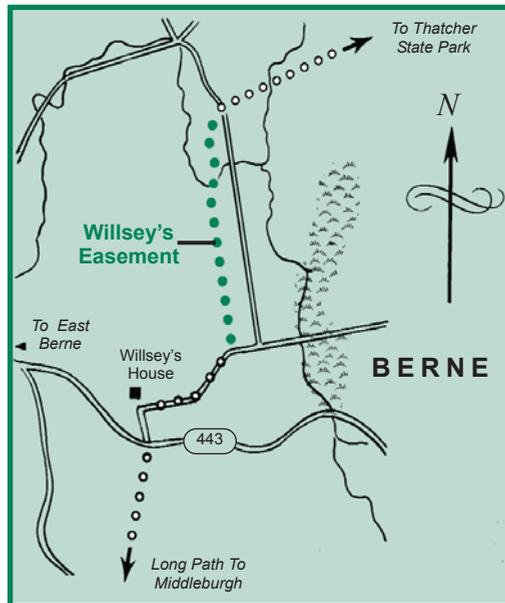
When advocates for the 300-mile Long Path in eastern New York first approached Mike Willsey about granting access to his land in 1993, they found a ready listener.

Mike, a 70-year-old retired farmer and a lifelong resident of rural East Berne in Albany County, had recently become interested in hiking, mostly in the Adirondacks, and liked the idea of walking out his door onto a trail.

Mike's main concern was liability, but after learning about the protection New York's Recreational Use Statute affords residents who allow recreational use of their land, he felt more comfortable.

Mike not only granted access, in the form of a revocable written agreement, but he personally contacted eight of his neighbors to convince them to grant access. Among these neighbors was a religious camp and several individuals with very large land holdings. Three weeks later, he had his neighbors' permission and more than 20 miles of trail.

"If there's a secret to my success, it's to live in a place for 70 years and then ask permission," laughs Mike.



The Long Path is located in Eastern New York beginning on the Jersey side of the George Washington Bridge and ending just north of Thatcher State Park in Albany County.

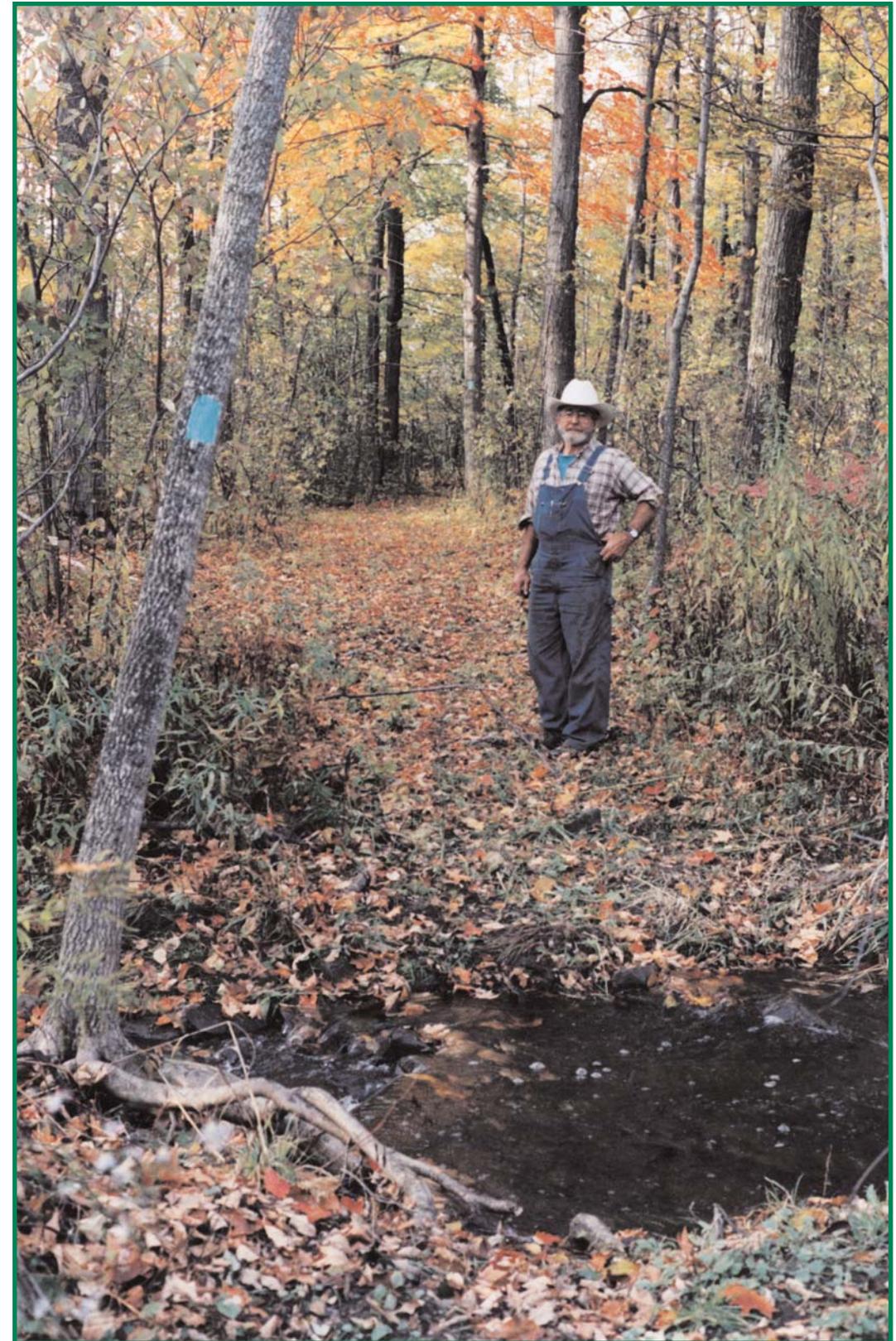
The trail has become a real community effort. Local brownie and 4-H groups conduct regular trail clean-ups as community service projects.

