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New Hampshire DOT Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Bureau of Rail & Transit
January 12, 2021

REQUESTED ACTION

Pursuant to RSA 228:57-a, authorize the Department of Transportation to enter into a **retroactive** lease agreement with Stephan Pearson (654 Union Road, Belmont, NH), in the amount of $13,363.75 for the use of state-owned railroad property in Belmont, NH along Lake Winnisquam, commencing July 1, 2020 through June 30, 2025, effective upon Governor and Council approval.

Lease income will be credited as follows:

04-96-96-964010-2991	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Special Railroad Fund					
009-403532 Railroad Property Sale or Lease	$2,672.75	$2,672.75	$2,672.75	$2,672.75	$2,672.75

EXPLANATION

This request is for a **retroactive** Dock Lease Agreement resulting from several administrative steps taken to develop a more comprehensive agreement that includes a more accurate description of the qualifying property and the inclusion of details that clearly describe conditions and limits of the use of and access to the state-owned railroad corridor. Additional delays were also experienced as a result of the adverse impact of the pandemic and Bureau's ability to safely conduct site visits to confirm current property conditions. While extensive delays were realized, staff communicated with all entities and individuals seeking dock lease renewals to keep them apprised of the status and all 2020 Dock Lease renewals will be submitted separately for retroactive Governor and Council approval as they all experienced the same unforeseen delays.

The Department of Transportation received a request from the Stephan Pearson to renew a lease for 75 linear feet of frontage along Lake Winnisquam on the state-owned Concord to Lincoln Railroad Line in Belmont. Mr. Pearson is the owner of an adjacent property and previously had a lease for a portion of the railroad property at this location from April 1, 2004 to June 30, 2020. This agreement has been prepared consistent with RSA 228:57-a as enacted in 2009.

RSA 228:57-a allows the Department to lease portions of a railroad corridor to the owners of adjacent properties separated from the shore of public waters (as defined by RSA 271:20) by only the railroad corridor for private, non-commercial use. This lease gives the lessee the right to cross the railroad

corridor to access the lake and thereby request a permit for a dock or mooring field. The cost of a lease is calculated to be $34.97 per linear foot per year as specified in RSA 228:57-a. The amount for the dock rights is $2,622.75 and an additional $50.00 is assessed annually for the pedestrian crossing. The total annual lease fee for the subject parcel will be $2,672.75 per year for a total of $13,363.75 for five years.

This Agreement has been reviewed and approved by the Office of the Attorney General for form and execution. Copies of the fully executed lease agreement have been provided to the Secretary of State's Office and the Department of Administrative Services. Subsequent to the Governor and Council approval, a copy of the Agreement will be on file with the Department of Transportation.

The Council of Resources and Development approved the lease on July 25, 2002.

The Long Range Planning and Utilization Committee approved the lease on June 22, 2020, item number LRCP 20-025.

Your approval of this lease agreement is respectfully requested.

Sincerely,

Victoria F. Sheehan

Victoria F. Sheehan
Commissioner

Attachments

LRCP 20-025

MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3161

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

June 23, 2020

Shelley Winters, Administrator
Department of Transportation
Bureau of Rail and Transit
John O. Morton Building
Concord, New Hampshire 03301

Dear Ms. Winters,

The Long Range Capital Planning and Utilization Committee, pursuant to the provisions of RSA 228:57-a, on June 22, 2020, approved the request of the Department of Transportation, Bureau of Rail and Transit, to; 1) renew a lease with Stephen F. Pearson for 75 feet of railroad frontage along Lake Winnisquam for a private, non-commercial dock with pedestrian at-grade crossing on the State-owned Concord to Lincoln Railroad Corridor in the Town of Belmont, for the new lease fee of $2,622.75 per year, plus $50.00 per year for a private pedestrian at-grade crossing, equaling $2,672.75 per year for five years for a total of $13,363.75, beginning on July 1, 2020 through June 30, 2025, and 2) waive the $1,100 Administrative Fee, subject to the conditions as specified in the request dated May 6, 2020.

This request (LRCP 02-026) was originally approved by the Long Range Capital Planning and Utilization Committee on October 10, 2002, with subsequent approval (LRCP 10-009) on April 13, 2010 and (LRCP 15-009) on May 27, 2015.

Sincerely,

/s/ Michael W. Kane

Michael W. Kane
Legislative Budget Assistant

MWK/pe
Attachment

Cc: Louis Barker, Railroad Planner, Bureau of Rail and Transit

IIS LEASE, made and entered into, between the State of New Hampshire, Department of Transportation, hereinafter called the "LANDLORD", and Stephan Pearson, 654 Union Road, Belmont, NH 03220 hereinafter (collectively) called the "TENANT".

WHEREAS, the LANDLORD is the owner of the hereinafter described property, which is not immediately required by the LANDLORD and has been requested by the TENANT to lease the property to the TENANT on an "as is" basis. This Lease also includes the right to construct and use an at-grade pedestrian crossing of the active railroad tracks, hereinafter called the "FACILITY".

WHEREAS, the State is the owner of a Railroad Corridor in the Town of Belmont, County of Belknap, State of New Hampshire. The State-owned Railroad Corridor is used by the Plymouth & Lincoln (Railroad Operator) under an Operating Agreement with the State of New Hampshire.

WHEREAS, the TENANT owns parcel Town of Belmont Section 222, Block 059 and Lot 0 which is adjacent to the State-owned Corridor. Said parcel qualifies, per RSA 228:57-a, for the ability to lease State-owned railroad waterfront for the sole purpose of installing a dock or mooring (RSA 228:57-a, II-a).

WHEREAS, the LANDLORD is willing to comply with said request, provided that the TENANT, as a condition to the occupancy of said premises, joins in the execution of this LEASE for the purpose of accepting each and every condition herein set forth during the occupancy of said premises by the TENANT.

