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**THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION**



*Victoria F. Sheehan  
Commissioner*

21

*William Cass, P.E.  
Assistant Commissioner*

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

Bureau of Right-of-Way  
October 20, 2022

**REQUESTED ACTION**

Pursuant to RSA 4:39-c and 228:31, authorize the New Hampshire Department of Transportation (Department) to amend a previously approved Governor and Executive Council item # 28 (January 24, 2022) to dispose of two parcels of state-owned land located on the westerly side of NH Route 16 (Spaulding Turnpike) in the Town of Newington by reducing the acreage of the two parcels from 5.20 +/- acres, to 4.02 +/- acres. As a result of the decreased acreage to be conveyed, and a review of the previously determined value, the sale price was reduced from \$1,111,200.00 to \$952,200.00 which includes an \$1,100.00 per parcel administrative fee, effective upon Governor and Executive Council Approval.

The Department's Bureau of Finance and Contracts has determined these parcels were purchased with 100% Turnpike Funds.

Funding is to be credited as follows:

04-096-096-960015-0000-UUU-402156	<u>FY 2023</u>
Administrative Fee	\$2,200.00
04-096-096-960017-0000-UUU-409278	<u>FY 2023</u>
Sale of Parcel	\$950,000.00
(100% of \$950,000.00)	

**EXPLANATION**

The Grantee has been working with the Town of Newington to develop workforce housing and senior living facilities. The Grantee is hoping to expand their existing parcel by acquiring the two unimproved abutting lots.

As per the conditions of the sale, the Grantee completed the required survey of both parcels. The overall acreage being conveyed has been adjusted from the original estimated area of 5.2 +/- acres, based on an aerial map of the subject parcels provided by the Grantee, to 4.02 +/- acres confirmed through the survey of the two parcels as noted above and attached.

The Grantee approached the Department with a revised value of \$867,189.00, which reflected a value based on the confirmed acreage. The Grantee calculated the value using the price per acre previously determined by a Right-of-Way staff appraiser. The staff appraiser revised the original appraisal based on the confirmed acreage and recalculated the combined value of both parcels to be \$950,000.00.

At the November 9, 2021, Long Range Capital Planning and Utilization Committee (LRCP) meeting, the first request (LRCP 21-034) was approved, allowing the Department to sell the two parcels directly to S.N.S. Equity, LLC for the combined value of \$1,109,000.00 and to assess an \$1,100.00 administrative fee per parcel. Upon the determination of decreased acreage and value, approval was again granted by the LRCP on September 19, 2022 (LRCP 22-020), allowing the Department to amend the sale price of the two parcels for the combined value of \$950,000.00 and to assess and \$1,100.00 administrative fee per parcel.

The Department is requesting authorization for the sale of land as noted above. All other sale conditions previously approved remain the same.

Respectfully,



Victoria F. Sheehan  
Commissioner

VFS/SJN  
Attachments

**STATE OF NEW HAMPSHIRE**  
**INTER-DEPARTMENT COMMUNICATION**

**LRCP 22-020**

**FROM:** Stephen G. LaBonte  
Administrator

**DATE:** July 25, 2022

**AT:** Dept. of Transportation  
Bureau of Right-of-Way

**SUBJECT:** Sale of State-Owned Land in Newington  
RSA 4:39-c

**TO:** Representative John Graham, Chairman  
Long Range Capital Planning and Utilization Committee

Approved by the Long Range  
Capital Planning & Utilization  
Committee September 19, 2022

**REQUESTED ACTION**

Pursuant to RSA 4:39-c, the New Hampshire Department of Transportation (Department), requests to amend a previously approved Long Range Capital Planning and Utilization Committee item (LRCP 21-034 (November 9, 2021) to dispose of two parcels of state-owned land located on the westerly side of NH Route 16 (Spaulding Turnpike) in the Town of Newington by reducing the acreage size of the two parcels from 5.20 +/- acres to 4.02 +/- acres. As a result of the decreased acreage to be conveyed, the sale price will decrease from \$1,111,200.00 to \$952,200.00, which includes an \$1,100.00 administrative fee for each parcel. The sale will be subject to conditions as specified in the request.

**EXPLANATION**

The Grantee has been working with the Town of Newington to develop workforce housing and senior living facilities. The Grantee is looking to expand on their existing parcel by acquiring the two unimproved abutting lots.

As per the noted conditions of the sale, the Grantee completed the required survey of both parcels. The overall acreage that is being conveyed changed from a total of 5.2 +/- acres, which was based on an aerial view map of the subject parcels provided by the Grantee, to 4.02 +/- acres which was based on the surveys completed for those parcels for which I have attached.

The Grantee had approached the Department with a revised value of \$867,189.00, which reflects a value based on the actual acreage being conveyed. The Grantee utilized the price per acre determined by a Staff Right-of-Way Appraiser, which had been used for the initial appraisal. The Staff Appraiser revised the appraisal and formulated a current market value for both parcels of \$950,000.00. A copy of the revised appraisal is attached.

The Department respectfully requests authorization to sell the subject parcels based upon the revised acreage and appraisal for \$952,200.00, which includes the administrative fee for each parcel. All other sale conditions outlined in item LRCP.21-034 remain the same.

SGL/SJN/jl  
Attachments

July 11, 2022

VIA EMAIL

Sandra J. Newman  
New Hampshire Department of Transportation  
7 Hazen Drive  
Concord, NH 03302

RE: *Revised Appraisal for Tax Map 7 Lot 25 Shattuck Way and Tax Map 7 Lot 24 Shattuck Way/Nimble Hill Road, Newington, NH*

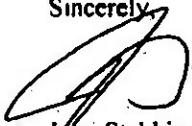
Dear Sandra:

Upon reviewing the Revised Appraisal for Tax Map 7 Lot 25 Shattuck Way and Tax Map 7 Lot 24 Shattuck Way/Nimble Hill Road, Newington, NH dated June 21, 2022, we are in acceptance of its conclusions and valuations.