Mike attributes his achievement, in part, to a strong rural ethic that traditionally has allowed access to private property for hunting and fishing.

The trail has become a real community effort. Local brownie and 4-H groups conduct regular trail clean-ups as community service projects. (Mike notes that almost all litter is found along public roads rather than on the trail.) Also, as a result of the interest in the trail, the town of East Berne is acquiring open space easements to preserve the rural and agricultural character of the community.

Mike and his wife, Wilma, enjoy the contact with trail users and, as the trail goes right by their mailbox, they frequently get a chance to chat with hikers.

"We've found that people are at their best when on a trail. Hikers just don't cause any trouble," says Mike. "We've met a lot of really great people through the trail and our involvement with it." ■



*The Willsey's revocable written agreement is held by the NY/NJ Trail Conference, a federation of hiking and environmental organizations and individuals dedicated to building and maintaining trails and protecting open space in the New York-New Jersey region.



“People are different on a path. On a town sidewalk strangers may make eye contact, but that’s all. On a path like this they smile, say hello, and pet one another’s dogs. I think every community in America should have a greenway.”

~ Anne Lusk

Vermont [Stowe] greenway advocate, 1990

Addressing Common Landowner Concerns

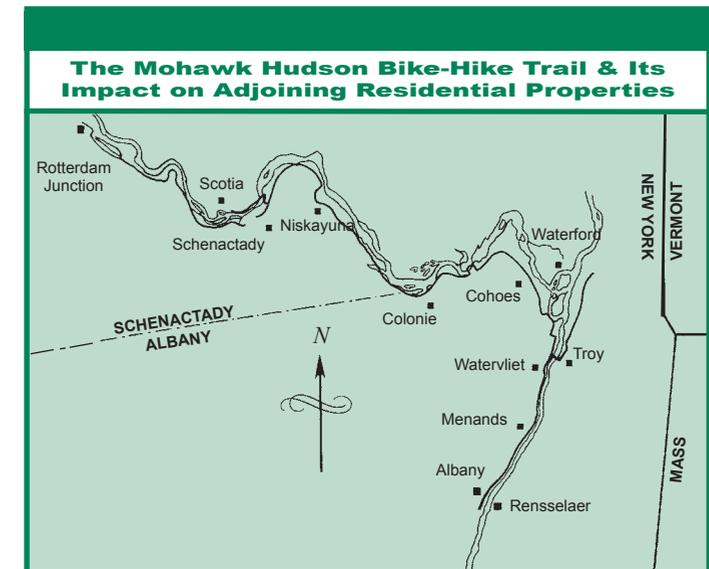
Many landowners support the community trail concept but remain concerned about liability, vandalism, litter, privacy, and other management issues. Experience and numerous studies have shown these issues to be more perceived problems than actual problems. Nevertheless, the Greenway Conservancy and your local trail partner respect your concerns as a landowner and will work with you to plan, build, and manage the trail to minimize potential problems and maximize compatibility with your use of adjacent land.