)W, THEREFORE, THIS LEASE WITNESSETH THAT:

1. DEMISE OF THE PREMISES

1.01 For and in consideration of the rent and the mutual covenants hereinafter stated, and the acceptance by the TENANT of each and every term and condition herein set forth, the LANDLORD hereby lease and demises to the TENANT the premises (75 linear feet) located in the Town of Belmont on the State-owned Concord-Lincoln Railroad Corridor and nearly opposite Engineering Station 1195+65, as shown on the attached Railroad Valuation Section 21 Map 58 (dated 9-30-2020) (Attached).

1.02 The Landlord grants to the Tenant permission to cross a portion of the State-owned Concord-Lincoln Railroad corridor to: construct, use, maintain, and reconstruct a private pedestrian crossing within the right-of-way near approximate Valuation Section 21 Sheet 58 detailed on NHDOT Bureau of Rail & Transit Plan CT-1 Typical Planked Timber Crossing (dated 9-01-2020) (Attached).

1.03 Blank

1.04 The TENANT agrees that it is liable for the cost of the acquisition, installation, maintenance and replacement of the railroad safety signage at the location of the subject crossing. The Railroad Operator or the Bureau of Rail & Transit will help determine the location of the signs. **Emergency Notification Crossing Sign shall be white letters on blue background and include Railroad Operator's emergency number (603) 398-3483, Crossing inventory #xxx-xxx.** See "Railroad Crossing Emergency Notification Sign Detail SL-1 dated August 27, 2020 (Attached).

1.05 The TENANT shall review and be fully aware of the LANDLORD's property (Right-of-Way). Cross Section is provided noting the dimensions each direction from the center line of the track system. The TENANT shall understand any activity within the right-of-way must be approved in writing by the LANDLORD dated 09-29-2020 (Attached).

2. TERM

2.01 The lease shall be effective on approval by the Governor and Executive Council, the term of this lease shall have commenced on July 1, 2020 and shall end on the June 30, 2025, unless terminated sooner in accordance with Condition 17.01 or 17.02.

2.02 The TENANT shall notify the LANDLORD no less than six months but no more than twelve (12) months of the ending date that the TENANT wishes to enter negotiations for a new LEASE for an additional five (5) year period. If the TENANT and the LANDLORD cannot agree upon a new LEASE, the TENANT shall surrender to the LANDLORD the premise in accordance with Condition 18.01.

3. SECURITY DEPOSIT AND RENT

3.01 The TENANT agrees to pay to the LANDLORD as a Security Deposit for demised premises the sum of **n/a** **($0.00)** dollars to secure the performance of the TENANT's obligations hereunder The LANDLORD may at its option set off all or portions of the deposit to pay for damages cause by any breach of the TENANT's obligations hereunder. The TENANT shall not have the right to apply the security deposit in payment of any past due rent.

3.02 All real or personal property taxes assessed by the Town of Belmont as a result of this LEASE are not included in the rent and will be paid by the TENANT. In accordance with RSA 72:23, I(b), "failure of the lessee to pay any duly assessed personal and real estate taxes when due shall be cause to terminate said lease or agreement by the lessor."

3.03 Rent is calculated at 75 lf @ 34.97 + Crossing Fee.

3.04 Rent shall be two thousand, six hundred, twenty-two dollars and seventy-five cents ($2,622.75) per year plus fifty dollars ($50) per year for the private pedestrian at-grade crossing, for a total of two thousand, six hundred, seventy-two dollars and seventy-five cents ($2,672.75), payable in advance, due upon the first of July each year to the LANDLORD at the following address:

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
BUREAU OF FINANCE & CONTRACTS
J. O. MORTON BUILDING
PO BOX 483
CONCORD NH 03302-0483

If the total rental amount is not paid within ten (10) days after the due date, the TENANT agree to pay a late charge of fifty dollars ($50.00).

4. QUIET ENJOYMENT

4.01 The LANDLORD covenants and agrees that so long as the TENANT is not in default of any of the covenants and agreements of this LEASE, the TENANT's quiet and peaceful enjoyment of the premises shall not be disturbed or interfered with by the LANDLORD or any person claiming by or through the LANDLORD.

5. USE OF PREMISES

5.01 The premises shall be used and occupied by the TENANT exclusively as a personal dock FACILITY, and neither the premises nor any part thereof shall be used at any time during the term of this LEASE by the TENANT for the purpose of carrying on any other business, profession or trade of any kind. The TENANT shall comply with all laws, ordinances, rules and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the demised premises during the term of this LEASE. The TENANT shall not use the premises in any manner that will disturb a neighbor's peaceful enjoyment of other property.

5.02 Procurement and delivery of a current Dock Permit issued by the New Hampshire Department of Environmental Services, Wetlands Bureau (NHDES) to the State is a condition precedent to the effectiveness of this Lease. The TENANT agrees to furnish a copy of a current Dock Permit issued by the NHDES that has been recorded at the Registry of Deeds to the Bureau of Rail & Transit. Failure to furnish documentation to the Bureau of Rail & Transit may result in termination of the Lease subject to the provisions of Section 16.

5.03 No TENANT or visitor or invitee of the TENANT may park any motorized vehicle on any area, which is not designated specifically for parking. No unregistered motorized vehicles shall be stored upon the premises.

6. MAINTENANCE OF PREMISES

6.01 The TENANT agrees that all work on construction, maintenance, repair, and reconstruction of said at-grade pedestrian crossing FACILITY shall be performed at a time and under conditions acceptable to the State and shall at no time interfere with the operation of the railroad by the State, its lessees or assigns. The TENANT shall maintain, repair or reconstruct the FACILITY as shown on the Typical Crossing Plan attached to this LEASE or as shown on either NHDOT Bureau of Rail & Transit Plan CT-1 Typical Planked Timber Crossing (dated September 1, 2020) (Attached).

