



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

48 dam

Bureau of Rail and Transit
December 29, 2021

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

REQUESTED ACTION

Pursuant to RSA 228:56, authorize the Department of Transportation to purchase an approximate 0.62 mile section of railroad property in Boscawen, including approximately 5.475 acres, for a purchase price of \$110,000.00 from the Boston & Maine Corporation, vendor # 177556, effective upon Governor and Council approval. 100% Agency Income.

Funds to support this request are available in FY 2022 as follows:

04-096-096-964010-2931	<u>FY 2022</u>
Railroad	
033-500150	
Land Acquisition and Easement	\$110,000.00

EXPLANATION

The Department of Transportation has negotiated the purchase of a portion of the abandoned Northern Railroad Corridor owned by the Boston and Maine Corporation, which comprises approximately 0.62 miles of corridor in the Town of Boscawen; the Department already owns 62 miles of the corridor from a point in Boscawen north to Lebanon and this purchase would create a contiguous, state-owned corridor, approximately 63 miles long.

The Department entered into a Contribution Agreement with the Friends of the Northern Rail Trail (FNRT), a New Hampshire voluntary non-profit corporation, which was approved as Item #47 at the December 22, 2021 Governor and Council meeting. In accordance with the terms of the Contribution Agreement, the Department will use private contributions from FNRT to purchase this section of the Northern Railroad Corridor for the purpose of the continued and future operation of a railroad or transportation corridor, which definition includes recreational trails. The Department's planned and future use of the Property will comply with all State and Federal laws governing railroad properties. After the proposed acquisition, and as further detailed in the Contribution Agreement, the FNRT, at its expense, shall construct a rail trail on the subject segment to connect with the trail segments to the north.

The purchase price was negotiated based on a commercial appraisal and the terms and conditions were negotiated with the assistance of the Office of the Attorney General.

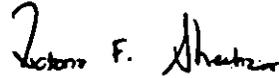
RSA 228:56 allows the Department to purchase such portion or portions of railroad property found to be necessary for the operation of a railroad or other transportation purposes, including recreational trails.

Funding is 100% Agency Income; general funds will not be requested to support this request.

This agreement has been approved by the Attorney General as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully-executed agreements are on file at the Secretary of State's Office and the Department of Administrative Service's Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria F. Sheehan
Commissioner

Attachments

PURCHASE AND SALE AGREEMENT

2. PURCHASE AND SALE AGREEMENT made as of the 4TH day of JANUARY 2021 by and between the BOSTON AND MAINE CORPORATION, a Delaware corporation with a place of business at Iron Horse Park, North Billerica, Massachusetts (the "Seller") and the party hereinafter identified in Paragraph 1(b) (the "Buyer").

WITNESSETH:

1. The following terms shall have the meanings specified whenever used in this Agreement:

(a) **SELLER:**

Boston and Maine Corporation
c/o Pan Am Systems, Inc.
Iron Horse Park
North Billerica, Massachusetts 01862
Attention: Philip D. Kingman, Sr. Vice President
Real Estate & Development

Send a copy of any notice to:

Boston and Maine Corporation
c/o Pan Am Systems, Inc.
Iron Horse Park
North Billerica, Massachusetts 01862
Attention: Michael Twidle, Vice President - Real Estate.

(b) **BUYER:**

State of New Hampshire Department of Transportation
John Morton Building
1 Hazen Drive - P.O. Box 483
Concord, New Hampshire 03302-0483
Attention: Victoria Sheehan

- (c) **PREMISES:** All land of the Seller in the City of Concord and the Town of Boscawen situated between the southerly abutment of the Seller's railroad bridge over the south branch or mouth of the Contoocook River as shown on Map 7 of railroad valuation section 32.1 at engineering station 351+07.7 and extending in a generally northerly direction to engineering station 383+59.4 as shown on Map 8 of railroad valuation section 32.1. The above-described Premises contains approximately 5.475 acres and is shown in yellow on Exhibit A attached hereto.
- (d) **PURCHASE PRICE:** The agreed purchase price is One Hundred Ten Thousand and 00/100 Dollars (\$110,000.00).
- (e) **DEPOSIT:** Waived
- (f) **CLOSING DATE:** A mutually convenient date selected by the Buyer and Seller to occur no later than twenty-one (21) days after the Effective Date of this Agreement.
- (g) **EXHIBITS:** The following exhibits are hereby incorporated by this reference into this Agreement:
- (i) Exhibit "A": A plan of the Premises.
 - (ii) Exhibit "B": Form of deed.
 - (ii) Exhibit "C": Additional Provisions.

2. **PURCHASE AND SALE.** In consideration of the mutual covenants and promises contained in this Agreement, and other good and valuable consideration received by each party, the Seller hereby agrees to sell and the Buyer agrees to purchase the Premises, upon the terms and conditions hereinafter set forth. The payment by the Buyer of the Purchase Price shall be the only and the complete payment to the Seller for the Premises. The Buyer shall have no liability to the Seller other than the Purchase Price and adjustments that are expressly provided in Paragraphs 5 and 6, if any. Subject to Section 5 hereof, in no event shall the Seller be required to accept less than the Purchase Price as consideration for the conveyance of the Premises. Notwithstanding any provision of this Agreement to the contrary, pursuant to RSA 228:56, this Agreement shall be subject to the approval of the Governor and Executive Council of the State of New Hampshire. This Agreement shall become effective on the date the Governor and Executive Council approve this Agreement (the "Effective Date"). All obligations of the Buyer hereunder are contingent upon the availability and appropriation of funds, and in no event shall the Buyer be liable for any payment hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the Buyer shall have the right to terminate this Agreement immediately upon giving the Seller notice of such termination. The Buyer shall not be required to transfer funds from any other account in the event that the funds appropriated for this Agreement are reduced or unavailable.

Buyer represents and warrants that as of the Closing Date, Buyer will have sufficient funds appropriated to pay the Purchase Price in full.

3. **TITLE.** The Premises shall be conveyed by a release deed running to the Buyer in a form substantially identical to that annexed hereto and marked Exhibit "B" (the "Deed"). The Deed shall contain no warranties or covenants of title whatsoever and shall convey all of the Seller's right, title and interest in the Premises, subject to the following:

(a) Provisions of existing building, land use, subdivision control and zoning laws;

(b) Such real property taxes for the then current tax year as are not yet due and payable on the Closing Date;

(c) Any liens for municipal betterments assessed after the date of this Agreement;

(d) Such agreements, leases, licenses, easements, restrictions and encumbrances, if any, as may appear of record;

(e) The provisions, conditions and covenants set forth in the Deed and hereby expressly incorporated by reference. The Buyer agrees to signify acceptance of such provisions, conditions and covenants contained in the Deed by executing the Deed at closing;

(f) A lease executed between Seller and Scenic RailRiders Inc. with a lease term of five (5) years, expiring June 6, 2024. Within ten (10) days of the Effective Date hereof, Seller shall provide a full and complete copy of the aforementioned lease to the Buyer for review. The parties agree that at Closing, they shall execute a customary form of assignment and assumption agreement with respect to the aforementioned lease as it pertains to the Premises, the Seller shall provide a tenant estoppel certificate with the customary representations of tenant, and the Seller shall transfer or credit to Buyer any tenant deposits in accordance with Section 5; and

(g) Existing Agreements (defined below).