TRAILS MAKE GOOD NEIGHBORS

Studies documenting actual experiences from around the nation and New York State demonstrate that well-planned and designed trails can be good neighbors and that living with trails can be highly rewarding. In the 1998 survey of residents along New York’s Mohawk-Hudson Bike-Hike Trail, the majority of respondents reported being satisfied with the trail as a neighbor.

LIABILITY

In thinking about whether to allow a trail to cross your land, it's only natural for concerns about liability to



A survey of residential property owners' perspectives regarding an adjacent multi-use recreational trail's impact on their lives and property

Following is a summary of a 1998 survey prepared by the Schenectady County Department of Planning on landowners' views of the Mohawk-Hudson Bike-Hike Trail, a 35-mile long multi-use trail that travels along the shores of the Mohawk and Hudson Rivers through the Counties of Schenectady and Albany.



surface. You may wonder, "What if someone gets hurt? Can I be sued? Does my insurance cover this?" Luckily, mechanisms exist in New York to protect landowners.

New York's Recreational Use Statute (*NYS General Obligations Law subsection 9-103*) limits the liability of landowners who voluntarily allow access to their land for certain recreational activities. These recreational activities include the most common trail activities such as hiking, bicycle riding, horseback riding, and cross-country skiing. The Recreational Use Statute offers an important measure of landowner liability protection.

The law applies to landowners whether or not they grant permission for use of their property, as long as the following two conditions exist: they do not charge a fee and do not maliciously fail to guard against hazards. If these conditions exist, the liability of landowners who allow access is no greater than landowners who post their property against trespass.

While the Recreational Use Statute provides protection from liability, nothing can prevent a suit from being brought against a landowner, even if it turns out to be groundless. Fortunately, homeowner insurance usually provides coverage to the owner if someone is injured on the property whether or not the person has permission to be there. If someone is hurt and makes a claim, the insurance company will "defend" the insured owner, which means that the company will select an attorney and handle any litigation. The concept of "residence" is usually interpreted broadly and includes surrounding grounds, other structures, and vacant land, as long as it is not actively farmed or used for timbering purposes. Landowners conducting active farming or timbering operations usually have farm owner commercial liability insurance.

The combination of the recreational use statute and coverage available to landowners in their own insurance poli-

cies provide a solid shield against the risk of litigation. In addition, your local trail partner should have liability or self insurance and may be able to name you as an "additional insured" on its policy. You may want to consult a lawyer for more detailed information and advice for your particular situation.

The Greenway Conservancy can provide a summary of the relevant case law to guide landowners and their lawyers toward an accurate understanding of the current state of the law.

SAFETY

Trails have excellent safety records compared to other public and private places. Although landowners are often apprehensive about trails bringing an increase in crime, four separate studies conducted between 1979 and 1997 on various trails across the country concluded that landowners adjacent to trails experience negligible crime as a result of trails. A 1998 study of 372 rail-trails nationwide – together totaling more than 7,000 miles of trail and more than 45 million estimated annual users – found that trails are among the safest places in communities. As for the safety of trail users, a study of the 1800-mile Appalachian Trail found that a person was more likely to be struck by lightning than be a crime victim on the trail.

Safety plans, including emergency response strategies, are an intrinsic part of any trail management plan and should be in place before opening the trail to the public. Your local trail partner will probably monitor the trail or arrange with another authority, such as the County Sheriff or local police, to monitor it. In many cases, community volunteers monitor, as well as maintain, local trails. Experience has shown that involved neighbors and nearby landowners, acting as the trail's local "eyes and ears," play a key role in maintaining a safe, enjoyable trail.

PRIVACY AND TRESPASSING

Trail use is a very directed, "through" activity, which means trail users tend to stay on a

trail and not loiter or enter adjacent property. In addition, trail users are usually respectful of private property and landowner privacy.

Your local trail partner will work with you to minimize the trail's impact on your activities and property by siting the trail away from areas of concern such as residences, agricultural fields, or other intensive-use areas. Trails are often located along property boundaries to provide optimum landowner privacy.

Natural barriers, topography, landscaping, and fencing, when necessary, can also buffer your residence and activities from trail users. Your local trail partner will also work with you to ensure that permitted trail uses comply with your wishes.