6.02 The TENANT agrees that it is liable for the cost of all work and materials required to construct, use, maintain, repair, relocate and reconstruct said FACILITY on NHDOT Railroad Property as indicated in the Standard Prosecution of Work for a Pedestrian Crossing Constructed on NHDOT Railroad Property. Such responsibility shall include, but not be limited to, the cost of all on-site inspectors or other representatives of the LANDLORD to inspect the materials and to monitor construction and a railroad flagman, if such individuals are necessary in the sole judgment of the LANDLORD. Any deficiencies in materials, methods of construction or workmanship shall be promptly corrected to the mutual satisfaction of the TENANT and the LANDLORD. The TENANT is solely responsible for the presence of its equipment along the State-owned railroad corridor.

6.03 The TENANT will assume the cost of temporary removal, restoration and adjustment of the FACILITY in the event track maintenance, track repairs or additional track installations require such modifications.

6.04 The TENANT shall retain the Railroad Operator responsible for maintenance of the track adjacent to the FACILITY, or, if not available, a contractor approved by the LANDLORD, to perform all railroad related track work (such as replacing and/or installing ballast, defective ties, tie plates, spikes and crossing structures) during the construction or whenever the track structure is disturbed, distorted or altered due to the existence of said FACILITY. The Operator's current fee and wage structure will be used for all services rendered by the Operator.

6.05 Any damage to the State-owned railroad corridor contained herein which, as determined by the LANDLORD, is caused by, results from or arises out of the installation, maintenance or presence of the TENANT's FACILITY shall be repaired by the LANDLORD. The TENANT shall fully compensate the LANDLORD for all costs associated with the repair of any such damage.

6.06 The TENANT shall coordinate any and all work within the State-owned railroad corridor with the Plymouth & Lincoln Railroad and LANDLORD by contacting railroad personnel at (603) 745-2135 and LANDLORD personnel at (603) 271-2468, respectively, and giving them a minimum of 3 days advance notice of the work to be performed in the area so that the Railroad Operator and inspectors can schedule railroad related work around the construction. The TENANT cannot enter onto the State-owned Railroad Corridor for maintenance and/or repairs to the FACILITY without first obtaining authorization from the LANDLORD and the Railroad Operator.

6.07 The TENANT shall, at the LANDLORD's request and the TENANT's expense, provide whatever protection is deemed necessary by the LANDLORD, in the event the LANDLORD performs any work on or within the State-owned railroad property limits, including but not limited to inspection, maintenance, cleaning, snow removal, construction, rehabilitation, and repair of such State-owned railroad property.

6.08 The TENANT shall submit its written maintenance policies and procedures to be used for the inspection repair and maintenance of said FACILITY to the LANDLORD for review and approval. Such policies and procedures shall be approved by the LANDLORD prior to initial operation of the constructed FACILITY.

6.09 The TENANT acknowledges that the premises are in good order and repair at the beginning of the LEASE term, unless otherwise indicated by attached written statement. The TENANT shall at their own expense maintain the premises in a clean and sanitary manner. The TENANT shall not allow brush, leaves, grass or other plant matter, ice, snow, dirt or any other material to be placed on the premises.

6.10 The TENANT shall be responsible for any damage caused during this tenancy. The TENANT shall return the premises to the LANDLORD in as good order and condition as when received, ordinary wear and tear accepted. The TENANT agrees to be responsible for all single job repair costs. The LANDLORD reserves the right to select the persons or company to perform any such repairs.

7 DAMAGE TO PREMISES

7.01 If the premises are damaged so as to render them untenantable, then either party shall have the right to terminate this LEASE as of the date on which the damage occurs, through written notice to the other party, to be delivered **within ten (10) days** after the occurrence of such damage. However, should the damage or destruction occur as a result of any act or omission on the part of the TENANT or its invitees, then only, the LANDLORD shall have the right to terminate this LEASE. Should the right to terminate be exercised, the rent for the current year shall be prorated between the parties as of the date the damage occurred.

8. ALTERATIONS AND IMPROVEMENTS

8.01 The TENANT shall make no alterations to the premises, including plantings, or construct any building or make other improvements on the premises without the prior written consent of the LANDLORD. All alterations, changes, and improvements built, constructed, or placed on the premises by the TENANT, with the exception of fixtures removable without damage to the premises and movable personal property, shall, unless otherwise provided by written agreement between the LANDLORD and the TENANT, be the property of the LANDLORD and remain on the demised premises at the expiration or sooner termination of this LEASE.

9. ENTRY AND INSPECTION

9.01 The LANDLORD retains the right to enter the premises in the case of an emergency, or to make necessary repairs, alterations, improvements, or to supply necessary or agreed services, or to exhibit the premises to prospective purchasers or tenants, workmen, contractors, or others, or when the TENANT has abandoned or surrendered the premises, or whenever necessary to determine the condition of the premises. Whenever practical the LANDLORD shall provide the TENANT with 24 hours' notice prior to entry. Any indication of LEASE violations shall be grounds for immediate eviction action.

10. ASSIGNMENT AND SUBLETTING

10.01 Without the prior written consent of the LANDLORD, the TENANT shall not assign this LEASE, or sublet or grant any concession or license to use the premises or any part thereof. A consent by the LANDLORD to one assignment, subletting, concession, or license shall not be deemed to be a consent to any subsequent assignment, subletting, concession or license. An assignment, subletting, concession, or license without the prior written consent of the LANDLORD or an assignment or subletting or operation of law, shall be void and shall, at the LANDLORD's option, terminate this LEASE.

11. UTILITIES

11.01 The TENANT shall be responsible for arranging for and paying for all utility services required on the premises. Such services shall be installed per NHDOT Bureau of Rail & Transit standards and not without written permission from the LANDLORD.