We approve the New Hampshire Department of Transportation's submission of the appraisal to the Long Range Capital and Utilization Committee, and we are prepared to advance to the next stage of the Purchase and Sale Agreement for both parcels.

We look forward to continuing working with you on this transaction. Please feel free to call directly with any follow up questions or concerns.

Sincerely,



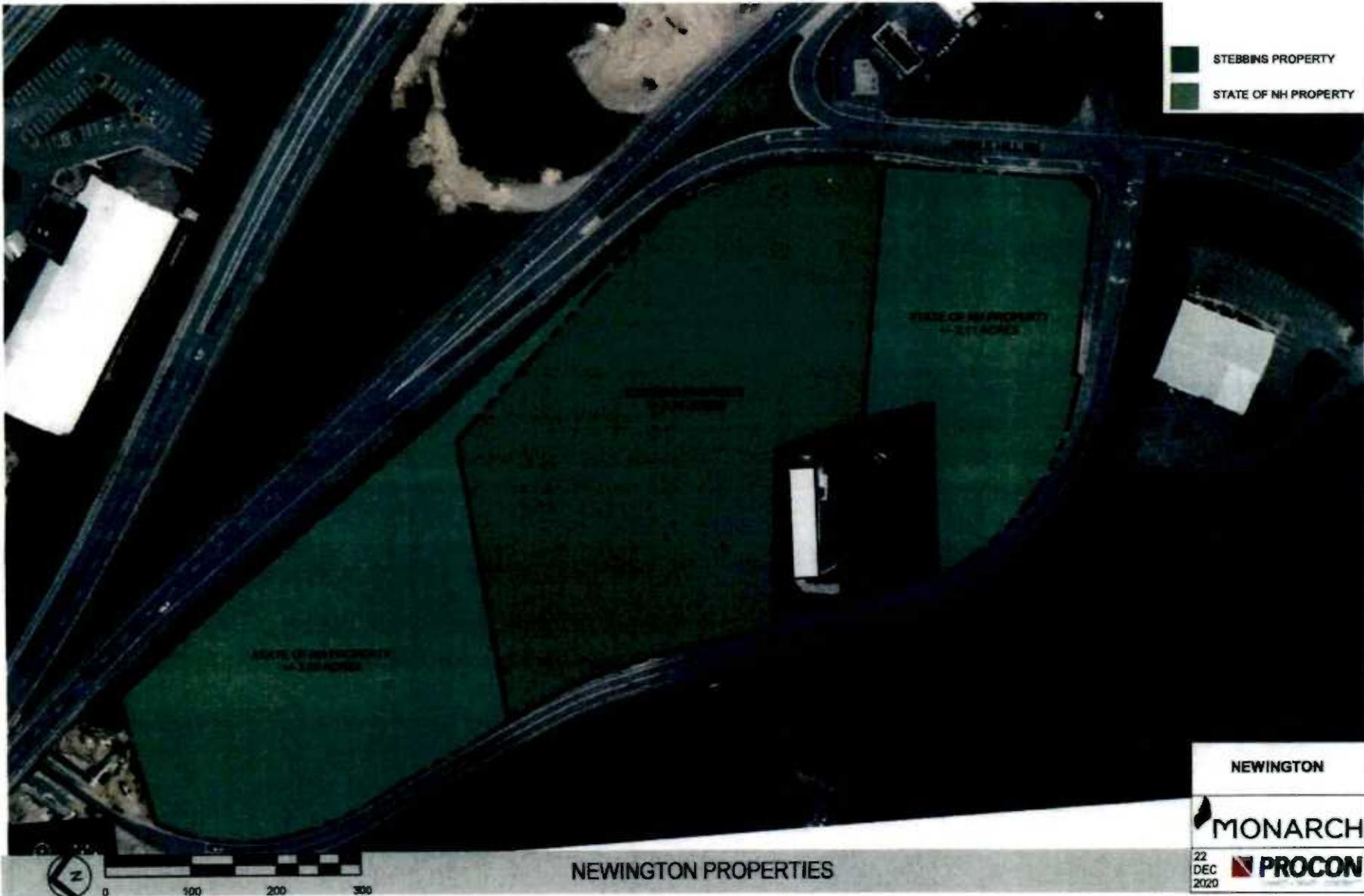
John Stebbins

AUTHORIZED AGENT OF S.N.S. EQUITY LLC

cc: Jennifer Stebbins Thomas  
Eben Tormey  
Paul Roy







## PURCHASE AND SALES AGREEMENT

This **PURCHASE AND SALES AGREEMENT** ("Agreement") is made as of the \_\_\_ day of \_\_\_\_\_, 2022, by and between the State of New Hampshire, Department of Transportation, having a principal place of business at 7 Hazen Drive, Concord, New Hampshire 03301 (referred to as the "Department") and S.N.S. Equity LLC, or its designee at closing, with a principal place of business at 1359 Hooksett Road, Hooksett, New Hampshire 03106 (referred to as "LLC" or the "Buyer") (referred to individually as a "Party" and collectively as the "Parties").

### RECITALS

This Agreement relates to the sale of real estate located on Shattuck Way and Nimble Hill Road on the westerly side of the NH Route 16 (Spaulding Turnpike), Newington, New Hampshire (the "Properties"), more particularly described on the deeds recorded at:

- Rockingham County Registry of Deeds Book 952, Page 26, dated February 13, 1939.
- Rockingham County Registry of Deeds Book 4427, Page 750, dated January 20, 2005.