Education of trail users can prevent many trail problems. Your local trail partnership will help reinforce awareness of landowner concerns and trail use ethics. Trail users will be directed, through signs and printed material, to respect private property by entering at designated access points, staying on designated trails, and carrying out their litter. Your trail partner will let trail users know that public use of private lands is a privilege and that it is only through the generosity of private landowners such as yourself that many trails exist. In addition, the need for personal stewardship, for users to accept an ethical responsibility to the land and landowners and to care for the trail as if it were their own property, will be stressed. This type of personal appeal has worked successfully on many other trails.

A COMMITMENT TO MAINTAINING TRADITIONAL LAND USES

The Greenway Conservancy encourages local trail partners to maintain and foster traditional uses of the land such as agriculture, forestry, hunting, trapping, and fishing. Trails can be compatible with these uses and can serve to educate others about the

many productive uses of the land. Signs and publications can contain special instructions concerning these uses.

LITTER AND VANDALISM

Most trail users are respectful and considerate of private property. As outdoor enthusiasts, they are interested in preserving the natural beauty of the area and maintaining recreational access to the landscape. Many trail users are in the habit of carrying trash



James Blecker

bags with them, for their own use and to pick up other litter; many report that lately there has been far less trash to pick up. Proper signs, maintenance, and monitoring by your local trail partner and local volunteers can help promote well-kept trails.

MANAGEMENT RESPONSIBILITIES

As a landowner, you will be an active participant in all management decisions. Your local trail partner will usually be responsible for trail management and maintenance, including clearing, surface restoration, signs, monitoring, and safety, and will work closely with you in developing management and maintenance plans for the section of trail. Many trails are effectively managed through partnerships between landowners, private volunteers associated with a trails organization or friends group, and local and regional government. For example, the New York-New Jersey Trail Conference, a federation of more than 85 hiking clubs and environmental organizations and 10,000 individuals dedicated to building and maintaining marked hiking trails and protecting related open space in the bi-state region, has constructed and maintained over 2,000 miles of trails throughout the Hudson River Valley. Many shorter trails, such as the community trails in Nelsonville and the Horseman's Trail in Sleepy Hollow, also enjoy strong volunteer participation. ■

Resource Appendix

PUBLICATIONS

AASHTO Task Force on Geometric Design. *Guide for the Development of Bicycle Facilities*. Washington, D.C.: American Association of State Highway and Transportation Officials, 1999.

American Trails. *Trails for All Americans*. Washington, D.C.: National Park Service, 1990.

Birkby, Robert C. *Lightly on the Land – The SCA Trail Building & Maintenance Manual*. Seattle: Student Conservation Association / The Mountaineers, 1996.

Current Planning Guidelines and Design Standards Being Used by State and Local Agencies for Bicycle and Pedestrian Facilities. Case Study No. 24 of the National Bicycle and Walking Study. Washington, D.C.: The Federal Highway Administration, 1992.

Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors, 3rd ed. Washington, D.C.: National Park Service - Rivers, Trails and Conservation Assistance Program, 1992.

Feeney, Stephen J. *The Mohawk-Hudson Bike-Hike Trail – Its Impact on Adjoining Residential Properties*. Schenectady: Schenectady County Department of Planning, 1997.

Flink, Charles A., and Robert M. Searns. *Greenways – A Guide to Planning, Design, and Development*. Washington: The Conservation Fund / Island Press, 1993.

Flink, Charles A., et al. *Trails for the Twenty-First Century – Planning, Design, and Management Manual for Multi-Use Trails*, 2nd ed. Washington: Rails-to-Trails Conservancy / Island Press, 2001.

Greenway Connections – Greenway Compact Program and Guides for Dutchess County Communities. Poughkeepsie, NY: Dutchess County Department of Planning, 2000.

Greenway Conservancy for the Hudson River Valley. Getting Started – A Guide to Organizing and Planning Community Trails. Albany, NY: Greenway Conservancy, 1996.

Greenways & Trails – Bringing economic benefits to New York. Albany, NY: New York Parks & Conservation Association, 2000.

Labaree, J.M. *How Greenways Work: a handbook on ecology*. Ipswich, MA: National Park Service and Atlantic Center for the Environment, 1992.

Lagerway, Peter. *Evaluation of the Burke-Gilman Trail's Effect on Property Values and Crime*. Seattle: City of Seattle Engineering Department, 1987.

Moore, Roger L., et al. *The Impacts of Rail-Trails: A Study of the Users and Property Owners from Three Trails*. Washington D.C.: National Park Service – Rivers, Trails and Conservation Assistance Program, 1992.

Proudman, Robert D., and Reuben Rajala. *Trail Building and Maintenance*, 3rd ed. Boston: Appalachian Mountain Club, 1996.