12. DANGEROUS MATERIALS

12.01 The TENANT shall not keep or have on the premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire on the premises or that might be considered hazardous or extra hazardous.

13. INDEMNIFICATION AND INSURANCE

13.01 The TENANT acknowledges that the FACILITY is being requested for the TENANT's advantage and does not involve the Railroad Operator or LANDLORD's performance of their duties to the public. The TENANT further acknowledges that the installation and use of the FACILITY by the TENANT will expose the LANDLORD and the Railroad Operator to additional liability to which they would not otherwise be exposed. Accordingly, the TENANT agrees that neither the LANDLORD nor the Railroad Operator shall be liable for injury or death of the TENANT or agent of TENANT, regardless of status as guest, invitee or trespasser, or for loss or destruction of or damage to any property of the TENANT or any agent of the TENANT while upon, or about, or in the use of the FACILITY. The TENANT and its employees, contractors and agents agree to defend, indemnify, and hold harmless the LANDLORD, its officers, agents and employees, from and against any and all losses suffered by the LANDLORD, its successors and assigns, officers, agents, employees and Railroad Operator, from any and all claims, liabilities or penalties asserted against the LANDLORD, its successors and assigns, officers, agents and employees, by or on behalf of any person on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the TENANT or from the use, maintenance, installation, removal or existence of this FACILITY, respective of any negligence on the party of the LANDLORD, the Railroad Operator c their agents or employees. Without limiting the foregoing, it is agreed that this covenant of indemnification shall apply to all cases of loss, damage, injury, death, cost or expense for which any party to this agreement may or shall be liable. For the purpose of this agreement, all persons using the FACILITY shall be deemed agents of the TENANT. This covenant shall survive the termination of this Agreement. In addition, the TENANT shall pay the premiums on a policy or policies of insurance covering the following at said FACILITY, designating the State of New Hampshire and the Plymouth & Lincoln Railroad as additional named insureds.

13.01.1 Commercial General Liability:
$1,000,000.00 each occurrence/$2,000,000.00 in the aggregate

13.02 The TENANT further agrees to obtain and keep in force a policy or policies of insurance providing Comprehensive General Liability or Comprehensive Personal Liability with a minimum $1,000,000.00 per occurrence limit covering bodily injury and property damage and $2,000,000.00 in the aggregate designating the State of New Hampshire and Plymouth & Lincoln Railroad as additional named insureds.

13.03 Procurement and delivery of a certificate indicating such insurance acceptable to the LANDLORD is a condition precedent to the effectiveness of this Agreement. The TENANT shall provide to the LANDLORD a certificate of insurance demonstrating that the required coverage has been obtained and containing the following wording. "The State of New Hampshire and Plymouth & Lincoln Railroad are named as additional insured with respect to liability arising from the use and/or occupation of State-owned premises under this Agreement between the LANDLORD and the Named Insured." Nothing contained herein shall be construed as a waiver of sovereign immunity.

13.04 In the event the TENANT elects to retain an independent contractor to install the crossing the TENANT agrees and to obtain and maintain a policy or policies of insurance effective during the construction of the FACILITY, and designating the State of New Hampshire and the Railroad Operator as additional insureds.

13.04.1 Comprehensive Automobile Liability: $500,000.00 combined limit

13.04.2 Railroad Protective Public and Property Damage Liability: $1,000,000.00 each occurrence/$2,000,000.00 in the aggregate

13.04.3 Worker's Compensation Insurance: In the amount as required by current State Statute

13.05 No provision of this Agreement is intended to waive any aspect of the State's sovereign immunity, and any possible counterclaims or defenses it may assent relative to any claim brought related to this Agreement or the FACILITY.

14. HOLDOVER BY TENANT

14.01 No holdover by the TENANT will be permitted. The LANDLORD and TENANT must execute a new LEASE upon expiration of an existing LEASE in order for a TENANT to remain in possession of the premises.

15. DEFAULT

15.01 The LANDLORD shall be the sole judge of what shall constitute a violation of the provisions of the LEASE, or the failure of the TENANT to otherwise abide by any of the covenants herein contained, and may order a discontinuance of the practices, or the performance of any of the work related to such default by giving the TENANT ten (10) days' notice in writing. Failure of the TENANT to comply with the notice shall automatically give the LANDLORD the right to terminate this LEASE evict the TENANT and take full and complete possession of the premises.

16. TERMINATION OF LEASE FOR CAUSE

16.01 In the event that the TENANT shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice, thereof, or if the TENANT shall default in the observance or performance of any other of the TENANT's covenants, agreements, or obligations hereunder and such default shall not be corrected within ten (10) days of written notice by the LANDLORD to the TENANT specifying such default and requiring it to be remedied then, and in such an event, the LANDLORD may serve a written notice of termination of this LEASE upon the TENANT and this LEASE and the term hereunder shall terminate and upon such termination the LANDLORD may immediately or at any time thereafter, without demand or notice enter into or upon the premises and repossess the same.

16.02 If it becomes necessary for the LANDLORD to institute suit for eviction or damages on account of rental arrears or violation of the terms of this LEASE, the LANDLORD shall be entitled to include in such suit for eviction or damages, a claim for attorney's fees and court costs incident thereto, which fees the TENANT hereby covenants and agrees to pay.

17. TERMINATION FOR CONVENIENCE

17.01 The LANDLORD may terminate the LEASE at any time by giving thirty (30) days' notice thereof in writing, and may take full and complete possession of the premises hereby leased, at the end of said thirty (30) day period with no further liability of any nature whatsoever to the TENANT for so doing. Should the LANDLORD terminate this LEASE by giving the thirty (30) days' notice during any period for which a full year's rent has already been paid, the LANDLORD will reimburse the TENANT for the pro-rata proportion of the remaining number of days for which rent has been paid in advance but during which the TENANT no longer occupy the premises.