This Agreement is entered into upon the basis of the following facts and intentions of the Parties:

- I. The Department owns certain real estate located on Shattuck Way and Nimble Hill Road on the westerly side of NH Route 16 (Spaulding Turnpike), Newington, New Hampshire, consisting of 4.02 +/- acres of vacant land, as further described herein.
- II. The Department is conveying a portion of the Properties totaling 4.02 +/- acres, as it has been determined that these parcels are surplus to the Department's needs.
- III. Department is authorized to dispose of the Properties in accordance with RSA 4:39-c.
- IV. The Buyer, subject to the contingencies set forth within this Agreement, desires to acquire the Properties from the Department for the purposes of future development.
- V. This Agreement is a binding contract which shall become effective upon approval of the Governor and Executive Council, pursuant to RSA 4:39-c.
- VI. All Parties signatory to this Agreement are willing to proceed upon the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

**1. DESCRIPTION OF PROPERTY AND REAL ESTATE TRANSACTION:**

- 1.1. **General:** Pending the results of the Buyer's due diligence and the other conditions in this Agreement, the Department intends to sell to the Buyer, and the Buyer intends to acquire from the Department, the Properties, consisting of 4.02 +/- acres of vacant land, shown as (i) Map 7, Lot 24 on that certain plan entitled "Plan of Land, Tax Map 7 – Lot 24, Owner of Record: New Hampshire Department of Transportation Property Located at: 20 Nimble Hill Road Town of Newington County of Rockingham State of New Hampshire" dated November 2021 and recorded in the Rockingham County Registry of Deeds as Plan D-43384, and (ii) Map 7, Lot 25 on that certain plan entitled, "Right of Way Adjustment Plan, Tax Map 7 – Lot 25, Owner of Record: New Hampshire Department of Transportation Property Located at: Shattuck Way Town of Newington County of Rockingham State of New Hampshire" dated November 2021 and recorded in the Rockingham County Registry of Deeds as Plan D-43385, each of which plans are attached hereto on ***Exhibit 1***.
- 1.2. **Purchase Price:** The Buyer shall acquire these Properties for the sum of **NINE HUNDRED FIFTY-TWO THOUSAND TWO HUNDRED AND 00/100** (\$952,200.00) due at Closing. The amount due at closing includes the \$1,100.00 administrative fee, per parcel, for the processing of this request.
- 1.3. **Payment of Purchase Price:** The Purchase Price shall be paid in full by the Buyer by certified check or bank check to the Department at Closing and conveyance of the Properties to the Buyer.
- 1.4. **Conditions of sale:** The subject properties on Shattuck Way and Nimble Hill Road on the westerly side of NH Route 16 (Spaulding Turnpike) is being sold "as is, where is," with the sale conditions approved by the Long-Range Capitol Planning and Utilization Committee, LRCP 21-034 on November 9, 2021. The following sale conditions must be satisfied prior to closing:
  - 1.4.1. The Buyer will be required to solicit a NH Licensed Land Surveyor, to survey and prepare a Perimeter Boundary/Right of Way Adjustment Plan, to be submitted to the Department for review and approval. Upon approval by the Department, the Buyer is required to record the plan in the Rockingham County Registry of Deeds, from which the Department will prepare the conveyance deed. The Parties acknowledge that this condition has been satisfied as of the date hereof.
  - 1.4.2. The Buyer shall be responsible for all local and state approvals, including but not limited to subdivision approval.

- 1.4.3. Access to these parcels shall be from Shattuck Way through a parcel the Buyer currently owns identified as Map 7, Lot 2A. No other points of access will be granted.
- 1.4.4. The Department will be retaining the Slope Easement along Shattuck Way for the Town of Newington, the terms and conditions of which shall be subject to Buyer's reasonable approval. If Buyer does not approve the terms and conditions of the Slope Easement this Agreement may be terminated by either Party.
- 1.4.5. The Properties shall be conveyed free and clear of all tenants, occupants, and other parties-in-possession.
- 1.5. **Access to Properties:** The Department hereby grants authorization to the Buyer, its employees, representatives, consultants, and agents to enter the Properties for the purpose of completing the Inspections (as defined below) and for all other purposes necessary to carry out the terms of this Agreement. All times and dates for such access shall require the prior approval by the Department and such approval will not be unreasonably withheld, conditioned, or delayed, and which shall be deemed granted if the Department does not respond to Buyer's request within forty-eight hours of Buyer's request (excluding weekends and public holidays).

The Department and the Buyer shall coordinate all access to the Properties by third parties working on behalf of the Buyer as part of the Buyer's due diligence.

The Buyer shall indemnify, defend, and hold harmless the Department from and against all claims, actions, damages, or losses (collectively, "Losses") arising out the Buyer's activities pursuant to this paragraph during its inspection and subsequent tasks related thereto which are caused solely by the Buyer's negligence, and specifically excluding Losses arising from (i) Buyer's mere discovery of existing conditions and (ii) any conditions caused or exacerbated by the Department, its employees, agents, and contractors or other third-parties unrelated to Buyer. The Buyer shall require all contractors who are retained for the purpose of completing due diligence or for any other purpose necessary to carry out the terms of this Agreement, and who will need to access the Properties, to obtain a certificate of insurance in the amount of \$2 million aggregate, \$1 million per occurrence naming the Department as an additional insured. The Buyer shall also require any such contractors to execute the Buyer's standard indemnification form naming both the Buyer and the Department as indemnified parties. The standard indemnification form shall be as follows, unless written approval of a requested change is granted by both the Department and Buyer:

"The contractor agrees to indemnify, defend and save harmless the S.N.S Equity LLC and State of New Hampshire Department of Transportation, their officials, officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the contractor in the performance of this contract. This indemnification shall survive the expiration or early termination of this contract."