Ronkin, Michael. *Oregon Bicycle and Pedestrian Plan – An Element of the Oregon Transportation Plan*. Salem, OR: Oregon Department of Transportation, 1995.

Trails and Wildlife Task Force. *Planning Trails with Wildlife in Mind – A Handbook for Trail Planners*. Denver: Colorado State Parks / Hellmund Associates, 1998.

US Department of Agriculture. *Standard Specifications for Construction and Maintenance of Trails*. Washington, D.C.: Government Printing Office, 1996.

SAMPLE ACCESS AGREEMENTS

REVOCABLE TRAIL ACCESS AGREEMENT

[Date]
[Grantor of Access / Landowner]
[Address]
[City, NY Zip]

Dear _____:

Thanks in large part to the cooperation and support we have received from you, [Grantor / Landowner of Access], the [name of newly established trail] has now become a reality. The [name of local trail group, municipality, or land trust] is truly appreciative of the level of trust and cooperation you have given us.

The trail corridor now being created will follow the designated flagged path previously agreed to, taking care to not disturb any wetlands or other vital habitats in any manner or otherwise interfere in your operations or use of the property. Any changes that may be required will be cleared with you first, and if parking areas seem necessary, they will be built with your approval and direction. The route will be marked by the agreed to trail markers in a way that will not harm the tree, and all signs will be submitted for your approval. The path will be checked by [list organization, land trust, individual who will take on maintenance of the trail] on a regular basis to assure that it remains clean and in good condition.

This letter will serve as a revocable agreement that can be modified or terminated at your request. This agreement also recognizes that both you and we are relying on the protections afforded under the New York State General Obligation law § 9-103.

We look forward to a long and mutually beneficial partnership in the true sense of the word. Our continued thanks for your help. Should you decide to amend or suspend the agreement you agree to give our group 30 days notice so that appropriate provisions for trail continuity and accommodation of trail users can be made.

Most sincerely,

[name of representative of local trail group, municipality, or land trust] ■

PERPETUAL TRAIL RIGHT-OF-WAY EASEMENT

TRAIL RIGHT OF WAY EASEMENT

This right of way easement is made and entered into this ___ day of _____, 200_, by and between [Grantor] a [describe Grantor's legal status (i.e.: a limited partnership)] having an address at (or whose principal office is at) [address] shall be referred to as the "Grantor," and [Grantee]

a [describe Grantor's legal status (i.e.: a limited partnership)] having an address at (or whose principal office is at) [address] shall be referred to as the "Grantee," and

RECITALS

Whereas Grantor is the sole owner in fee of certain real property consisting of approximately ___ acres in the [describe municipality], County, State of New York, known at the time of this grant as ___, Tax Parcel #_____, and more particularly described in SCHEDULE A.

Whereas Grantee is [describe grantee's organizational connection in accepting the easement]

Whereas Grantor desires to grant to Grantee a right-of-way easement across those portions of the Servient Estate (the "Trail") and more particularly described in SCHEDULE B to create a trail (the "Trail"), the Grantee desires to accept said easement.

Whereas the Trail is intended to provide Grantee and the general public with physical and visual access to the economic, cultural, scenic, historic and natural resources of the Hudson River Valley and also to enhance local and regional hiking and recreational opportunities through enjoyment of the [local trail name] as part of the Hudson River Valley Greenway Trail System.

Now, Therefore, The grantor, in consideration of \$10.00 and other good and valuable consideration, given by the grantee to the grantor, receipt of which is acknowledged does agree:

