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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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William Cass, P.E.
Commissioner

David Rodrigue, P.E.
Assistant Commissioner

Andre Briere, Colonel, USAF (RET)
Deputy Commissioner

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

Bureau of Highway Design
June 8, 2023

REQUESTED ACTION

Authorize the Department of Transportation (DOT) to enter into a **Sole Source** Agreement with the Society for the Protection of New Hampshire Forests (hereinafter "SPNHF"), Concord, NH (vendor #177170) for \$1,257,885.16 for the fee acquisition of 2,671 +/- acres in Shelburne, NH for conservation as mitigation for wetland impacts associated with the Dummer-Cambridge-Errol, 16304B project (reconstruction of NH Route 16 to improve roadway strength and resiliency from the abutting Androscoggin River), effective upon Governor and Council approval, through December 14, 2023. 100% Federal Funds.

Funds to support this request are anticipated to be available in the following account in State FY 2024.

| | |
|--------------------------------------|----------------|
| Funding is available as follows: | <u>FY 2024</u> |
| 04-96-96-963515-3054 | |
| Consolidated Federal Aid | |
| 400-500870 Highway Contract Payments | \$1,257,885.16 |

EXPLANATION

The Department is required to mitigate its impact to jurisdictional wetlands and is also required to seek out alternative mitigation opportunities prior to paying into the Aquatic Resource Mitigation (ARM) fund. The Society for the Protection of NH Forests has an interest in the purchase and subsequent conservation of this property. Both the Department of Environmental Services and the Army Corp of Engineers have approved the proposed mitigation alternative whereby The Department contributes the equivalent ARM fund payment towards the purchase and subsequent conservation of this property, resulting in this **Sole Source** agreement.

Pursuant to RSA 482-A, to compensate for the loss of jurisdictional areas, The Department of Environmental Services adopted rules that require mitigation for major impact projects, certain minor impact projects with jurisdictional impacts of 10,000 square feet or more, and projects involving linear impacts to stream channels (Env-Wt 303.02, and Env-Wt PART 900).

The Department of Environmental Services approved the Standard Dredge and Fill Wetlands Permit #2022-01959 (Attachment B) for the Dummer-Cambridge-Errol, 16304B project on November 2, 2022 which was subsequently amended on November 14, 2022 and April 18, 2022, authorizing permanent impacts to 225,953 square feet of palustrine wetlands and 4,016 square feet and 568 linear feet of permanent stream channel impacts. Compensatory mitigation for these impacts will be mitigated through the assisted purchase of a 2,671 +/- acre property known as the "Shelburne Valley Forest" in Shelburne, NH (Map 7, Lot 59W and 59E).

By acquiring the Shelburne property, an undeveloped 2,671 +/- acre wooded lot (Map 7, Lot 59W and 59E; "Shelburne Valley Forest") adjacent to the northern shoreline of the Androscoggin River will be placed into conservation and will augment the adjacent Appalachian National Scenic Trail and State of New Hampshire Lead Mine Forest. A conservation easement will be placed onto the property that will be held by Mahoosuc Land Trust, Inc (MLT), with the Department of Environmental Services as the secondary holder. The Society for the Protection of New Hampshire Forests will execute the Purchase and Sales (P&S) agreement.

The purchase price of this property (\$1,936,000) is based on the Purchase and Sales (P&S) agreement between Bayroot LLC and the Society for the Protection of NH Forests. The DOT's contribution to the purchase price is capped at the calculated ARM Fund amount of \$1,257,885.16. Attachment A, Exhibit A contains special provisions, Exhibit B describes the scope of the agreement with SPNHF, and Exhibit C provides the fees for purchase of the property, as well as payment terms. Attachments C and D contain maps of the property. The Environmental Protection Bureau of the Attorney General's office has approved the attached draft fee acquisition (Attachment E) and draft conservation easement (Attachment F) deeds as to form and substance and will approve the actual deed as to execution.

Authority to make the contingent ARM fund payment in the amount of \$1,257,885.16 was approved by the Governor and Executive Council on May 31, 2023 (Item #44).). If the Society for the Protection of NH Forests is unable to procure the property with assistance from DOT, a one-time payment will be made to the ARM fund in the amount of \$1,257,885.16.