4. **EXISTING AGREEMENTS.** Within ten (10) days of the Effective Date, the Seller shall provide the Buyer with a copy of any existing leases, crossing agreements, encroachments, covenants, easements, or any other encumbrance affecting the Premises ("Existing Agreements") to be assumed by the Buyer. If the Seller is aware of any Existing Agreements affecting the Premises, but does not have copies of said Existing Agreements, the Seller shall provide the Buyer with a written description of each Existing Agreement prior to the Closing Date. The written description shall include the terms and affected location of the

Existing Agreement, and, if known, the contact information of individuals or entities having an interest in the Existing Agreement.

5. **ADJUSTMENTS TO PURCHASE PRICE.** Water rates, rents, real estate and other property taxes and sewer charges (collectively, the "Taxes") shall be apportioned as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the Purchase Price payable by the Buyer. If the amount of Taxes is not known at the Closing Date, they shall be apportioned on the basis of the Taxes for the applicable preceding period and reapportioned as soon as verified current information can be obtained. Any income attributable to the Premises, including rents, shall be apportioned as of the Closing Date. This provision shall survive the delivery of the Deed.

6. **FEES, COSTS, AND TRANSFER TAXES.** The Buyer agrees to pay all recording fees. The requirements of RSA 78-B, including taxes, deed stamps and a Declaration of Consideration, do not apply to this Transaction.

7. **CLOSING.** The Deed shall be delivered and the Purchase Price shall be paid by wire transfer, certified or bank cashier's check (and not otherwise) at Iron Horse Park, North Billerica, Massachusetts at 10 o'clock a.m. on the Closing Date, unless the parties otherwise agree beforehand in writing. It is agreed that time is of the essence in all respects to this transaction.

8. **POSSESSION.** The Seller shall deliver possession of the Premises to the Buyer on the Closing Date, subject only to the provisions of Paragraph 3 hereof, the Premises then being in the same condition as they now are, reasonable wear and tear excepted.

9. **SELLER'S DEFAULT.** In the event that the Seller is unable to give title or make conveyance of the Premises to the Buyer in accordance with the terms of this Agreement for any reason, then Buyer may elect to exercise, by written notice to Seller as Buyer's sole and exclusive right and remedy, one (1) of the following rights and remedies: (i) to terminate this Agreement and neither Seller nor Buyer shall have any further rights, obligations or liabilities under this Agreement except for the obligations expressly deemed, pursuant to this Agreement, to survive the termination of this Agreement, (ii) to forbear the satisfaction of any unsatisfied conditions and consummate the Closing without reduction in the Purchase Price.

10. **REMOVAL OF ENCUMBRANCES.** The Seller may use the Purchase Price paid by the Buyer at the time of the delivery of the Deed, or any portion thereof, to clear the title of any mortgage or other title encumbrance not in accordance with the terms hereof, provided that any instrument so procured is recorded as soon as reasonably practical after the delivery of the Deed.

11. **ACCEPTANCE OF DEED.** The Buyer's acceptance of the Deed shall be deemed to be a full performance and discharge of every agreement or obligation of the Seller herein contained, except for such as are, by the terms hereof, to be performed after the delivery of the Deed.

12. **BROKER.** The parties represent and warrant to each other that neither has dealt with any broker in respect to this transaction or the Premises. The Buyer and Seller each agree to indemnify and hold harmless the other party from and against all other claims for brokerage or commission on account of this transaction.

13. **DEPOSIT.** Waived.

14. **WARRANTIES:** The Buyer acknowledges that the Buyer has not been induced to enter into this Agreement, and the transaction contemplated herein, in reliance upon any warranties or representations of any party not set forth herein. The Buyer hereby expressly waives any claims against the Seller for any matters of public record or matters which a physical inspection of the Premises would reveal. This paragraph shall survive the delivery of the Deed.

15. **BUYER'S DEFAULT.** In the event the Buyer fails to fulfill any one or more of the Buyer's performances under this Agreement, the Seller may terminate this Agreement; and/or treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

16. **APPROVALS, RELEASES.** The Seller's obligations under this Agreement are conditioned upon the Seller obtaining any necessary releases, approvals or permits relating to the sale of the Premises by the Seller from any state or federal government or governmental authority having jurisdiction over the Premises, including but not limited to Revised Statutes Annotated, 228:60-b. The Seller agrees to proceed with reasonable diligence to obtain any such approvals. In no event, however, shall the Seller be required to obtain subdivision approval from any governmental authority. If subdivision approval is required by applicable law, the Buyer shall obtain it or shall indemnify the Seller from all loss, cost, damage, and expense arising in any way out of the conveyance of the Premises without first having obtained the same.

17. **CONDITION OF PROPERTY.** The Buyer hereby acknowledges that the Buyer is purchasing the Premises "as is", "with all faults" and subject to the possible existence of hazardous materials, petroleum products and/or other pollutants regulated by law. Notwithstanding the foregoing, except as otherwise stated herein, the Buyer, for itself, its successors, assigns and grantees hereby irrevocably waives, gives up and renounces any and all claims or causes of action against the Seller in respect of any claims, suits, and/or enforcement actions, including any administrative or judicial proceedings and any remedial, removal, or response actions ever asserted, threatened, instituted, or requested by any person (including any government agency) on account of: (a) any release of oil or hazardous materials (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601, et seq.) or any applicable state law ("Environmental Laws")) on, upon, or into the Premises; and (b) any and all damage to real or personal property, natural resources, and/or harm to persons alleged to have resulted from such release of such oil hazardous materials upon the Premises. Notwithstanding anything to the contrary set forth in this Agreement, nothing in this Agreement shall preclude the State of New Hampshire from enforcing any and all State laws, including, but not limited to environmental laws and

regulations. Should the State of New Hampshire or any local, state or federal governmental agency with appropriate jurisdiction notify Seller of a potential violation of Environmental Laws relating to the Premises, then the Seller shall promptly notify the Buyer. This provision shall survive the delivery of the deed.

18. **NOTICES.** Any notice or other communication in connection with this Agreement shall be deemed given when received (or upon attempted delivery if delivery is not accepted). Such notices shall be in writing and delivered by hand or sent either (a) by registered or certified mail (return receipt requested) with the United States Postal Service; or (b) by Federal Express or other similar overnight mail carrier furnishing evidence of receipt to the sender, at the address set forth in paragraph 1 of this Agreement. Either party may change the address at which notices are to be received by notice given as set forth above.