1. Grant of Easement. Grantor hereby grants, transfers and conveys to Grantee, for the benefit of the Grantee, [name associated parties/partners], and the public, a non-exclusive easement and right-of-way (the "easement") for ingress, egress and access by Grantee and the public over and across the parking area of the servient estate for the purpose of gaining access to adjoining properties.
2. Purposes, Conditions, Restrictions, Reserved Rights.
 - (A) The Easement is established for the sole purpose of right of through access for pedestrian users of the [local trail name] for quiet, non-motorized passive recreational trail purposes by the general public, including but not limited to such activities as hiking, walking, jogging, running, skiing, bird watching, and snowshoeing. Permitted uses shall not include [determined in agreement with landowner] Grantee shall have the right to regulate or restrict uses (including but not limited to those specific uses listed above), which Grantee determines to be unsafe or otherwise detrimental to the continued use, vitality, or condition of the Trail.
 - (B) The location of the Trail on the Servient Estate may be changed from time to time, with the written consent of both parties. Any such change shall be recorded in the official records of the Office of the Clerk of _____ County, New York State. All costs in connection with such change shall be borne by the party that initiates the change.
 - (C) The easement does not convey any right for the general public to use parking spaces on the servient estate in order to access to the trail.
3. Term. The easement shall be perpetual in term.
4. Reliance upon State Law. Grantor and Grantee agree that in creating this easement for public access that each party is relying on the protection against liability contained in section 9-103 of the New York General Obligation Law (the recreational use statute), as the same may be amended from time to time, and that for such purposes both the Grantor and the Grantee shall be deemed "occupants" of the area of the easement as designated above. Notwithstanding the foregoing, any repeal or amendment of that section 9-103 which may diminish its protective effect shall not affect the validity of the easement of way herein granted
5. Construction & Maintenance. If and when the Public Access Area shall be opened for public use,
 - (A) Grantee or its designee(s) in cooperation with the [local designated maintainer] shall at all times be responsible for marking or signing the Trail, at its sole cost and expense, in a manner approved with the written consent of both parties.
 - (B) Grantee's regulations for the use of same will prohibit [determined in agreement with landowner]
 - (C) Grantee or its designee, in its sole discretion, shall have the right to suspend public use of the Trail Easement from time to time.
6. Assignment of Duties. Upon written notice to Grantor, Grantee shall have the right to assign its responsibilities for management, maintenance, insurance, and other duties under this agreement to an agency of government or a qualified not-for-profit entity, as the Grantee may determine in its sole discretion, or to another person, association, or organization reasonably acceptable to Grantor. The person(s) or entity accepting such an assignment shall be deemed to have assumed all of Grantee's obligations pursuant to this agreement throughout the period that assignment remains in effect.
7. Insurance and Liability. Grantee agrees to maintain at all times during which the Trail Easement Areas is open for public use a standard policy of general commercial liability insurance with respect to the Trail Easement Areas having a coverage limit not less than \$ ___000,000, adjusted upon request of the Grantor, not more frequently than every five years, to an amount equivalent to that sum in 200__ Dollars. Grantee shall cause Grantor to be named as an additional insured on its said policy of municipal insurance for the purpose of the Trail.
8. Amendment, Variance, and Waiver. This agreement may be amended from time-to-time upon the written consent of Grantee and Grantor. Consent to any amendment, variance or waiver shall be in the discretion of the Grantee, shall be consistent with the Right of way Easement referred to above; any amendment, variance or waiver which does not comply with these statutes shall be void and shall have no force or effect.
9. Enforcement. The parties may enforce this agreement in law or equity, against any or all persons responsible for any violation thereof. Failure to enforce any provision herein contained shall in no event be deemed a waiver of a right to do so thereafter as to the same violation or breach or as to any violation occurring prior or subsequent thereto.
10. Severability. Invalidation of any provision of this Easement of Way by court order, judgment, statute, or otherwise shall not affect the validity of any other provisions of this agreement, which shall remain in full force and effect.
11. Easement Runs with the Land; Binding Effect on Successors and Assigns. The provisions of this easement shall run with the servient tenement in perpetuity and shall bind and be enforceable by and against the parties and all subsequent owners, successors and assigns of the servient tenement or any portion thereof. As used in this agreement, the term, "owner," includes the owner of any legal of beneficial equitable interest in the subject property or any other portion thereof; the terms, "Grantor," shall include the original Grantor and the heirs, successors, and assigns of the partners, and all future owners of all or any portion of the subject property; and the term "Grantee," includes the original Grantee and it's successors and assigns. Notwithstanding the foregoing, no party shall be liable for a breach of this agreement resulting from acts or conditions occurring prior to or after the period of his or her ownership.
12. Governing Law. This Right of way Easement shall be governed by and construed in accordance with the laws of the State of New York. ■

CONSERVATION EASEMENT WITH TRAIL ACCESS

TRAIL ACCESS CONSERVATION EASEMENT

This trail access conservation easement is made and entered into this ___ day of ____, 200_, by and between [name of Grantor; donor of the easement] a [describe Grantor's legal status (i.e.: a limited partnership)] having an address at (or whose principal office is at) [address] shall be referred to as the "Grantor," and Greenway Conservancy for the Hudson River Valley, Inc. a public benefit corporation created under section 44-0101 of the New York State Environmental Conservation Law which were established under the Laws of 1991, c. 748, having an address at Capitol Building, Capitol Station, Room 254, Albany, New York 12224, shall be referred to as the "Grantee".