- 1.6. **Closing:** The Parties agree that the consummation of the transaction contemplated herein (the "Closing") shall occur on the date that is **ninety (90) days** after final approval of the sale by the Governor and Executive Council, unless otherwise mutually agreed by the Parties (the "Closing Date"). At Closing, the Department shall deliver to Buyer all of the following, each of which shall have been duly executed (where applicable) and, where applicable, acknowledged and/or sworn on behalf of the Department and shall be dated as of the Closing Date: (i) New Hampshire Quitclaim Deed in the statutory form conveying the Properties to Buyer and attached hereto as Exhibit 2; (ii) the Title Affidavit in the form attached hereto as Exhibit 3; (iii) evidence of the payment in full at or prior to Closing of all Monetary Liens in form satisfactory to Buyer; (iv) possession of the Property, which shall be in compliance with the terms of this Agreement; (iv) a FIRPTA certificate in form attached hereto as Exhibit 4 unless an exemption applies to the Department; (v) a certificate executed by Department stating that each of the representations and warranties of the Department set forth in this Agreement are, as of the Closing Date true, complete and correct in the form attached hereto as Exhibit 5; (vi) resolutions of the Seller authorizing the transaction in a form reasonably acceptable to the title company; (vii) paid receipt for any final water and sewer charges, and if any, municipal electric charges due on the Property; and, (viii) a final closing statement reflecting the transaction contemplated herein and the adjustments and prorations required hereunder and the allocation of income and expenses required hereby.
- 1.7. **Title and Deed Restrictions:** In addition to the terms and conditions set forth within this Agreement, the conveyance of the Properties by the Department to the Buyer shall be of good and marketable title thereto by Quitclaim Deed and insurable, upon application by the Buyer, for the

benefit of the Buyer, by a title insurer licensed in the State of New Hampshire and acceptable to the Buyer pursuant to an ALTA standard form title insurance policy in an amount equal to the Purchase Price at regular rates, insuring that the Buyer holds marketable fee simple title to the Property subject to:

- a) Easements, liens, restrictions, and/or encumbrances of record or any other matters of record in existence at the time of the Closing accepted and approved by the Buyer; and
- b) Provisions of building and zoning laws in effect at the time of the Closing.

- 1.8. **Department's Affidavits and Certificates:** If requested to do so by the Buyer, the Department, at the Closing, shall deliver such affidavits (in customary form attached hereto as Exhibit 3) as may be required by the Buyer or the Buyer's title insurance company to remove the so-called "standard exceptions": (1) parties in possession of the Properties, (2) rights of third parties and title claims in or to the Properties, (3) mechanic's and materialmen's liens affecting the Properties, and (4) real estate taxes due and payable.
- 1.9. **Deed Preparation; Recording Fees:** The Department shall convey the Property by Quitclaim Deed. The Department shall prepare all deeds (including all other applicable recording instruments, if any) at its expense.
- 1.10. **Transfer Taxes; Closing Costs; and Recording Fees:** In accordance with New Hampshire State Law RSA 78-B:2, the Department is exempt from the Real Estate Transfer Tax. Except as otherwise provided herein, all other costs, fees, and expenses (except any costs and fees incurred by either party for its own account, including fees and expenses for attorneys, accountants, and other advisors as well as staffing costs) which are necessary to carry out the Transaction hereunder shall be allocated between the Department and Buyer in accordance with local custom. Fees charged by the escrow agent shall be shared equally. Regardless of whether Closing occurs, and except as otherwise expressly provided herein, each party hereto shall be responsible for its own costs in connection with this Agreement and the transaction contemplated hereby including, without limitation, fees of attorneys, engineers, accountants, and other advisors.
- 1.11. **Discharge of Liens:** The Department shall, at its expense, pay or discharge cause all monetary liens, mechanic's liens related to any work performed for or at the direction of the Department or created by or with the authority (express or implied) of the Department, and any other monetary liens or title matters that may be cured by payment of a sum certain at Closing, to be satisfied and released at or prior to Closing. To enable the Department to make conveyance as herein provided, the

Department may, at the time of delivery of the deed, use the Purchase Price or any portion thereof to clear the title or any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed. The Department shall also be entitled to use the proceeds to pay off any mortgagee, pursuant to standard customary practices for real estate transactions and conveyances and receive therefrom a discharge(s) to be recorded in the ordinary course of business.

- 1.12. **Title Insurance**: If applicable, the Department shall execute all customary documents required by the Buyer's Title Insurance Company.
  - 1.13. **Department's Disclosures**: The Department makes no warranties or representations regarding environmental contamination or sub-surface conditions at the Properties.
  - 1.14. **Casualty and Condemnation**: In the event that the Properties, prior to closing, are damaged by fire, flood, collapse, or other casualty, the Department or the Buyer, at any time after the occurrence of such damage or casualty, may elect to terminate this Agreement by written notice, in which event all other obligations of the Parties hereunder shall cease and this Agreement shall thereupon be void and of no further force or effect. In the event of casualty, the Department and the Buyer agree to hold each other harmless from any claim for any costs, damages, liabilities, or financial losses it may incur.
2. **Buyer's Contingencies**: The Buyer's obligation to Close on acquisition of the Properties shall be subject to the following contingencies, the failure to satisfy any one of which shall give the Buyer any of the options set forth below and, in addition, the right to withdraw from this Agreement, after which the Buyer shall have no further obligation to the Department.
- 2.1. **Due Diligence Period**. Buyer shall have a period of forty-five (45) days following the Effective Date (the "Due Diligence Period") to conduct any and all inspections that Buyer deems appropriate or desirable, including, but not limited to, examination of environmental conditions, survey, wetlands, zoning, physical characteristics of the Properties, and the adequacy of ingress and egress to and from the Properties, at the Buyer's expense, to determine the suitability of the Properties for Buyer's intended purposes to Buyer's satisfaction (the "Inspections"). The Department shall deliver to Buyer all materials relating to the Properties to the extent in the Department's possession or control within three (3) days of the Effective Date (the "Due Diligence Materials"). Buyer shall have the right to terminate this Agreement for any reason or no reason at any time following the Effective Date and prior to the expiration of the Due Diligence Period, as the same may be extended, upon notice (which may be by email) to the Department (the "Termination Notice"), whereupon this Agreement shall

become null and void except for any provisions that expressly survive termination of this Agreement.