19. **CONFIDENTIALITY.** The Buyer agrees and acknowledges that Information (hereinafter defined) concerning the Premises provided by Seller in connection with the transaction contemplated in this Agreement (the "Transaction") is unique and confidential to the Seller. If the Transaction does not take place, for any reason whatsoever (including, but not limited to, breach of this Agreement by either party), the Buyer agrees, in addition to the provisions of paragraph 15 hereof, to return to the Seller all (i) plans, (ii) surveys, (iii) reports, (iv) site assessment and environmental reports of any description, (v) soil, vegetation, water, air and other samplings collected at the Premises and the fruits of any research, testing, experimentation or study conducted with the same, and (vi) all other information or documents furnished by the Seller to the Buyer (collectively, the "Information"). Furthermore, in the event the Transaction does not take place, the Buyer warrants to the Seller that the Buyer, its officers, agents, employees, directors, shareholders and affiliates shall not disclose the Information to any person, entity or government, except as required by RSA 91-A. The Buyer acknowledges and agrees that the Seller may, in addition to all other remedies available to it, obtain injunctive relief against the Buyer for any breach or threatened breach of the provisions of this paragraph.

20. **RECORDING.** The parties agree that neither this Agreement nor any memorandum thereof shall be recorded at the registry of deeds and that any such recording by the Buyer shall constitute a default by Buyer.

21. **AUTHORITY OF SIGNATORY.** If the Buyer executes this Agreement by agent or representative, such agent or representative hereby warrants and represents to the Seller that he is authorized to execute, acknowledge and deliver this Agreement on behalf of the Buyer and to thereby bind the Buyer to the same. This warranty shall survive the delivery of the Deed.

22. **ASSIGNMENT.** The Buyer may not assign this Agreement, or any interest herein, without the prior written consent of the Seller, which consent shall not be unreasonably withheld.

23. **SEVERABILITY.** If any term of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent be deemed invalid or unenforceable, the remainder of this Agreement and the application of such term to persons or

circumstances other than those as to which it is held invalid or unenforceable shall not be affected.

24. **NO WAIVER.** No delay or omission on the part of either party in exercising its rights under this Agreement shall constitute a waiver of such right or any other right under this Agreement. Also, no waiver of any such right on one occasion shall be construed as a waiver of it on any other occasion.

25. **APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the state of New Hampshire.

26. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, supersedes all prior oral or written offers, negotiations, agreements, understandings and courses of dealing between the parties relating to the subject matter hereof and is subject to no understandings, conditions, or representations other than those expressly stated herein. This Agreement may only be modified or amended by a writing which states that it modifies or amends this Agreement and which is signed by all parties.

27. **SECTION HEADINGS.** The section headings contained in the Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.

28. **MISCELLANEOUS.** This Agreement shall take effect as a sealed instrument and be binding upon and inure to the benefit of the parties and their respective successors, heirs, administrators and assigns.

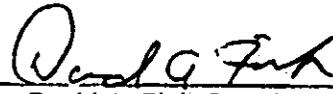
[signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two counterparts, effective as of the day and year first above written.

**SELLER:
BOSTON AND MAINE CORPORATION**



Witness

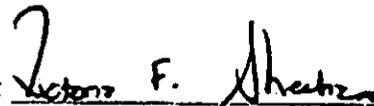
By: 

David A. Fink, President

**BUYER:
STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**

Natasha Field

Witness

By: 

Name: Victoria F. Sheehan
Title: NHDOT Commissioner

NH Attorney General

Emily C. Goering
Signature

EMILY C. GOERING
Name

Assistant AG
Title

Authorized to enter into Agreement as approved by
Governor and Council on:

Secretary of State

Dated

BOSTON AND MAINE CORPORATION

Secretary's Certificate

I, Robert B. Culliford, being the duly elected and presently serving Secretary of the Boston and Maine Corporation (the "Corporation") do hereby certify that the following vote was adopted by the Board of Directors of the Corporation at a meeting held on February 18, 2021:

VOTED: That the Corporation sell, assign, transfer and convey to the State of New Hampshire, Department of Transportation, all land of the Boston and Maine Corporation in the Town of Boscawen, containing approximately 5.475 acres, County of Merrimack, State of New Hampshire, for the consideration of One Hundred Ten Thousand and 00/100 Dollars (\$110,000.00).

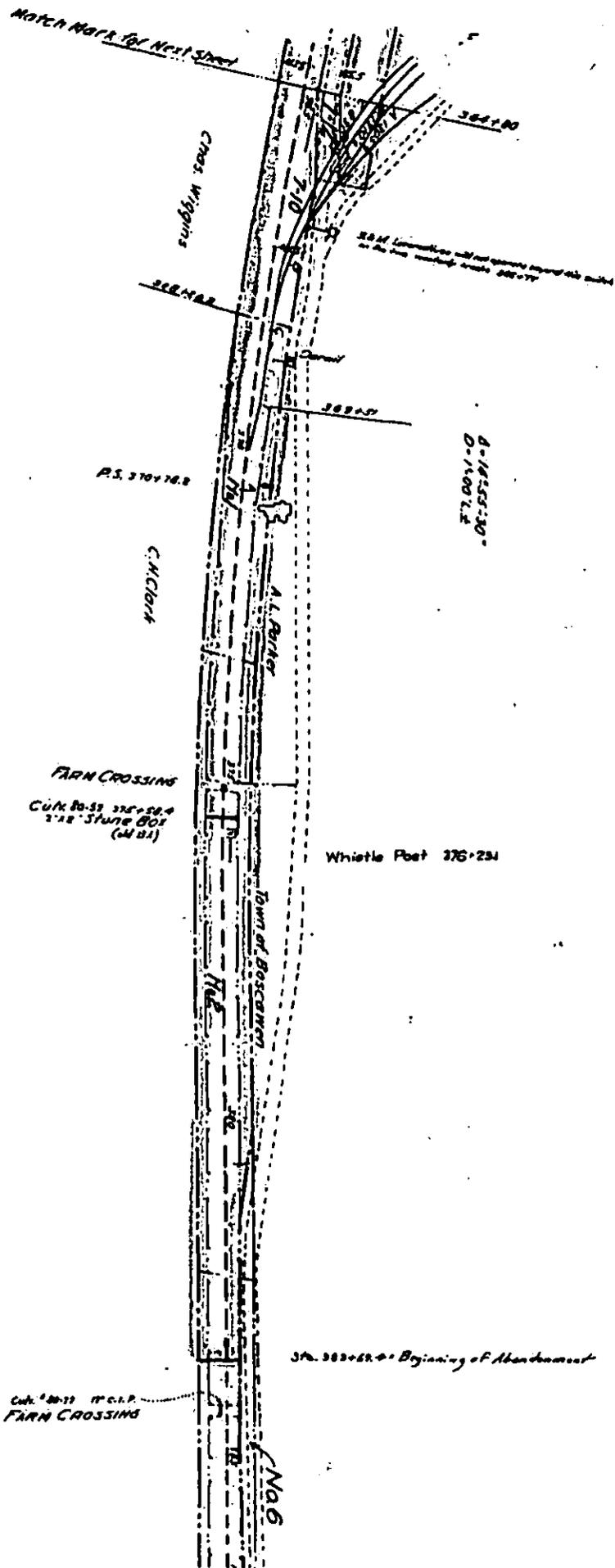
VOTED: That David A. Fink, President of the Corporation, is hereby authorized, empowered and directed, on behalf of and in the name of the Corporation, to, execute, seal, and deliver such agreements of sale, deeds, certificates, and other instruments as he may deem necessary, appropriate or convenient to effect the transaction contemplated by the foregoing vote and that all actions taken in furtherance of said transactions prior to the date hereof are hereby ratified, approved, confirmed and adopted in all respects.