RECITALS

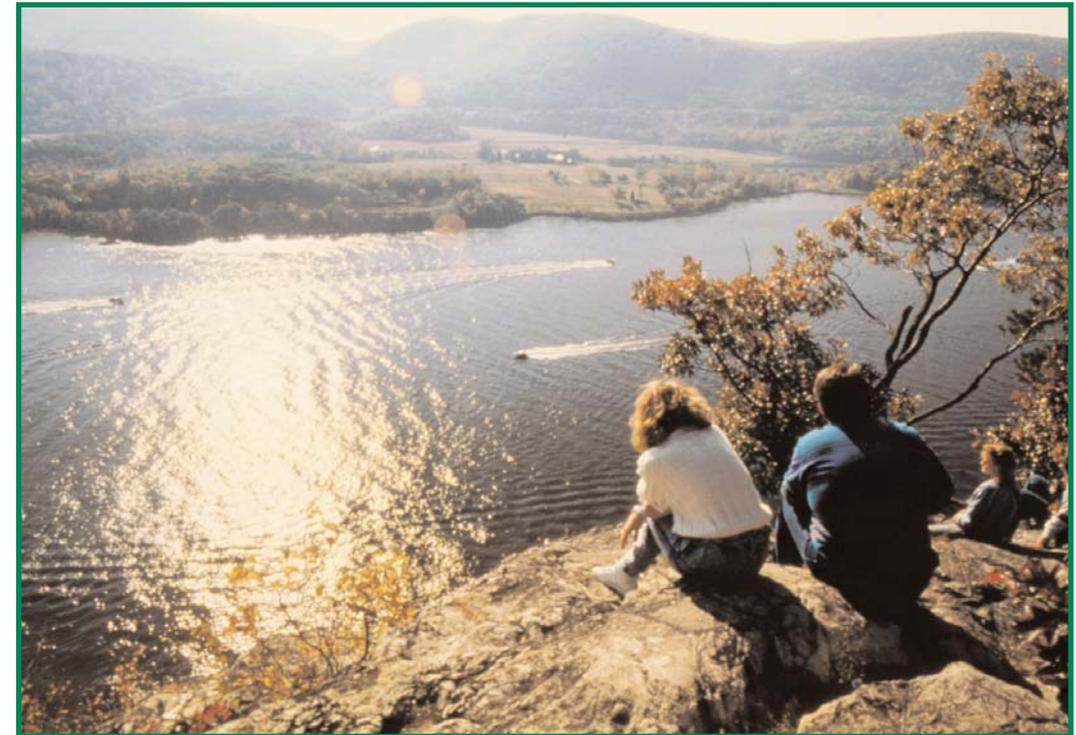
Whereas Grantor is the owner of certain real property commonly known as [name of property if relevant] located at [address including the county], and more particularly described as [set forth legal description including reference to recorded map].

Whereas Grantee is [description of the public body or not-for-profit conservation organization as well as purpose of the organization if relevant] Whereas Grantor desires to grant to Grantee an easement across that portion of the Servient Estate (the "Trail Easement Area") to create a trail (the "Trail"), the Grantee desires to accept said easement.

Whereas the Trail is intended to provide Grantee, [list any other relevant party] and the general public with visual access to the Hudson River and also to enhance local hiking and recreational opportunities. [or whatever else may be appropriate]

Now, Therefore, in consideration of \$____, the foregoing recitals, the covenants herein set forth and other good and valuable consideration, the recipient and sufficiency of which are hereby acknowledged, the parties agree as follows.