The agreement has been approved by the Attorney General as to form and execution. Copies of the fully executed contract are on file at the Secretary of State's office and the Department of Administrative Services 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,



William J. Cass
Commissioner

Attachments
WJC/tdd

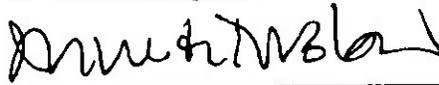
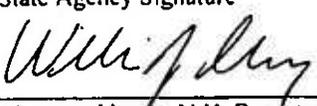
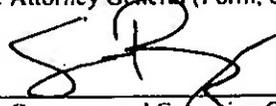
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

I. IDENTIFICATION.

| | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------------------|
| 1.1 State Agency Name Department of Transportation | | 1.2 State Agency Address 7 Hazen Dr, PO Box 483 Concord, NH 03302 | |
| 1.3 Contractor Name Society for the Protection of New Hampshire Forests | | 1.4 Contractor Address 54 Portsmouth St Concord, NH 03301 | |
| 1.5 Contractor Phone Number (603) 224-9945 | 1.6 Account Unit and Class 04-96-96-963515-3054 400-500870 | 1.7 Completion Date 12/14/2023 | 1.8 Price Limitation \$1,257,885.16 |
| 1.9 Contracting Officer for State Agency William Oldenberg | | 1.10 State Agency Telephone Number 271-1484 | |
| 1.11 Contractor Signature  Date: 4/21/2023 | | 1.12 Name and Title of Contractor Signatory VICE PRESIDENT, DEVELOPMENT | |
| 1.13 State Agency Signature  Date: 6-5-2023 | | 1.14 Name and Title of State Agency Signatory William J. Oldenberg, Director of Project Development | |
| 1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____ | | | |
| 1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 6/22/23 | | | |
| 1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____ | | | |

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Attachments

- A. P-37 Exhibits
- B. DES 2022-01959 Permit Approval Letter
- C. Mahoosuc Highlands Regional Project Map
- D. Mahoosuc Highland Survey Map
- E. Draft Quitclaim Deed
- F. Draft Conservation Easement Deed

EXHIBIT A
SPECIAL PROVISIONS

None

EXHIBIT B
SCOPE OF SERVICES

1. The State of New Hampshire, its successors and assigns, represented by the Department of Transportation (hereinafter: "DOT"), agree to grant the Society for the Protection of New Hampshire Forests (hereinafter: "SPNHF") up to the amount of \$1,257,885.16 for fee acquisition and future conservation of a parcel of land totaling 2,671 +/- acres owned by Bayroot LLC in the Town of Shelburne, County of Coös, State of New Hampshire (hereinafter: the "Property"). This agreement shall be performed in accordance with New Hampshire RSA 482-A; all applicable sections of the New Hampshire Department of Environmental Services (hereinafter: "DES") Administrative Rules, PART Env-Wt 100-800, and all other pertinent New Hampshire laws.

2. The SPNHF, shall use the funds as reimbursement for the fee acquisition and recordation of the Property, for the purposes of providing compensatory mitigation for impacts to wetland areas under the jurisdiction of DES and the US Army Corps of Engineers associated with the DOT Dummer-Cambridge-Errol, 16304B project (reconstruction of NH Route 16, increase resiliency by shifting the road away from the Androscoggin River and increase structural capacity).

The DES approved the Standard Dredge and Fill Wetland Permit #2022-01959 application to the DOT for the Dummer-Cambridge-Errol, 16304B project on November 02, 2022 (amended on November 14, 2022 and on April 18, 2023), authorizing impacts to 225,953 square feet (17,032 square feet temporary) of palustrine wetlands and 4,016 square feet and 568 linear feet (1,990 square feet and 225 linear feet temporary) of stream channel impacts. Compensatory mitigation for these impacts will be satisfied through DOT's financial contribution to SPNHF for the fee acquisition of the Property as agreed to by DES. If SPNHF is unable to procure the Property by December 14, 2023 then DOT will not contribute to the purchase of the Property and will instead make a one-time payment to the DES Aquatic Restoration Mitigation (ARM) fund in the amount of \$1,257,885.16.

3. As the entity acquiring the Property, SPNHF will:

a. Utilize the funds herein provided by the State of New Hampshire, acting through DOT, for the partial reimbursement of the fee acquisition and recordation of the Property. The fee acquisition of the Property and recordation of the conservation easement deed shall be completed by December 14, 2023;

b. Utilize the funds herein provided by the State of New Hampshire, acting through DOT, to defray, in part, the acquisition costs incurred in securing the property rights and recording the conservation easement;

c. Limit the use of the Property as hereinafter defined to conservation purposes in perpetuity through a conservation easement in accordance with RSA 477:45-47;

d. Monitor the Property acquired through this project in accordance with the condition of Permit #2022-01959, and in accordance with the Standards and Practices for stewardship of the Land Trust Alliance, to ensure that the terms of this agreement and the conservation easement are being adhered to, and to ensure that no actions are occurring which could be detrimental to the conservation attributes of the Property and/or the in violation of the conservation easement. SPNHF agrees to submit a copy of the annual monitoring report to DES to document the actions taken;

e. Place signs, subject to their acceptability by DES at a prominent location on or near the Property. The signs shall contain at a minimum the DES logo and the following statement: "This conservation land has been protected with assistance from the New Hampshire Department of Environmental Services and New Hampshire Department of Transportation through Permittee-Responsible Wetland Mitigation." Should a DES sign be damaged or destroyed, SPNHF agrees to work with DES to repair or replace it with identical signage and to share any costs associated with that repair or replacement to the extent reasonably practicable;

f. Return to DOT any funds herein provided to the extent of any loss due to any title that proves to be less than clear and marketable for the Property acquired under this contract;

g. Ensure that all public access provided for in the terms of the agreement will be in accordance with all federal and state policies of non-discrimination in public accommodation.