I hereby further certify that the foregoing vote has not been altered, amended or rescinded and remains in full force and effect as of date hereof.

WITNESS my hand and seal of the Corporation this 24th day of January, 2022.


Robert B. Culliford
Secretary

EXHIBIT "A"
PLAN OF THE PREMISES



Match Mark for Next Sheet

Cross Wiggins

RS. 370+16.8

C. Clark

A.L. Butler

FARM CROSSING

Cul. No. 52 2' x 12' Stone Box (M.S.)

Town of Boscomen

Whistle Post 376+234

Sta. 383+65.0 - Beginning of Abandonment

Cul. No. 52 17' x 12' Stone Box (M.S.)
FARM CROSSING

No 6

D-16153:30
D-15007.E

DRAFT

EXHIBIT B

RELEASE DEED

The **BOSTON AND MAINE CORPORATION**, a corporation duly organized and existing under the laws of the State of Delaware, with offices at Iron Horse Park, North Billerica, Middlesex County, Massachusetts (the "Grantor") in consideration of and 00/100 (\$00) Dollars paid to it by _____, with a mailing address of _____, (the "Grantee") hereby grants to the Grantee all the Grantor's right, title and interest, without any warranties or covenants of title whatsoever, in a certain parcel of land, and the buildings, bridges, structures, crossings, fixtures and improvements thereon, if any, situated in _____, County of _____ (the "Premises") described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND
MADE A PART HEREOF BY THIS REFERENCE.**

This conveyance is subject to the following reservations, conditions, covenants and agreements:

1. This conveyance is made without granting any right of way, either by necessity or otherwise, over any remaining land or location of the Grantor.
2. By the acceptance of this deed and as part consideration therefor, the Grantee hereby assumes any and all agreements, covenants, obligations and liabilities of the Grantor in respect to any underground facilities, drainage culverts, walls, crossings and/or other structures of any nature and description located in whole or in part within the Premises.
3. By the acceptance of this deed and as part consideration therefor, the Grantee agrees to irrevocably waives, gives up and renounces any and all claims or causes of action against the Grantor in respect of claims, suits and/or enforcement actions (including any administrative or judicial proceedings and any remedial, removal or response actions) ever asserted, threatened, instituted or requested by any person and/or governmental agency on account of: (a) any release of oil or hazardous materials or

DRAFT

substances of any description on, upon or into the Premises in contravention of any ordinance, law or statute (including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq., as amended); and (b) any and all damage to real or personal property, natural resources and/or harm or injury to persons alleged to have resulted from such release of oil or hazardous materials or substances. Notwithstanding anything to the contrary set forth in this Deed, nothing in this Deed shall preclude the State of New Hampshire from enforcing any and all State laws, including, but not limited to environmental laws and regulations.

4. By the acceptance of this deed and as part consideration therefor, the Grantee hereby agrees to make no use of the Premises which, in the sole and reasonable opinion of the Principal Engineering Officer of the Grantor, adversely affects, increases or decreases drainage to, from, upon or in any remaining land or location of the Grantor. The Grantee agrees to save the Grantor harmless from and against any and all loss, cost, damage or expense including, but not limited to, the cost of defending all claims and/or suits for property damage, personal injury or death arising out of or in any way attributable to any breach of the foregoing covenant.

5. Whenever used in this deed, the term "Grantor" shall not only refer to the above-named Grantor, but also its successors, assigns and affiliates and the term "Grantee" shall not only refer to the above-named Grantee, but also its successors, assigns and grantees, as the case maybe.

6. The several exceptions, reservations, conditions, covenants and agreements contained in this deed shall be deemed to run with the land and be binding upon the Grantee forever. In addition to the acceptance and recording of this deed, the Grantee hereby signifies assent to the said several exceptions, reservations, conditions, covenants and agreements, by joining in its execution.

[signature page to follow]

DRAFT

IN WITNESS WHEREOF, the said **BOSTON AND MAINE CORPORATION** has caused this release deed to be executed in its name and its corporate seal to be hereto affixed by David A. Fink, its President, thereunto duly authorized this day of 202__.

**GRANTOR:
BOSTON AND MAINE CORPORATION**

Witness

By: _____
David A. Fink, President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

_____, 202__

On this day of _____, 202__, before me, the undersigned notary public, personally appeared David A. Fink, President as aforesaid, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

DRAFT

IN WITNESS WHEREOF, the said _____ has caused this release deed to be executed in its name and its corporate seal to be hereto affixed by _____, thereunto duly authorized this _____ day of _____, 202__.

GRANTEE:

By: _____

Witness

STATE OF NEW HAMPSHIRE

_____, 202__
, ss.

On this _____ day of _____, 202__, before me, the undersigned notary public, personally appeared _____ as aforesaid, proved to me through satisfactory evidence of identification, which was a Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT "C"

Additional Provisions

29. **TITLE REVIEW.** The Buyer's performance hereunder is subject to the title to the Premises being good, clear record and marketable and subject only to those easements, encumbrances and restrictions which: (i) are of record or Existing Agreements, and (ii) do not substantially interfere with the Buyer's intended use of the Premises as a rail trail. The Buyer shall have a period of sixty (60) days from the date first written above to examine the title to the Premises and the Existing Agreements, and determine whether or not they comply with the provisions hereof. If Buyer notifies Seller of a title defect or other noncompliance on or before the sixty fifth (65) day from the date first written above, and if Seller does not cure said defect prior to the Closing Date, then Buyer may terminate this Agreement by written notice to Seller in which case, the obligations of the parties shall cease, this Agreement shall be void and neither party shall have further recourse against the other. In the event the Buyer fails to so notify the Seller of any title defect on or before the sixty fifth (65) day from the date first written above, the Buyer shall be conclusively deemed to have waived any objection to the title based upon said defect. The time periods under this provision shall be extended by each day Seller is late in delivering to Buyer a copy of the Existing Agreements.

30. **PHASE 1 INSPECTION.** The Buyer's performance hereunder is subject to the Premises being free of hazardous materials and/or other pollutants regulated by law ("Pollutants"). The Buyer may, at its own expense, promptly conduct a Phase 1 environmental assessment ("Assessment") concerning the presence of Pollutants on the Premises from a duly qualified, certified engineer currently engaged in the business of conducting such Assessments. The Assessment shall be completed within sixty (60) days from the date first written above. The Buyer may terminate this Agreement for any reason, or for no reason following the Assessment, by providing written notice to the Seller within sixty-five (65) days from the date first written above of its intention to terminate the Agreement. Upon receipt of said notice, the obligations of the parties shall cease, this Agreement shall be void and neither party shall have further recourse against the other. If the Buyer does not so terminate this Agreement, the Buyer shall be deemed to have waived all objections to the condition of the Premises, including hazardous waste, oil or other contaminated material existing on the date of completion of the Assessment.