- 2.2. **Title: Time being of the essence**, upon execution of this Agreement by the Parties, the Buyer may perform a title examination of the Properties during the Due Diligence Period to be reasonably satisfied that title to the Property is marketable and insurable. If upon examination of the title it is found not marketable or insurable, after identifying to the Department in writing any apparent title defects and providing the Department reasonable opportunity to cure them, this Agreement may be rescinded at the option of the Buyer or the Department and all deposits shall be refunded to the Buyer, provided that written notice is delivered within said time frame, **time being of the essence**. If no notice is given within said time frame, then any objections to title are waived.
- 2.3. **Closing Conditions**. Buyer's obligation to consummate the Closing shall be conditioned on the following (i) the Department's representations shall be true and correct as of the Closing Date; (ii) the Department shall have made all Closing deliveries required hereunder; (iii) there shall be no material adverse change in the physical (beyond reasonable wear and tear) or environmental condition of the Properties or the title of the Properties as approved during the Due Diligence Period.

#### **REPRESENTATIONS AND WARRANTIES**

- 2.4. **Representations and Warranties of the Buyer**. The Buyer hereby represents and warrants that:

- 2.4.1. The execution and delivery of this Agreement and the performance of the Buyer's obligations hereunder have been duly authorized by such action as necessary, and this Agreement constitutes the legal, valid and binding agreement of the Buyer, enforceable against the Buyer in accordance with its terms subject only to the conditions set out in this Agreement.
- 2.4.2. Subject to the conditions set out in this Agreement, neither the execution or delivery by the Buyer of this Agreement, the performance by the Buyer of its obligations in connection with the transactions contemplated hereby, nor the fulfillment by the Buyer of the terms or conditions hereof conflicts with, violates or results in a breach of any constitution, law, charter, ordinance or governmental regulation applicable to the Buyer, or conflicts with, violates or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Buyer is a party or by which the Buyer or any of its properties or assets are bound, or constitutes a default there under.

- 2.4.3. Except as set forth in this Agreement, no approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Authority is required for the valid execution and delivery of this Agreement by the Buyer, except such as have been duly obtained or made or disclosed in this Agreement.
- 2.4.4. There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or Governmental Authority, pending or threatened against the Buyer, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Buyer of its obligations hereunder or the performance by the Buyer of its obligations under the transactions contemplated hereby, or which, in any way, questions or may adversely materially affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Buyer in connection with the transactions contemplated hereby.

**2.5. Representations and Warranties of the Department.** The Department hereby represents and warrants to the best of its knowledge and belief that:

- 2.5.1. The Department has the power and authority to execute, deliver and carry out the terms and provisions of this Agreement and all necessary action has been taken to authorize the execution, delivery and performance by it of this Agreement subject to the Department seeking and obtaining final approval by Governor and Executive Council pursuant to RSA 4:39-c. This Agreement will, upon execution and delivery thereof by the Department and upon approval by Governor and Executive Council, constitute valid, legal and binding obligations of the Department enforceable against the Department in accordance with the respective terms thereof.
- 2.5.2. Neither the execution or delivery by the Department of this Agreement, the performance by the Department of their obligations in connection with the transactions contemplated hereby, nor the fulfillment by the Department of the terms or conditions hereof conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Department, or conflicts with, violates or result in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Department are a party or by which the Department or any of its properties or assets are bound, or constitutes a default there under.
- 2.5.3. Except as set forth in this Agreement, no approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Authority is required for the valid execution and

delivery of this Agreement by the Department, except such as have been duly obtained or made.

- 2.5.4. There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or Governmental Authority, pending or threatened against the Department, its principal(s), affiliate(s), or entities controlled by its principal(s), wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Department of their obligations hereunder or the performance by the Department of its obligations under the transactions contemplated hereby, or which, in any way, questions or may adversely materially affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by the Department in connection with the transactions contemplated hereby.

### **3. GENERAL PROVISIONS**

- 3.1. **Cooperation:** The Buyer and the Department agree to cooperate with each other to achieve the purposes of this Agreement and, in connection therewith, to take such further actions and to execute such further documents as may reasonably be requested by the Department, the Buyer, or their representatives, agents, and consultants.
- 3.2. **Entire Agreement; Amendments.** This Agreement embodies the entire agreement and understanding between the Parties hereto relating to the subject matter herein and supersedes all prior agreements and understandings between the Parties. This Agreement may not be changed, modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by each of the Parties hereto or by the Party against which enforcement is sought. Any change, modification, or amendment, which requires the consent or approval of a Governmental Authority, shall be effective only upon receipt of such approval.
- 3.3. **Binding Effect; Successors and Assignors.** The terms and provisions of this Agreement and the respective rights and obligations of the Parties hereunder shall be binding upon, and inure to the benefit of, their respective heirs, successors, assigns, and nominees.
- 3.4. **Headings.** The headings to the sections and subsections of this Agreement have been inserted for convenience of reference only and shall not modify, define, limit or expand the express provisions of this Agreement.
- 3.5. **Exhibits.** All exhibits referred to in this Agreement are hereby incorporated by reference and expressly made a part hereof.