17.02 The TENANT may terminate this LEASE Agreement at any time by giving at least thirty (30) days' notice in writing, specifying in said notice the day (and the time of day) on which possession of the premises will be surrendered. The TENANT shall not vacate or leave the premises unattended on the day of surrender until the LANDLORD's representative shall have sufficient time to check the premises prior to taking formal possession thereof. In the event that the TENANT shall terminate this LEASE in accordance with the above provisions, payment of rent shall cease at the end of the said thirty (30) day period, or at the end of the day on which possession shall be surrendered, whichever shall last occur.

18. SURRENDER OF THE PREMISES

18.01 In the event that the term or any extension thereof shall have expired or terminated, the TENANT shall peacefully quit and surrender to the LANDLORD the premises together with all improvement. alterations, or additions made by the TENANT, which cannot be removed without damaging the premises. The TENANT shall remove all personal property and shall repair any damage caused by such removal. The TENANT's obligations to observe or perform the covenants contained herein shall survive the expiration or termination of this LEASE.

19. INDEMNIFICATION AND RELEASE FROM LIABILITY

19.01 The TENANT further releases the LANDLORD, its agents and employees, from any and all claims or demands for damages or injuries of any nature whatsoever attributable to the taking, use and occupancy of any portion of the premises caused by the construction and maintenance by the State of New Hampshire of any transportation project or proposed project which abuts (or will abut) or may effect in any way the property herein leased.

20. DISCRIMINATION PROHIBITED

20.01 The TENANT hereby covenants and agrees that no person on the ground of race, color, national origin or sex, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the premises, and that in the construction of any improvements on, over or under such premises and the furnishing of services thereon, no person on the ground of race, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and that the TENANT shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department (

Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

21. MISCELLANEOUS

21.01 LANDLORD's Agents. All rights and obligations of the LANDLORD under this LEASE may be performed or exercised by such agents as the LANDLORD may select.

21.02 Notice. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by registered or certified mail, postage prepaid, in a United States Post Office.

21.03 All notices required pursuant to this Agreement shall be forwarded by registered or certified mail to the following:

To NHDOT:

NH Department of Transportation
Bureau of Rail & Transit
PO Box 483
Concord, NH 03302-0483

Attention: Railroad Planner

(603) 271-2468
Louis.barker@dot.nh.gov

To the TENANT:

Stephan Pearson
654 Union Road
Belmont, NH 03220

Attention: Mr. Stephan Pearson
Owner

Phone 470 3103
email sfunkp@yahoo.com

21.03 Extent of Instrument, Choice of Laws, Amendment, etc. This LEASE, which may be executed in a number of counterparts, each of which shall have been deemed an original, but which shall constitute one and the same instrument, is to be construed according to the Laws of the State of New Hampshire, is to take effect as a sealed instrument, is binding upon, inures to the benefit of, and shall be enforceable by the parties hereto and their respective successors and assigns, and may be canceled, modified, or amended only by a written instrument executed and approved by the LANDLORD and the TENANT.

21.04 No Waiver of Breach. No assent, by either party, whether express or implied, to a breach of covenant, condition or obligation by the other party, shall act as a waiver of a right of action for damages as a result of such breach, or shall be construed as a waiver of any subsequent breach of the covenant, condition or obligation.

21.05 Unenforceable Terms. If any terms of this LEASE or any application thereof shall be invalid or unenforceable, the remainder of this LEASE and any application of such term shall not be affected thereby.

21.06 Entire LEASE. This LEASE embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.

21.07 No Waiver of Sovereign Immunity. No provision in this LEASE is intended to be nor shall it be interpreted by either party to be a waiver of the State's sovereign immunity.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, the day and year first-written above.

TENANT

By: Stephen Pearson Date: 11/10/20

Print Name and Title

STATE OF _____
COUNTY OF _____

On, _____, before the undersigned officer personally appeared _____ known to me (or satisfactorily proven) to be the _____ of the corporation identified in the foregoing document, and acknowledged that he executed the foregoing document.

In witness whereof I hereunto set my hand and official seal.

_____ _____
Date Notary Public

LANDLORD

By: _____ Date: 1/13/21

Commissioner
New Hampshire Department of Transportation

SP

The foregoing Agreement, having been reviewed by this office, is approved as to form and execution on Feb. 28, 2021, ~~20~~___.

OFFICE OF THE ATTORNEY GENERAL

By: Emily C. Gamy
Attorney

Approved by Governor and Council on _____, 20___, Item # ____.

ATTEST: _____
Secretary of State

Approved by New Hampshire Council on Resources and Development on May 14, 2015

Approved by Long Range Capital Planning and Utilization Committee on June 22, 2020.

tachments:
- Railroad Valuation Sheet (dated 9-30-2020)
- CT-1 Typical Planked Timber Crossing (dated 9-1-2020))
- Emergency Notification Sign (dated 9-16-2020)
- NHDOT ROW (dated 9-29-2020)

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CERTIFICATE OF VOTE

If necessary (Association/Trust/LLC)

CORPORATE SEAL

Also, must be notarized.