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

47 Jam

Bureau of Rail & Transit
December 6, 2021

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

REQUESTED ACTION

Authorize the Department of Transportation to enter into a Contribution Agreement ("Agreement") with the Friends of the Northern Rail Trail (FNRT), a New Hampshire voluntary non-profit corporation, relative to the acquisition and use of a certain portion of the Northern Railroad Corridor in Boscawen, NH to be effective upon Governor and Council approval for a period of one year from execution.

EXPLANATION

The specific portion of the Northern Railroad Corridor in Boscawen (the "Property") is currently owned by the Boston and Maine Corporation and is planned to be acquired by the Department, via a separate Governor and Council item, pursuant to the authority in RSA 228:56 for the purpose of the continued and future operation of a railroad or transportation corridor, which definition includes recreational trails. The Department's planned and future use of the Property will comply with all State and Federal laws governing railroad properties.

The FNRT wishes to contribute the funds for the acquisition of the Property and this Agreement defines the terms and conditions by which the FNRT and the Department shall abide. This Agreement includes the right of the FNRT, at its expense, to construct a rail trail segment on the Property in a manner consistent with existing trail segments known as the Northern Rail Trail and will provide third party funding to the Department for this acquisition and also provides the Department with the ability to preserve the rail corridor for future rail and other transportation purposes.

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

Your approval of this resolution is respectfully requested.

Sincerely,

Victoria F. Sheehan
Commissioner

Attachments

Filed in
Land Serv / Records

CONTRIBUTION AGREEMENT

(Railroad Corridor Segment - Boscawen)

NAM

THIS CONTRIBUTION AGREEMENT (the "Agreement") is made and entered into as of the 10th day of November 2021, by and between the Friends of the Northern Rail Trail, a New Hampshire voluntary (non-profit) corporation, (the "FNRT"), and the State of New Hampshire Department of Transportation (the "NHDOT"), an agency of the State of New Hampshire.

WHEREAS, NHDOT is the purchaser under that certain Purchase and Sale Agreement by and between Boston and Maine Corporation and NHDOT dated _____, 2021 (the "P&S"), attached hereto as Exhibit A, with respect to certain real property located in the County of Merrimack, State of New Hampshire (the "Property") as further described in the P&S; and

WHEREAS, FNRT wishes to contribute to NHDOT certain funds for acquisition of the Property and NHDOT desires to receive said Contribution;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements set forth herein, FNRT and NHDOT agree as follows:

1. **CONTRIBUTION.** On the terms and conditions set forth herein, FNRT hereby agrees to contribute and donate funds in the amount of One Hundred Ten Thousand Dollars (\$110,000.00) (the "Contribution") to NHDOT in the form of a wire transfer, certified or bank cashier's check, within five business days of receiving a written request from NHDOT, and NHDOT agrees to accept the Contribution from FNRT. In the event that NHDOT does not close on the purchase of the Property within 120 days of receipt of the Contribution, NHDOT shall return the Contribution to FNRT.
2. **CONDITIONS.** The Contribution is subject to the following conditions, which shall constitute covenants and agreements of the parties:
 - a) NHDOT shall keep FNRT reasonably apprised of the status of the pending transaction and the results of its due diligence. If the results of the due diligence indicate a material impediment or risk of acquiring the Property for the purpose of constructing a rail trail segment thereon, the parties shall confer and determine collectively and in good faith whether to proceed with the transaction.
 - b) Upon acquisition of the Property by NHDOT and subject to any rights of third parties to possession and/or use of the Property, FNRT shall have the right, at its expense, to construct a rail trail segment (the "Rail Trail Segment") on the abandoned railroad corridor on the Property up to the Concord line or such shorter length as FNRT may elect, in one or more segments, in a manner consistent with the 33 miles already built by FNRT and known as the "Northern Rail Trail". The FNRT shall enter into a Temporary Use Agreement (TUA) with NHDOT in order to construct the Rail Trail Segment. NHDOT agrees to waive its standard TUA fee.

c) The acquisition of the Property by NHDOT is pursuant to the authority in RSA 228:56 for the purpose of the continued and future operation of a railroad or transportation corridor, which definition includes recreational trails. NHDOT's use and future disposal of the Property will comply with all State and Federal laws governing rail properties.

3. **TERMINATION.** This Agreement will expire and be of no further force and effect if NHDOT fails to request the Contribution within one (1) year from the date of the latest signature below.
4. **ENTIRE AGREEMENT.** This Agreement, including the exhibits hereto, sets forth the entire agreement and understanding between the parties hereto as to the subject matter hereof. This Agreement may not be modified or amended except by a writing signed by both parties hereto.
5. **GOVERNING LAW.** This Agreement and its validity, construction and performance shall be governed by the laws of the United States and the State of New Hampshire, as applicable.
6. **NOTICES.** Any notices permitted or required to be given hereunder shall be sent by facsimile transmission or mailed, postage prepaid, to the party to receive such notice as such party's address as provide below:

MAM
VFS
Leb 6/10/11

If to FNRT:
Friends of the Northern Rail Trail
P.O. Box ~~154~~ *2045*
Andover, New Hampshire, 03216 *03766*
Attention: President

With a copy to:
Sulloway & Hollis, P.L.L.C.
9 Capitol Street
Concord, New Hampshire 03301
Attention: Kelly Ovitt Puc

If to NHDOT:
State of New Hampshire Department of Transportation
John Morton Building
7 Hazen Drive - P.O. Box 483
Concord, New Hampshire 03302-0483
Attention: Bureau of Rail & Transit

7. **SATURDAYS, SUNDAYS, HOLIDAYS.** If the final date of any time period of limitation set out in any provision of this agreement falls on a Saturday, Sunday or a legal holiday under the laws of the State of New Hampshire then the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

8. **EFFECTIVE DATE.** This Agreement is subject to the approval of the Governor and Executive Council of the State of New Hampshire. This Agreement shall become effective on the date the Governor and Executive Council approve this Agreement (the "Effective Date").
9. **BINDING EFFECT.** The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties' successors and assigns.

IN WITNESS WHEREOF, the parties hereto have dully executed this Agreement as of the date first above written.

[SIGNATURE PAGES FOLLOW]

Signature Page

FRIENDS OF THE NORTHERN RAILTRAIL

Alvin Berlew
Witness

By: Joseph M. Mayman

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**

Katasha Luba
Witness

By: Victoria F. Sheehan
Victoria F. Sheehan, Commissioner

The foregoing Agreement, having been reviewed by this office, is approved as to form and execution on Dec 4, 2021.