- 3.6. **Governing Law.** This Agreement shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire.
- 3.7. **Enforceability.** Any provision of this Agreement that is determined to be illegal or unenforceable by a court of competent jurisdiction, shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- 3.8. **Consent to Jurisdiction and Venue.** The Department and the Buyer submit to the jurisdiction of the courts of the State of New Hampshire and the courts from which an appeal from such trial venue may be taken or other relief may be sought for purposes of any action or proceeding arising out of this Agreement or any related agreement. All legal actions taken by the Parties shall be commenced in Merrimack County Superior Court. Both Parties hereby waive their right to a jury trial.
- 3.9. **Independent Parties.** The Department and the Buyer are independent parties under this Agreement, and nothing in this Agreement shall be deemed or construed for any purpose to establish between any of them or among them a relationship of principal and agent, employment, partnership, joint venture, or any other relationship other than independent parties.
- 3.10. **Survival of Agreement.** The agreements, covenants, indemnities, representations and warranties contained herein shall survive the execution and delivery of this Agreement.
- 3.11. **Waivers.** Failure on the part of any Party to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall not be deemed to be a waiver of any such Party's rights hereunder. No waiver at any time of any provision hereof by any Party shall be construed as a waiver of any other provision hereof or a waiver at any subsequent time of the same provision.
- 3.12. **No Rights Conferred Upon Others.** Except as expressly set out herein, nothing in this Agreement shall be construed as giving any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government, other than the Parties hereto, their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.
- 3.13. **Preservation of Rights.** Nothing herein or in any related Agreement shall limit or be construed to limit in any way rights or remedies the Buyer may

have for the collection of real property taxes under law, unless expressly set forth herein.

- 3.14. **Time of the Essence.** The Parties agree that time is of the essence in performance of their respective obligations under this Agreement.
- 3.15. **Good Faith and Fair Dealing.** Unless expressly stated otherwise in this Agreement, whenever a party's consent or approval is required under this Agreement, or whenever a party shall have the right to give an instruction or request another party to act or to refrain from acting under this Agreement, or whenever a party must act or perform before another party may act or perform under this Agreement, such consent, approval, or instruction, request, act or performance shall be reasonably made or done, or shall not be unreasonably withheld, delayed, or conditioned, as the case may be.
- 3.16. **Municipal Approvals.** The execution of this Agreement does not preempt or supersede the review process or powers of any Buyer or other governmental Board, Committee, Commission, or Department, or excuse the parties from the requirement to apply for and receive all necessary permits and approvals from all applicable Buyer or other governmental Boards, Committees, Commissions, or Departments, including but not limited to the requirement that the agreement be approved by the Governor and Executive Council pursuant to RSA 4:39-c prior to the Department being required and/or authorized to convey the property to the Buyer.
- 3.17. **Warranties and Representations:** The Department and the Buyer each acknowledge that they have not been influenced to enter into this transaction or relied upon any warranties or representations not specifically set forth or incorporated into this Agreement.
- 3.18. **Saving Clause:** In the event that any of the terms or provisions of this Agreement are declared invalid or unenforceable by any Court of competent jurisdiction or any Federal or State Government Agency having jurisdiction over the subject matter of this Agreement, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.
- 3.19. **Brokers:** Each party warrants and represents to the other that it has not dealt with any real estate broker in connection with this transaction, nor has such party been introduced to the Properties or to the other party by any real estate broker and each party shall indemnify the other party and hold the other party harmless from and against any claims, suits, demands or liabilities of any kind or nature whatsoever arising on account of the claim of any other person to a real estate brokerage commission or a

finder's fee as a result of having dealt with such party, or as a result of having introduced the party to the other party or to the Properties. This provision shall survive any termination of this Agreement and the Closing.

- 3.20. **Counterparts**: To facilitate execution, this Agreement may be executed in counterparts. It shall not be necessary that the signature on behalf of both Parties hereto appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single agreement. A signature delivered by facsimile or other electronic means shall constitute an original for all purposes hereunder.

#### LIST OF EXHIBITS

Exhibit 1	Property Plans
Exhibit 2	Form of Quitclaim Deed
Exhibit 3	Form of Affidavit
Exhibit 4	Form of FIRPTA
Exhibit 5	Seller Bringdown Certificate

**[The remainder of this page left blank intentionally]**

Executed as a sealed instrument this 6<sup>th</sup> day of October, 2022.

**BUYER:**

**S.N.S. Equity LLC**

By: Sally Stebbins Date: 10/6/2022  
Printed: Sally N. Stebbins, Trustee of the Sally N. Stebbins Revocable Trust of 2015  
Its: Manager  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

In Hooksett, NH, on the 6<sup>th</sup> day of October, 2022, before me, personally appeared Sally N. Stebbins, Trustee of the Sally N. Stebbins Revocable Trust of 2015 as the Manager of S.N.S. Equity LLC, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he executed said instrument for the purposes therein contained as his free and voluntary act and deed of S.N.S. Equity LLC.

Melanie L. Rawlings  
Justice of the Peace/Notary Public



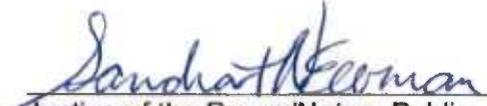
**SELLER**

**STATE OF NEW HAMPSHIRE**

By:  Date: 10/7/22  
Printed: Stephen G. LaBonte  
Duly Authorized

**STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK**

In Concord, NH, on the 7<sup>th</sup> day of October, 2022, before me, personally appeared, Stephen G. LaBonte, Administrator for the Bureau of Right-of-Way of the New Hampshire Department of Transportation, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he executed said instrument for the purposes therein contained as his free and voluntary act and deed.

  
Justice of the Peace/Notary Public

**SANDRA J. NEWMAN, Notary Public  
State of New Hampshire  
My Commission Expires Nov. 25, 2024**

**Exhibit 1  
Property Plans  
[attached]**





**Exhibit 2  
Form of Quitclaim Deed**

Return to:

Stebbins, Lazos & Van Der Beken PLLC  
889 Elm Street, Sixth Floor  
Manchester, NH 03101  
Attn: Robert A. Previti, Esq.