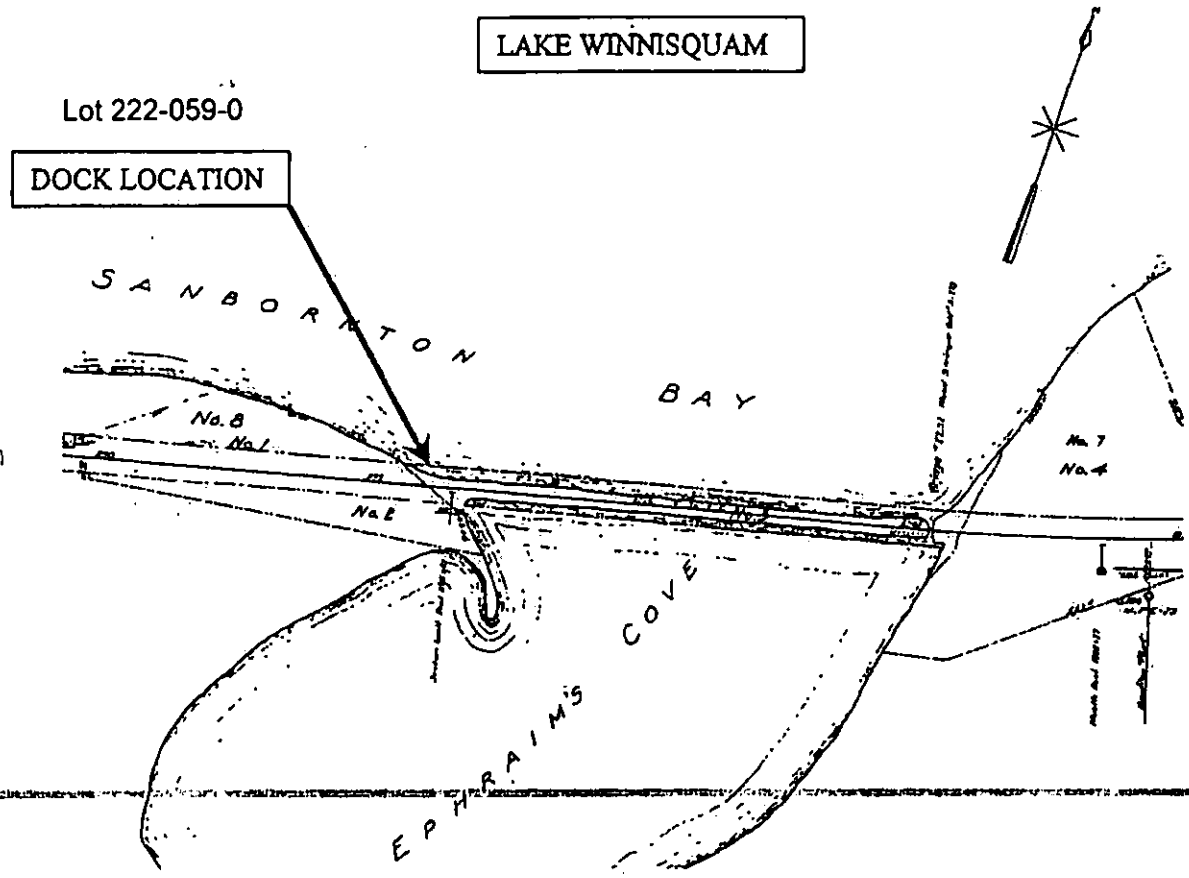
SP

CERTIFICATE OF GOOD STANDING

If necessary (Association/Trust/LLC)

LEASED AREA

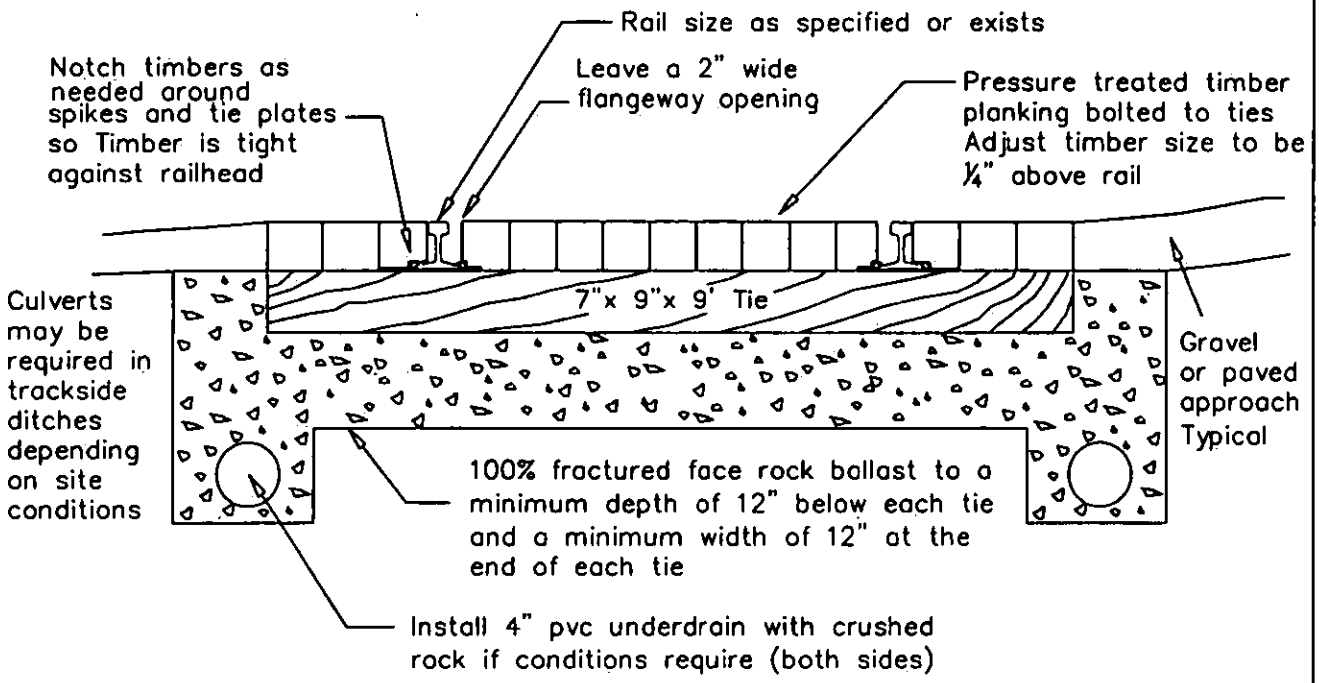
New Hampshire
Department of Transportation
Bureau of Rail & Transit
FILE NO. 2020-32
LEASED TO: Stephen F. Pearson
Val Map V21/58
Station 1195+65 +/-,
75+/- Linear Feet