OFFICE OF THE ATTORNEY GENERAL

By: Erin C. Giam
Assistant Attorney General

Approved by Governor and Council

By: [Signature] Date: DEC 22 2021

DEPUTY SECRETARY OF STATE

Exhibit A
Purchase and Sale Agreement

[see attached]

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT made as of the ___ day of _____, 2021 by and between the **BOSTON AND MAINE CORPORATION**, a Delaware corporation with a place of business at Iron Horse Park, North Billerica, Massachusetts (the "Seller") and the party hereinafter identified in Paragraph 1(b) (the "Buyer").

WITNESSETH:

1. The following terms shall have the meanings specified whenever used in this Agreement:

(a) **SELLER:**

Boston and Maine Corporation
c/o Pan Am Systems, Inc.
Iron Horse Park
North Billerica, Massachusetts 01862
Attention: Philip D. Kingman, Sr. Vice President
Real Estate & Development

Send a copy of any notice to:

Boston and Maine Corporation
c/o Pan Am Systems, Inc.
Iron Horse Park
North Billerica, Massachusetts 01862
Attention: Michael Twidle, Vice President Real Estate

(b) **BUYER:**

State of New Hampshire Department of Transportation
John Morton Building
1 Hazen Drive - P.O. Box 483
Concord, New Hampshire 03302-0483
Attention: Victoria Sheehan

Buyer represents and warrants that as of the Closing Date, Buyer will have sufficient funds appropriated to pay the Purchase Price in full.

3. **TITLE.** The Premises shall be conveyed by a release deed running to the Buyer in a form substantially identical to that annexed hereto and marked Exhibit "B" (the "Deed"). The Deed shall contain no warranties or covenants of title whatsoever and shall convey all of the Seller's right, title and interest in the Premises, subject to the following:

- (a) Provisions of existing building, land use, subdivision control and zoning laws;
- (b) Such real property taxes for the then current tax year as are not yet due and payable on the Closing Date;
- (c) Any liens for municipal betterments assessed after the date of this Agreement;
- (d) Such agreements, leases, licenses, easements, restrictions and encumbrances, if any, as may appear of record;
- (e) The provisions, conditions and covenants set forth in the Deed and hereby expressly incorporated by reference. The Buyer agrees to signify acceptance of such provisions, conditions and covenants contained in the Deed by executing the Deed at closing;
- (f) A lease executed between Seller and Scenic RailRiders Inc. with a lease term of five (5) years, expiring June 6, 2024. Within ten (10) days of the Effective Date hereof, Seller shall provide a full and complete copy of the aforementioned lease to the Buyer for review. The parties agree that at Closing, they shall execute a customary form of assignment and assumption agreement with respect to the aforementioned lease as it pertains to the Premises, the Seller shall provide a tenant estoppel certificate with the customary representations of tenant, and the Seller shall transfer or credit to Buyer any tenant deposits in accordance with Section 5; and
- (g) Existing Agreements (defined below).

4. **EXISTING AGREEMENTS.** Within ten (10) days of the Effective Date, the Seller shall provide the Buyer with a copy of any existing leases, crossing agreements, encroachments, covenants, easements, or any other encumbrance affecting the Premises ("Existing Agreements") to be assumed by the Buyer. If the Seller is aware of any Existing Agreements affecting the Premises, but does not have copies of said Existing Agreements, the Seller shall provide the Buyer with a written description of each Existing Agreement prior to the Closing Date. The written description shall include the terms and affected location of the

Existing Agreement, and, if known, the contact information of individuals or entities having an interest in the Existing Agreement.

5. **ADJUSTMENTS TO PURCHASE PRICE.** Water rates, rents, real estate and other property taxes and sewer charges (collectively, the "Taxes") shall be apportioned as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the Purchase Price payable by the Buyer. If the amount of Taxes is not known at the Closing Date, they shall be apportioned on the basis of the Taxes for the applicable preceding period and reapportioned as soon as verified current information can be obtained. Any income attributable to the Premises, including rents, shall be apportioned as of the Closing Date. This provision shall survive the delivery of the Deed.

6. **FEES, COSTS, AND TRANSFER TAXES.** The Buyer agrees to pay all recording fees. The requirements of RSA 78-B, including taxes, deed stamps and a Declaration of Consideration, do not apply to this Transaction.

7. **CLOSING.** The Deed shall be delivered and the Purchase Price shall be paid by wire transfer, certified or bank cashier's check (and not otherwise) at Iron Horse Park, North Billerica, Massachusetts at 10 o'clock a.m. on the Closing Date, unless the parties otherwise agree beforehand in writing. It is agreed that time is of the essence in all respects to this transaction.

8. **POSSESSION.** The Seller shall deliver possession of the Premises to the Buyer on the Closing Date, subject only to the provisions of Paragraph 3 hereof, the Premises then being in the same condition as they now are, reasonable wear and tear excepted.

9. **SELLER'S DEFAULT.** In the event that the Seller is unable to give title or make conveyance of the Premises to the Buyer in accordance with the terms of this Agreement for any reason, then Buyer may elect to exercise, by written notice to Seller as Buyer's sole and exclusive right and remedy, one (1) of the following rights and remedies: (i) to terminate this Agreement and neither Seller nor Buyer shall have any further rights, obligations or liabilities under this Agreement except for the obligations expressly deemed, pursuant to this Agreement, to survive the termination of this Agreement, (ii) to forbear the satisfaction of any unsatisfied conditions and consummate the Closing without reduction in the Purchase Price.

10. **REMOVAL OF ENCUMBRANCES.** The Seller may use the Purchase Price paid by the Buyer at the time of the delivery of the Deed, or any portion thereof, to clear the title of any mortgage or other title encumbrance not in accordance with the terms hereof, provided that any instrument so procured is recorded as soon as reasonably practical after the delivery of the Deed.

11. **ACCEPTANCE OF DEED.** The Buyer's acceptance of the Deed shall be deemed to be a full performance and discharge of every agreement or obligation of the Seller herein contained, except for such as are, by the terms hereof, to be performed after the delivery of the Deed.

regulations. Should the State of New Hampshire or any local, state or federal governmental agency with appropriate jurisdiction notify Seller of a potential violation of Environmental Laws relating to the Premises, then the Seller shall promptly notify the Buyer. This provision shall survive the delivery of the deed.

18. **NOTICES.** Any notice or other communication in connection with this Agreement shall be deemed given when received (or upon attempted delivery if delivery is not accepted). Such notices shall be in writing and delivered by hand or sent either (a) by registered or certified mail (return receipt requested) with the United States Postal Service; or (b) by Federal Express or other similar overnight mail carrier furnishing evidence of receipt to the sender, at the address set forth in paragraph 1 of this Agreement. Either party may change the address at which notices are to be received by notice given as set forth above.