EXHIBIT C
BUDGET & PAYMENT METHOD

| Description | Budget Payment Method |
|------------------------------------------|-----------------------------|
| Purchase and Sale Amount | \$1,936,000.00 |
| NHDOT Purchase Price Contribution | \$1,257,885.16 |
| Total Project Cost | \$1,257,885.16 |

Remaining costs over and above appraisal price or DOT mitigation contribution amount, whichever is less, shall be the responsibility of SPNHF.

**Total amount to be authorized following approval by the
Governor and Executive Council:** **\$1,257,885.16**

The DOT will make the funds available after Governor and Executive Council approval of the Dummer-Cambridge-Errol 16304B construction contract.

Payments shall be made by DOT to SPNHF upon approval of the Dummer-Cambridge-Errol, 16304B construction contract by the Governor and Executive Council, approval of stated outputs, and verification of the value of completed work through submittal of invoices for services rendered. DOT will pay SPNHF within 30 days of receiving an invoice.

DOT shall notify SPNHF of the award of the Dummer-Cambridge-Errol 16304B construction contract. By December 14, 2023 SPNHF shall provide evidence of purchase of the Property, and recordation of the conservation easement in fulfillment of the terms of this Agreement.

The payments listed above are inclusive of project labor and expenses. Invoices shall be formatted to note completion of services.

The billing address shall be as follows:

NH Department of Transportation
7 Hazen Drive, PO Box 483
Concord, NH 03302-0483
ATTN: Kevin Nyhan, Administrator, Bureau of Environment



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

Original Approval; November 02, 2022
Amended Approval; November 14, 2022
Amended Approval; April 18, 2023

NH DEPT OF TRANSPORTATION
ATTN: TIMOTHY DUNN
7 HAZEN DR
CONCORD NH 03302

Re: Approved Standard Dredge and Fill Wetlands Permit Application – Required Payment to Aquatic Resource Mitigation Fund (RSA 482-A)
NHDES File Number: 2022-01959
Subject Property: NH Rte 16, Cambridge, Tax Map #ROW, Lot #ROW

Dear Applicant:

On November 02, 2022, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced Standard Dredge and Fill Wetlands Permit Application to Dredge and fill a total of 255,405 square feet / 1,610 linear feet of permanent and temporary impacts to jurisdictional areas to construct a roadway improvement project including replacement of two existing undersized culverts with more compliant culverts along a 1.3-mile segment of NH Route 16 (NH 16) located in Cambridge, New Hampshire (NHDOT 16304B).

Compensatory mitigation for the proposed impacts including 225,953 square feet (SF) of permanent palustrine wetland impacts, 17,032 SF of temporary palustrine wetland impacts, 4,016 SF / 568 linear feet (LF) of permanent stream channel impacts, and 1,990 SF / 225 LF of temporary stream channel impacts shall consist of establishment of a permanent vegetated buffer along the Androscoggin River, creation of 143 linear feet of stream channel, and either conserving 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests, not to exceed \$1,257,885.16, for the fee acquisition of the parcel located at the southern end of the Androscoggin watershed or establishment of a permanent vegetated buffer along the Androscoggin River, creation of 143 linear feet of stream channel and a one-time payment of \$1,257,885.16 to the NHDES Aquatic Resource Mitigation (“ARM”) Fund (fee includes established mitigation credits).