1. Recitals. Each and every recital and representation of the respective parties set forth above, including those contained in the conservation easement, is relied upon by the parties as part of the consideration for the grant of rights and restriction of uses hereinafter contained and are incorporated herein with the same effect as if restated in their entirety.
2. Grant of Easement. Grantor hereby grants, transfers and conveys to Grantee, for the benefit of the Grantee and the public, a non-exclusive easement and right-of-way (the "easement") for ingress, egress and access by Grantee and the public over and across the trail easement area.
3. Purposes. The Easement is established for [specify permitted activities]. Such permitted uses shall not include [specify]. Grantee shall have the right to regulate or restrict uses (including but not limited to those specific uses listed above) which Grantee determines to be unsafe or otherwise detrimental to the continued use and vitality of the trail or the condition of the Trail Easement area.
4. Definitions.
 - a.) conservation easement - shall mean a voluntary agreement between parties to restrict the use of real property by providing public access trails. This statutorily created device is meant to encompass the entire area being conveyed by the grantor, which incorporates any trail corridor, or public access area, buffer area, or public education facility that may exist.
 - b.) public access area - shall mean any area of the conservation easement that is open the public such as the trail corridor, public education facility or parking facility.
 - c.) trail corridor - shall mean a narrow tract of land forming a passageway that shall be used for specified recreational trail activities.
5. Reliance upon State Law. Grantor and Grantee agree that in creating this easement for public access that each party is relying on the protection against liability contained in section 9-103 of the New York General Obligation Law (the recreational use statute), as the same may be amended from time to time, and that for such purposes both the Grantor and the Grantee shall be deemed "occupants" of the area of the easement as designated above. Notwithstanding the foregoing, any repeal or amendment of that section 9-103 which may diminish its protective effect shall not affect the validity of the easement of way herein granted
6. Maintenance. If and when the Public Access Area shall be opened for public use,
 - (A) Grantee shall at all times be responsible for maintaining the Public Access Area, including [specify specific areas], at its sole cost and expense;
 - (B) The easement of way and path shall be kept in a substantially natural state, used only for passage by pedestrians and will never be improved without Grantor's prior consent; and
 - (C) Grantee's regulations for the use of same will prohibit [specify activity such as motorized vehicle use with a stipulation allowing maintenance vehicles.]
7. Assignment of Duties. Upon written notice to Grantor, Grantee shall have the right to assign its responsibilities for maintenance, insurance, and other duties under this agreement to an agency of government or a qualified not-for-profit entity, as the Grantee may determine in its sole discretion, or to another person, association, or organization reasonable acceptable to Grantor. The person(s) or entity accepting such an assignment shall be deemed to have assumed all of Grantee's obligations pursuant to this agreement throughout the period that assignment remains in effect.
8. Insurance and Liability.
 - (A) Grantee agrees to maintain at all times during which the trail easement area is open for public use a standard policy of general commercial liability insurance with respect to the Trail Easement Area having a coverage limit not less than \$ ___,000,000, adjusted upon request of the Grantor, not more frequently than every five years, to an amount equivalent to that sum in 199__ Dollars. Grantee shall cause Grantor to be named as an additional insured on said policy of insurance.
9. Term. The easement shall be perpetual in term. [or whatever the parties agree upon]
10. Amendment, Variance, and Waiver. This agreement may be amended from time-to-time upon the written consent of Grantee and Grantor. Consent to any amendment, variance or waiver shall be in the discretion of the Grantee, shall be consistent with the Trail Access Conservation Easement referred to above, and shall comply with [list various statutes that may be appropriate such as tax or conservation statutes]; any amendment, variance or waiver which does not comply with these statutes shall be void and shall have no force or effect.
11. Taxes and Assessments. Grantor shall remain fully liable for the payment of all taxes and assessments thereon and shall, upon request of Grantee, provide to Grantee copies of any current tax bill and receipts for payment thereof. Grantee shall have no obligation whatsoever to pay any taxes, assessments, levies, or other charges of any kind assessed against the property subject to this pedestrian easement of way, any portion thereof, or any owner thereof.
12. Enforcement. The parties may enforce this agreement in law or equity, including, without limitation, Grantee's authority pursuant to [cite statutory authority], against any or all persons responsible for any violation thereof. Failure to enforce any provision herein contained shall in no event be deemed a waiver of a right to do so thereafter as to the same violation or breach or as to any violation occurring prior or subsequent thereto.
13. Severability. Invalidation of any provision of this Easement of Way by court order, judgment, statute, or otherwise shall not affect the validity of any other provisions of this agreement, which shall remain in full force and effect.
14. Easement Runs with the Land; Binding Effect on Successors and Assigns. The provisions of this easement shall run with the servient tenement in perpetuity and shall bind and be enforceable by and against the parties and all subsequent owners, successors and assigns of the servient tenement or any portion thereof. As used in this agreement, the term, "owner," includes the owner of any legal or beneficial equitable interest in the subject property or any other portion thereof; the terms, "Grantor," shall include the original Grantor and the heirs, successors, and assigns of the partners, and all future owners of all or any portion of the subject property; and the term "Grantee," includes the original Grantee and it's successors and assigns. Notwithstanding the foregoing, no party shall be liable for a breach of this agreement resulting from acts or conditions occurring prior to or after the period of his or her ownership.
15. Governing Law. This Trail Access Conservation Easement shall be governed by and construed in accordance with the laws of the State of New York. ■



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