19. **CONFIDENTIALITY.** The Buyer agrees and acknowledges that Information (hereinafter defined) concerning the Premises provided by Seller in connection with the transaction contemplated in this Agreement (the "Transaction") is unique and confidential to the Seller. If the Transaction does not take place, for any reason whatsoever (including, but not limited to, breach of this Agreement by either party), the Buyer agrees, in addition to the provisions of paragraph 15 hereof, to return to the Seller all (i) plans, (ii) surveys, (iii) reports, (iv) site assessment and environmental reports of any description, (v) soil, vegetation, water, air and other samplings collected at the Premises and the fruits of any research, testing, experimentation or study conducted with the same, and (vi) all other information or documents furnished by the Seller to the Buyer (collectively, the "Information"). Furthermore, in the event the Transaction does not take place, the Buyer warrants to the Seller that the Buyer, its officers, agents, employees, directors, shareholders and affiliates shall not disclose the Information to any person, entity or government, except as required by RSA 91-A. The Buyer acknowledges and agrees that the Seller may, in addition to all other remedies available to it, obtain injunctive relief against the Buyer for any breach or threatened breach of the provisions of this paragraph.

20. **RECORDING.** The parties agree that neither this Agreement nor any memorandum thereof shall be recorded at the registry of deeds and that any such recording by the Buyer shall constitute a default by Buyer.

21. **AUTHORITY OF SIGNATORY.** If the Buyer executes this Agreement by agent or representative, such agent or representative hereby warrants and represents to the Seller that he is authorized to execute, acknowledge and deliver this Agreement on behalf of the Buyer and to thereby bind the Buyer to the same. This warranty shall survive the delivery of the Deed.

22. **ASSIGNMENT.** The Buyer may not assign this Agreement, or any interest herein, without the prior written consent of the Seller, which consent shall not be unreasonably withheld.

23. **SEVERABILITY.** If any term of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent be deemed invalid or unenforceable, the remainder of this Agreement and the application of such term to persons or

circumstances other than those as to which it is held invalid or unenforceable shall not be affected.

24. **NO WAIVER.** No delay or omission on the part of either party in exercising its rights under this Agreement shall constitute a waiver of such right or any other right under this Agreement. Also, no waiver of any such right on one occasion shall be construed as a waiver of it on any other occasion.

25. **APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the state of New Hampshire.

26. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, supersedes all prior oral or written offers, negotiations, agreements, understandings and courses of dealing between the parties relating to the subject matter hereof and is subject to no understandings, conditions, or representations other than those expressly stated herein. This Agreement may only be modified or amended by a writing which states that it modifies or amends this Agreement and which is signed by all parties.

27. **SECTION HEADINGS.** The section headings contained in the Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.

28. **MISCELLANEOUS.** This Agreement shall take effect as a sealed instrument and be binding upon and inure to the benefit of the parties and their respective successors, heirs, administrators and assigns.

[signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two counterparts, effective as of the day and year first above written.

**SELLER:
BOSTON AND MAINE CORPORATION**

Witness

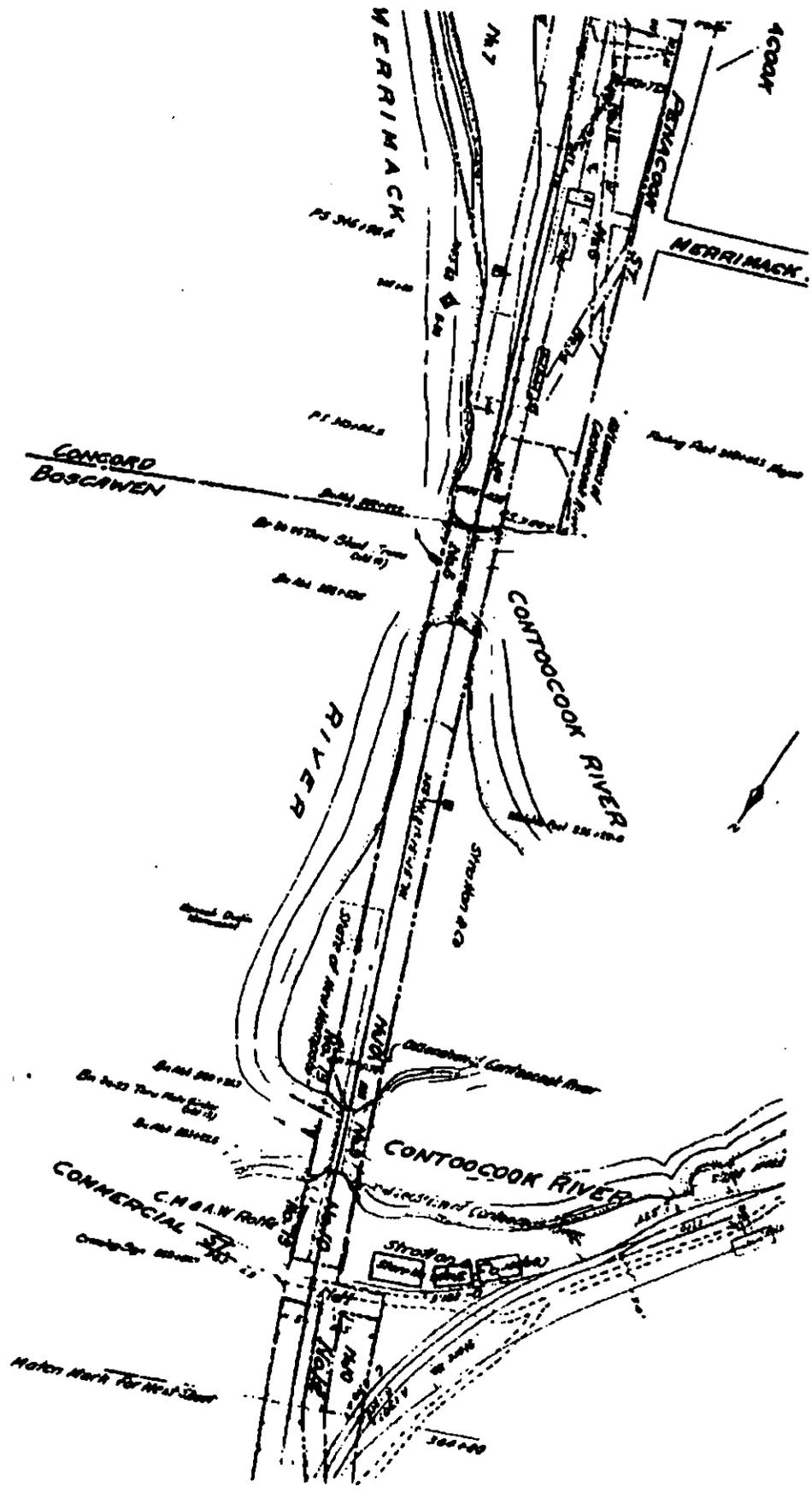
By: _____
David A. Fink, President

**BUYER:
STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**

Witness

By: _____
Name: _____
Title: _____

EXHIBIT "A"
PLAN OF THE PREMISES



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EXHIBIT B

RELEASE DEED

The **BOSTON AND MAINE CORPORATION**, a corporation duly organized and existing under the laws of the State of Delaware, with offices at Iron Horse Park, North Billerica, Middlesex County, Massachusetts (the "Grantor") in consideration of and 00/100 (\$00) Dollars paid to it by _____, with a mailing address of _____, (the "Grantee") hereby grants to the Grantee all the Grantor's right, title and interest, without any warranties or covenants of title whatsoever, in a certain parcel of land, and the buildings, bridges, structures, crossings, fixtures and improvements thereon, if any, situated in _____, County of _____ (the "Premises") described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND
MADE A PART HEREOF BY THIS REFERENCE.**