**QUITCLAIM DEED**

KNOW ALL MEN BY THESE PRESENTS, THAT, the State of New Hampshire, whose mailing address is PO Box 483, 7 Hazen Drive, Concord, New Hampshire 03302-0483, by the Commissioner of The Department of Transportation, pursuant to a vote of the Governor and Executive Council on \_\_\_\_\_, 2022, (Item # \_\_) and in accordance with the provisions of New Hampshire, RSA 228:31 and RSA 4:39-c, for consideration paid, grants to S.N.S Equity, LLC, whose address is 1359 Hooksett Road, Hooksett NH 03106, County of Merrimack, State of New Hampshire with QUITCLAIM covenants:

**[INSERT LEGAL DESCRIPTION]**

The foregoing conveyance is subject to any and all restrictions, conditions, encumbrances and other matters of record. This is not homestead property of the grantor.

[remainder of page left intentionally blank; signature page follows]

IN WITNESS WHEREOF the State of New Hampshire has caused its name to be set and its seal to be hereunto affixed by the Commissioner of The Department of Transportation, duly authorized and executed this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, 2022.

Signed, Sealed and Delivered  
in the presence of:

THE STATE OF NEW HAMPSHIRE

\_\_\_\_\_

Victoria F. Sheehan, Commissioner  
Department of Transportation

STATE OF NEW HAMPSHIRE,

Merrimack

SS.

A. D., 2022

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, \_\_\_\_\_, the undersigned officer, personally appeared by Victoria F. Sheehan, Commissioner of the Department of Transportation, and that as such Commissioner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of New Hampshire as the Commissioner of the Department of Transportation.

IN WITNESS WHEREOF I have hereunto set my hand and seal.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires \_\_\_\_\_

**Exhibit 3  
Form of Title Affidavit**

**NEW HAMPSHIRE  
PERSONS IN POSSESSION  
AFFIDAVIT**

Insured: \_\_\_\_\_

Property: \_\_\_\_\_

The undersigned hereby represents and affirms that there are no tenants or persons in possession other than those listed below:

This affidavit is given under seal.

Sworn to under the pains and penalties of perjury.

\_\_\_\_\_  
Signature of Seller/Owner

State of New Hampshire

County of \_\_\_\_\_

The foregoing Affidavit was executed, subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ by \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Justice of Peace  
(seal and expiration date)

## SURVEY AFFIDAVIT

Subject property (Street Address) \_\_\_\_\_

Owned by: \_\_\_\_\_

Now, therefore, the Seller(s)/Owner(s), for the purpose of inducing First American to issue a title insurance policy, on oath depose(s) and say(s) as follows: Seller(s)/Owner(s) have owned the property now being sold or mortgaged by Seller(s)/Owner(s) continuously for \_\_\_\_\_ years last past, and Seller(s)/Owner(s) enjoyment thereof has been peaceable and undisturbed and the title to said property has never been disputed or questioned to Seller(s)/Owner(s) knowledge, nor do Seller(s)/Owner(s) know of any facts by reason of which the title to, or possession of, said property might be disputed or questioned, or by reason of which any claim to any of said property might be asserted adversely to Seller(s)/Owner(s), and more particularly:

1. The Seller(s)/Owner(s) has/have reviewed the survey plan entitled

\_\_\_\_\_ dated \_\_\_\_\_ revised \_\_\_\_\_, prepared by \_\_\_\_\_ and recorded with the \_\_\_\_\_ Registry of Deeds as Plan \_\_\_\_\_ and said survey plan accurately shows the perimeter boundaries, and all buildings, roads, driveways, parking areas, walls, fences and other man-made changes (NOTE: The words "man-made changes" are intended to include, among other things, all evidence of easements visible from the surface, e.g. utility poles, guys, anchors, overhead wires, valves, or manhole covers indicating underground pipes, roads or paths, whether paved or unpaved, etc.) and other improvements currently existing on the property except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The Seller(s)/Owner(s) during the time of ownership of the premises above described has/have conveyed no portion of the premises nor done any act or allowed any act to be done which has changed or could change the boundaries of the premises. The Seller(s)/Owner(s) has/have allowed no encroachments on the premises above described by any adjoining land owners nor has/have the undersigned encroached upon any property of adjoining land owners other than shown on the survey plan. The Seller(s)/Owner(s) has/have allowed no easements, rights of way, continuous driveway usage, drain, sewer, water, gas or oil pipeline or other rights of passage to others over the premises above described other than as shown in the title search and/or survey plan, and has/have no knowledge of such adverse rights. The Seller(s)/Owner(s) has/have no knowledge of any discontinued highways, abandoned roads, lanes, cemetery or family burial grounds, springs, streams, rivers, ponds, or lakes bordering or running through said premises, other than those shown in the title search and/or the survey plan.
3. The Seller(s)/Owner(s) has/have not allowed and know(s) of no violation of any covenants, restrictions, agreements, conditions or zoning ordinances affecting the premises. I/we have obtained all required Building Permits and Town/City Approvals for past construction, remodeling, etc.
4. No party other than the Seller(s)/Owner(s) is/are in possession of all or any portion of the premises above described under any unrecorded leases, tenancy at will or otherwise and Seller(s)/Owner(s) have not leased, contracted or granted an option to other parties except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The following is true to the best of Seller(s)/Owner(s) knowledge and belief. The property is: Commercial Property, or Condominium; is in a Commercial Zone; has frontage on a public street and I/we have vehicular and pedestrian access to get to and from the property.

\_\_\_\_\_  
\_\_\_\_\_

Seller/Owner

Seller/Owner

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
\_\_\_\_\_

Notary Public

**Note: If this transaction includes a transfer of title, then Buyer(s) must sign below.**

In order to induce First American to issue policy or policies of title insurance, the undersigned (Buyer(s) of subject property) on oath depose and say(s) that \_\_\_\_\_ have read the contents of the above, have viewed the property, and know of no facts which would contradict the contents of said Affidavit.