Concord-Lincoln Railroad Corridor

NHDOT
9-30-2020

TIMBER PLANKED CROSSING DETAIL



1. The length of the timbers will vary depending on whether the crossing is to be used for a pedestrian crossing, a farm crossing or driveway.
2. Timbers must be installed 2' wider on both sides than the road approaches. A pedestrian crossing should be a minimum of 5' wide, The farm and driveway crossings should be a minimum of 12' wide.
3. Full depth rock ballast under the ties only needs to be installed if it is necessary to rebuild the entire crossing.
4. Timber planks should be lagged at the last tie on both ends and then staggered hitting approximately every fourth tie.
5. This is a conceptual plan and the actual site will need to be reviewed with the Bureau's Railroad Engineer before actual work can be determined.
6. New crossties and track work may need to be preformed before the crossing can be built. The cost of that work which must be done by the Operating Railroad will be borne by the Permitee

Not to scale

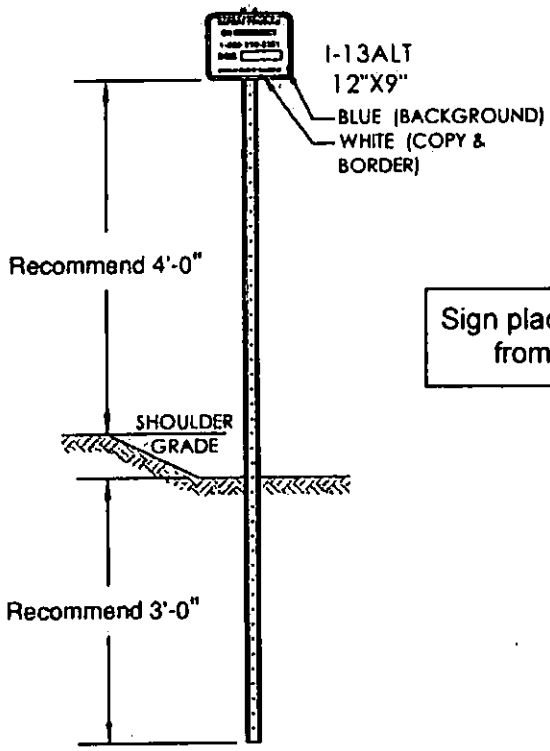
STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL & TRANSIT

P.O. BOX 483
CONCORD, NEW HAMPSHIRE 03302-0483
(603) 271-2468 FAX(603) 271-6767

TYPICAL TIMBER PLANKED CROSSING DETAIL

REVISIONS		SHEET:
DATE	DESCRIPTION	
September 1, 2020		CT-1

I-13
Railroad Emergency Notification

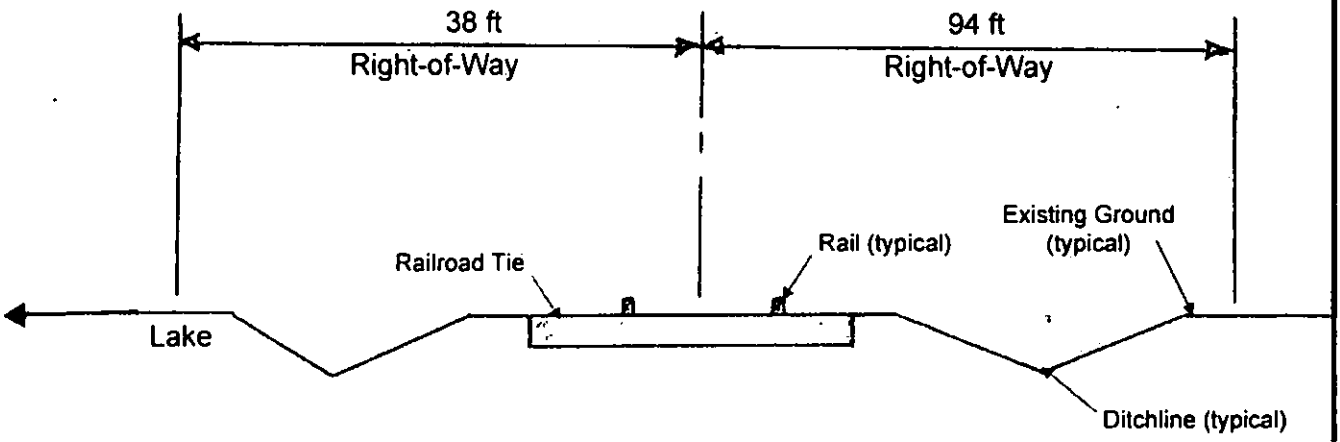


Sign placement shall be 12 ft from the nearest rail.

RAILROAD CROSSING EMERGENCY NOTIFICATION SIGN (ENS)

SL-2

New Hampshire DOT Right-of-Way



Railroad Cross Section

Facing North
Valuation Section 21, Sheet 58
Station 1195+65

Not to Scale

Approved: Per this Lease Agreement, construction per the agreement and pedestrian crossing of the NHDOT property (right-of way) is the only item approved. No other actions shall take place within the NHDOT right-of-way.