This conveyance is subject to the following reservations, conditions, covenants and agreements:

1. This conveyance is made without granting any right of way, either by necessity or otherwise, over any remaining land or location of the Grantor.
2. By the acceptance of this deed and as part consideration therefor, the Grantee hereby assumes any and all agreements, covenants, obligations and liabilities of the Grantor in respect to any underground facilities, drainage culverts, walls, crossings and/or other structures of any nature and description located in whole or in part within the Premises.
3. By the acceptance of this deed and as part consideration therefor, the Grantee agrees to irrevocably waive, give up and renounce any and all claims or causes of action against the Grantor in respect of claims, suits and/or enforcement actions (including any administrative or judicial proceedings and any remedial, removal or response actions) ever asserted, threatened, instituted or requested by any person and/or governmental agency on account of: (a) any release of oil or hazardous materials or

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substances of any description on, upon or into the Premises in contravention of any ordinance, law or statute (including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq., as amended); and (b) any and all damage to real or personal property, natural resources and/or harm or injury to persons alleged to have resulted from such release of oil or hazardous materials or substances. Notwithstanding anything to the contrary set forth in this Deed, nothing in this Deed shall preclude the State of New Hampshire from enforcing any and all State laws, including, but not limited to environmental laws and regulations.

4. By the acceptance of this deed and as part consideration therefor, the Grantee hereby agrees to make no use of the Premises which, in the sole and reasonable opinion of the Principal Engineering Officer of the Grantor, adversely affects, increases or decreases drainage to, from, upon or in any remaining land or location of the Grantor. The Grantee agrees to save the Grantor harmless from and against any and all loss, cost, damage or expense including, but not limited to, the cost of defending all claims and/or suits for property damage, personal injury or death arising out of or in any way attributable to any breach of the foregoing covenant.

5. Whenever used in this deed, the term "Grantor" shall not only refer to the above-named Grantor, but also its successors, assigns and affiliates and the term "Grantee" shall not only refer to the above-named Grantee, but also its successors, assigns and grantees, as the case maybe.

6. The several exceptions, reservations, conditions, covenants and agreements contained in this deed shall be deemed to run with the land and be binding upon the Grantee forever. In addition to the acceptance and recording of this deed, the Grantee hereby signifies assent to the said several exceptions, reservations, conditions, covenants and agreements, by joining in its execution.

[signature page to follow]

DRAFT

IN WITNESS WHEREOF, the said _____ has caused this release deed to be executed in its name and its corporate seal to be hereto affixed by _____, thereunto duly authorized this _____ day of _____, 202__.

GRANTEE:

By: _____

Witness

STATE OF NEW HAMPSHIRE

_____, 202__
, ss.

On this _____ day of _____, 202__ , before me, the undersigned notary public, personally appeared _____ as aforesaid, proved to me through satisfactory evidence of identification, which was a Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT "C"

Additional Provisions

29. **TITLE REVIEW.** The Buyer's performance hereunder is subject to the title to the Premises being good, clear record and marketable and subject only to those easements, encumbrances and restrictions which: (i) are of record or Existing Agreements, and (ii) do not substantially interfere with the Buyer's intended use of the Premises as a rail trail. The Buyer shall have a period of sixty (60) days from the date first written above to examine the title to the Premises and the Existing Agreements, and determine whether or not they comply with the provisions hereof. If Buyer notifies Seller of a title defect or other noncompliance on or before the sixty fifth (65) day from the date first written above, and if Seller does not cure said defect prior to the Closing Date, then Buyer may terminate this Agreement by written notice to Seller in which case, the obligations of the parties shall cease, this Agreement shall be void and neither party shall have further recourse against the other. In the event the Buyer fails to so notify the Seller of any title defect on or before the sixty fifth (65) day from the date first written above, the Buyer shall be conclusively deemed to have waived any objection to the title based upon said defect. The time periods under this provision shall be extended by each day Seller is late in delivering to Buyer a copy of the Existing Agreements.

30. **PHASE 1 INSPECTION.** The Buyer's performance hereunder is subject to the Premises being free of hazardous materials and/or other pollutants regulated by law ("Pollutants"). The Buyer may, at its own expense, promptly conduct a Phase 1 environmental assessment ("Assessment") concerning the presence of Pollutants on the Premises from a duly qualified, certified engineer currently engaged in the business of conducting such Assessments. The Assessment shall be completed within sixty (60) days from the date first written above. The Buyer may terminate this Agreement for any reason, or for no reason following the Assessment, by providing written notice to the Seller within sixty-five (65) days from the date first written above of its intention to terminate the Agreement. Upon receipt of said notice, the obligations of the parties shall cease, this Agreement shall be void and neither party shall have further recourse against the other. If the Buyer does not so terminate this Agreement, the Buyer shall be deemed to have waived all objections to the condition of the Premises, including hazardous waste, oil or other contaminated material existing on the date of completion of the Assessment.

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that FRIENDS OF THE NORTHERN RAIL TRAIL IN MERRIMACK COUNTY is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on December 02, 2004. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 528314

Certificate Number : 0005276225



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 26th day of February A.D. 2021.

A handwritten signature in black ink, appearing to read "Wm Gardner".

William M. Gardner
Secretary of State

FRIENDS OF THE NORTHERN RAIL TRAIL
IN MERRIMACK COUNTY

P.O. BOX 154
ANDOVER, NH 03216

CERTIFICATE OF VOTE

I, George Heaton, do hereby certify that I am the duly elected Secretary of Friends of the Northern Rail Trail in Merrimack County. I hereby certify the following is a true copy of a vote taken by unanimous written consent in accordance with the ByLaws of the Board of Directors of the Friends of the Northern Rail Trail in Merrimack County, duly called and held as of December 3, 2021.

Voted: To ratify that Myra Mayman, Co-President of the Board, was duly authorized to enter into a specific Contribution Agreement with the State of New Hampshire, through the Department of Transportation, Bureau of Rail & Transit signature dated November 10, 2021, and further authorize her to execute any documents which may in her judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract for which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

DATED: 12/3/21

ATTEST: Henry R. Heaton, Jr.

STATE OF NEW HAMPSHIRE
COUNTY OF

On, 12/03/21, before the undersigned officer personally appeared the person identified in the foregoing certificate, known to me (or satisfactorily proven) to be the SECRETARY of the corporation identified in the foregoing certificate, and acknowledged that he executed the foregoing certificate.

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

12/03/21
Date

Robert J. Heaton
Notary Public