\_\_\_\_\_  
\_\_\_\_\_  
Buyer

Buyer

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
\_\_\_\_\_

Notary Public

1.

**Exhibit 4  
Form of FIRPTA**

**FIRPTA CERTIFICATE**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform [\_\_\_\_], a [\_\_\_\_] [limited liability company] ("**Transferee**") that withholding of tax is not required upon the disposition of a U.S. real property interest by The State of New Hampshire ("**Transferor**"), the undersigned hereby certifies to Transferee the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

3. Transferor's U.S. employer identification number is [\_\_\_\_]; and

4. Transferor's office address is [\_\_\_\_].

Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: [\_\_\_\_], 2022

[SIGNATURE PAGE FOLLOWS]

Effective as of the date first set forth above

**TRANSFEROR**

**[The State of New Hampshire]**

By: \_\_\_\_\_

Name:

Title:

STATE OF NEW HAMPSHIRE

\_\_\_\_\_, ss.

On this the \_\_\_ day of \_\_\_, 2022, personally appeared the above-named [Stephen G. LaBonte], [Administrator for the Bureau of Right-of-Way of the New Hampshire Department of Transportation], known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he executed said instrument for the purposes therein contained as his free and voluntary act and deed.

\_\_\_\_\_  
Print Name:

Notary Public/Justice of the Peace

My Commission Expires:

**Exhibit 5**  
**Form of Bringdown Certificate**

**REPRESENTATIONS AND WARRANTIES BRINGDOWN CERTIFICATE**

The undersigned, does hereby certify to [ ] ("Purchaser") that the representations and warranties set forth in Section 2.5 of that certain Purchase and Sale Agreement dated as of [ ], 2022, by and between the State of New Hampshire, Department of Transportation, and S.N.S. Equity LLC as assigned to Purchaser ("**Purchase Agreement**") are hereby true, complete and correct in all material respects as of this \_\_ day of \_\_\_\_\_, 2022.

Seller's liability hereunder shall be subject to the limitations set forth in the Purchase Agreement.

[END OF DOCUMENT – SIGNATURE PAGE ATTACHED]

**EXECUTED** as an instrument under seal as of the date first set forth above.

**[The State of New Hampshire]**

By: \_\_\_\_\_  
Name:  
Title:

**STATE OF NEW HAMPSHIRE**  
\_\_\_\_\_, ss.

On this the \_\_\_ day of \_\_\_, 2022, personally appeared the above-named [Stephen G. LaBonte], [Administrator for the Bureau of Right-of-Way of the New Hampshire Department of Transportation], known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he executed said instrument for the purposes therein contained as his free and voluntary act and deed.

\_\_\_\_\_  
Print Name:  
Notary Public/Justice of the Peace  
My Commission Expires:



Victoria F. Sheehan  
Commissioner

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

G+C #28  
Date 1/24/22



William Cass, P.E.  
Assistant Commissioner

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

Bureau of Right-of-Way  
January 24, 2022

**REQUESTED ACTION**

Pursuant to RSA 4:39-c and 228:31, authorize the New Hampshire Department of Transportation (Department) to sell two parcels of state-owned land, totaling 5.2 +/- acres, located on the westerly side of NH Route 16 (Spaulding Turnpike) in the Town of Newington. The sale will be directly to S.N.S. Equity, LLC (Grantee) for \$1,111,200.00 which includes an \$1,100.00 per parcel administrative fee, effective upon Governor and Executive Council Approval.

The Department's Bureau of Finance and Contracts has determined these parcels were purchased with 100% Turnpike Funds.

Funding is to be credited as follows:

04-096-096-960015-0000-UUU-402156	<u>FY 2022</u>
Administrative Fee	\$2,200.00
04-096-096-960017-0000-UUU-409278	<u>FY 2022</u>
Sale of Parcels	\$1,109,000.00
(100% of \$1,109,000.00)	

**EXPLANATION**

The Department received a request from the Grantee to acquire two parcels of state-owned land on the westerly side of NH Route 16 (Spaulding Turnpike) in the Town of Newington. The Grantee has been working with the town to develop workforce housing and senior living facilities. The Grantee is looking to expand on their existing parcel by acquiring the two unimproved abutting parcels. The breakdown of the two parcels is as follows:

- Parcel A – 3.09 +/- acres, located on Shattuck Way is a portion of a larger parcel acquired in 1939. This parcel is completely within the Spaulding Turnpike Limited Access Right of Way which will be emendated as a requirement of this sale.
- Parcel B – 2.11 +/- acres is located on Nimble Hill Road is a portion of a larger parcel acquired in 2005.

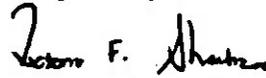
Pursuant to RSA 4:39-c, this proposed sale has been reviewed by the Department and determined to be surplus to our operational needs and interests. The sale will include the following conditions:

- The Grantee will be required to solicit a NH Licensed Land Surveyor to survey and prepare a Perimeter Boundary Line Survey/Right of Way Adjustment plan to be submitted to the Department for review and approval. Upon approval by the Department the Grantee is required to record the plan in the Rockingham County Registry of Deeds, from which the Department will prepare the conveyance deed. The Grantee will supply a full size copy of the recorded plan and draft description of the surveyed parcels.
- Access to these parcels shall be from Shattuck Way through a parcel the Grantee currently owns. No other points of access will be granted.
- The Department will be retaining the Slope Easement along Shattuck way for the Town of Newington.

At the November 9, 2021 meeting of the Long Range Capital Planning and Utilization Committee the request (LRCP 21-034) was approved, allowing the Department to sell the two parcels directly to S.N.S. Equity, LLC for the combined market value of \$1,109,000.00 and to assess an \$1,100.00 administrative fee per parcel.

The Department is requesting authorization for the sale of land as noted above.

Respectfully,

  
Victoria F. Sheehan  
Commissioner

VFS/SJN  
Attachments