Not Approved: To provide more clarification on the NHDOT property right-of-way, within these limits as dimensioned in the detail above, no other actions shall take place. To include, but not limited to:

- Cross pipes placed in the drainage ditch area.
- Filling of the drainage ditch area.
- Pedestrian stairways
- Walkway/ramps/bridges over the drainage ditchline or with the ROW.
- Placement of any electrical, water, sewer, telephone, communication cable lines or conduits.
- Cutting of trees and brush
- Planting of any trees, shrubs or other vegetation
- Disposing of any materials, to include lawn and garden waste, tree trimmings etc.
- Parking or storing vehicles

Revised Date 9-29-2020

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/05/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

New London Insurance Agency
259 Main St. PO Box 97
New London NH 03257

CONTACT NAME: Producer --DEFA
PHONE (A/C, No, Ext): (603) 526-4055 FAX (A/C, No): (603) 526-9330
E-MAIL ADDRESS: todd@newlondoninsuranceagency.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: NORTHERN SECURITY INS CO	25992
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED

Pearson, Stephen
654 Union Rd
Belmont NH 03220-3807

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / OCCUR X BUSINESSOWNERS GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC OTHER:	*		BP21015923	11/01/2020	11/01/2021	EACH OCCURRENCE	$ 2000000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 50000
							MED EXP (Any one person)	$ 5000
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$ 2000000
							PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR EXCESS LIAB / CLAIMS-MADE DED / RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Dock Leases through NHDOT Rail & Transit

* "The State of New Hampshire and the Plymouth & Lincoln Railroad are named as additional insured with respect to liability arising from the use and/or occupation of State-owned premises under this Lease Agreement between the State and the Named Insured."

CERTIFICATE HOLDER

State of New Hampshire
Plymouth & Lincoln Railroad
Room G27 JOM Building
7 Hazen Drive
Concord NH 03302

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Todd C. Perkins

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ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/05/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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New London Insurance Agency 259 Main St. PO Box 97	PHONE (A/C, No, Ext): (603) 526-4055	FAX (A/C, No): (603) 526-9330
	E-MAIL ADDRESS: todd@newlondoninsuranceagency.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
New London NH 03257	INSURER A : NORTHERN SECURITY INS CO	25992
INSURED	INSURER B :	
Pearson, Stephen	INSURER C :	
654 Union Rd	INSURER D :	
	INSURER E :	
Belmont NH 03220-3807	INSURER F :	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE OCCUR						EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Business Owners			BP21015923	11/01/2020	11/01/2021	Liability & Medical	$1,000,000
							Medical Expese	$5,000
							Fire Legal Liability	$50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

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CERTIFICATE HOLDER

State of New Hampshire
Plymouth & Lincoln Railroad
Room G27 JOM Building
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AUTHORIZED REPRESENTATIVE

Todd C. Pelkino

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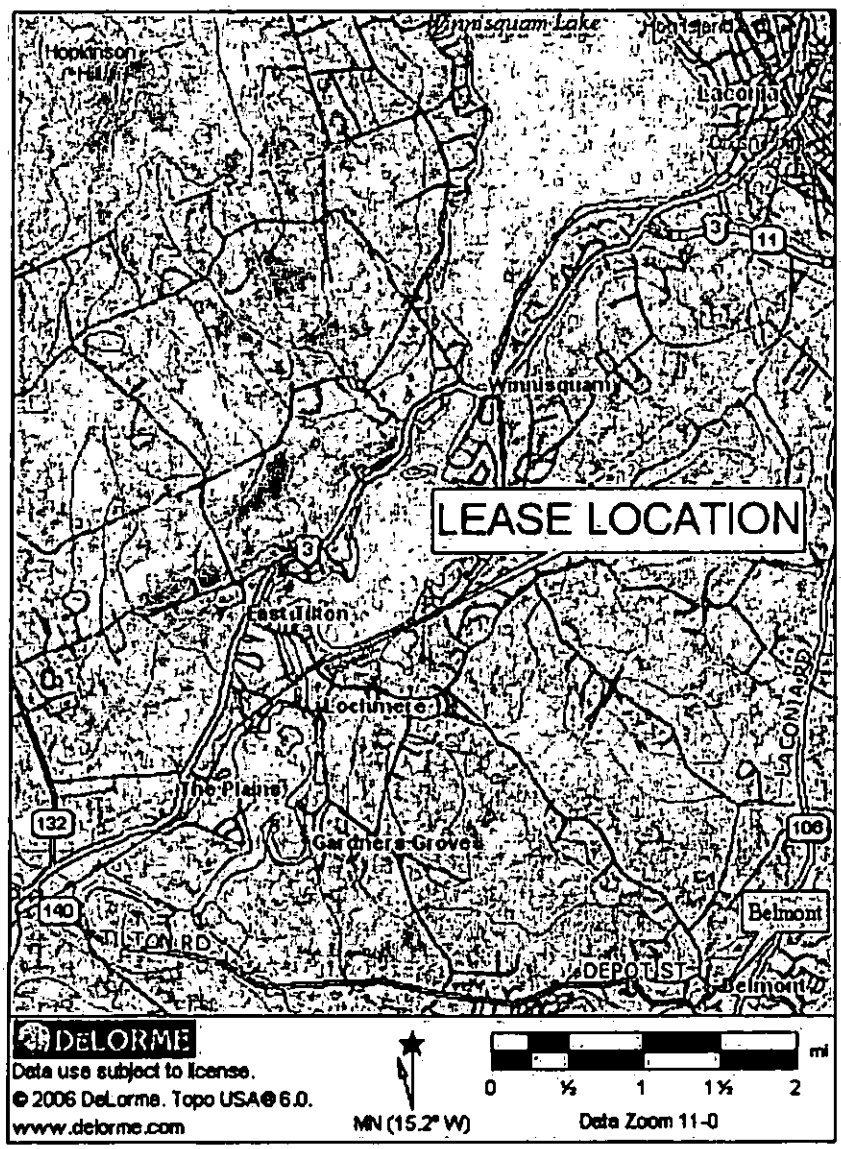
STEPHEN F. PEARSON, BELMONT
DOCK LEASE, PEDESTRIAN CROSSING OF STATE OWNED RAILROAD SHORE FRONT PROPERTY
(RSA 228:57-A)

March 24, 2020