This approval is contingent on the following conditions being met:

1. In accordance with Env-Wt 307.16, all work shall be done in accordance with the plans for the New Hampshire Department of Transportation, Federal Aid Project X-A004(699), NH Project No. 16304B, NH Route 16, Town of Cambridge, NH dated April 1, 2022, as received by the NH Department of Environmental Services (NHDES) on August 11, 2022.
2. Compensatory mitigation for the proposed impacts shall consist of a) establishment of a permanent vegetated buffer along the Androscoggin River, b) creation of 143 linear feet of stream channel, and c) either conserving 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests, not to exceed \$1,257,885.16, for the fee acquisition of the parcel located at the southern end of the Androscoggin watershed OR d) establishment of a permanent vegetated buffer along the Androscoggin River, e) creation of 143 linear feet of stream channel and a one-time payment of \$1,257,885.16 to the NHDES Aquatic Resource Mitigation (“ARM”) Fund (fee includes established mitigation credits).
3. In accordance with Env-Wt 807.01(b), confirmation of the parcel conservation, or the one-time payment, shall be received by NHDES within 120 days from the approval decision or NHDES will deny the application.
4. This permit is contingent on the issuance and compliance with the Section 401 Water Quality Certification.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

5. In accordance with Env-Wt 803.08(c), as this project requires a federal permit from the US Army Corps of Engineers (US ACE) under section 404 of the Clean Water Act, the applicant shall consult with the US ACE relative to whether additional mitigation will be required to satisfy federal mitigation requirements.
6. The 5-foot wide x 4-foot high concrete box culvert, embedded in the stream bed at a depth of one foot in order to provide a natural stream channel substrate through the structure shall be installed prior to the backfill and resurfacing of the stream crossing at Stream E as required by Env-Wt 904.
7. The 6-foot-wide by 6-foot-high box culvert, embedded one foot in the stream bed at a depth of one foot in order to provide a natural stream channel substrate through the structure shall be installed prior to the backfill and resurfacing of the stream crossing at Stream L as required by Env-Wt 904.
8. In accordance with Env-Wt 527.05(a), in addition to complying with all applicable conditions in Env-Wt 307, the permit shall be contingent on review and approval by the department of final stream diversion and erosion control plans that detail the timing and method of stream flow diversion during construction and show temporary siltation, erosion, and turbidity control measures to be implemented.
9. In accordance with Env-Wt 314.03, (a) the permittee shall notify the department in writing at least one week prior to commencing any work under the permit.
10. This permit is not valid until the permittee executes all necessary property acquisitions and executes all necessary easements, as applicable, per RSA 482-A:11 II. and Env-Wt 311.11(d). The permittee shall submit a copy of each recorded deed and/or easement, as applicable, to the NHDES Wetlands Bureau prior to construction.
11. All development activities associated with any project shall be conducted in compliance with applicable requirements of RSA 483-B and Env-Wq 1400 during and after construction as required pursuant to RSA 483-B:3.
12. In accordance with Env-Wt 307.03(a), no activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards specified in RSA 485-A:8 or Env-Wq 1700; ambient groundwater quality standards established under RSA 485-C; limitations on activities in a sanitary protective area established under Env-Dw 302.10 or Env-Dw 305.10; or any provision of RSA 485-A, Env-Wq 1000, RSA 483-B, or Env-Wq 1400 that protects water quality.
13. In accordance with Env-Wt 527.05(b), the contractor responsible for completion of the work shall use techniques described in Env-Wq 1504.06, Env-Wq 1504.16, Env-Wq 1505.02, Env-Wq 1506, and Env-Wq 1508.
14. In accordance with Env-Wt 904.02(a)(1), in-stream work shall be done only during low flow or dry conditions, in non-tidal areas.
15. In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).
16. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
17. In accordance with Env-Wt 514.05(a), materials used to emulate a natural channel bottom shall be consistent with materials identified in the reference reach.
18. In accordance with Env-Wt 307.03(c)(4), water quality control measures shall be capable of minimizing erosion; collecting sediment and suspended and floating materials; and filtering fine sediment.
19. In accordance with Env-Wt 307.03(c)(3), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wq 1506 or Env-Wq 1508.
20. In accordance with Env-Wt 307.03(c)(5), water quality control measures shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction.
21. In accordance with Env-Wt 307.03(c)(6), water quality control measures shall remain in place until all disturbed surfaces are stabilized to a condition in which soils on the site will not experience accelerated or unnatural erosion by achieving and maintaining a minimum of 85% vegetative cover using an erosion control seed mix, whether applied in a blanket or otherwise, that is certified by its manufacturer as not containing any invasive species; or placing and maintaining a minimum of 3 inches of non-erosive material such as stone.

22. In accordance with Env-Wt 307.03(d), any sediment collected by water quality control measures shall be removed with sufficient frequency to prevent the discharge of sediment; and placed in an upland location in a manner that prevents its erosion into a surface water or wetland.
23. In accordance with Env-Wt 307.03(c)(7), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
24. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
25. In accordance with Env-Wt 307.12(f), if any temporary impact area that is stabilized with seeding or plantings does not have at least 75% successful establishment of wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
26. In accordance with Env-Wt 307.12(i), wetland areas where permanent impacts are not authorized shall be restored to their pre-impact conditions and elevation by replacing the removed soil and vegetation in their pre-construction location and elevation such that post-construction soil layering and vegetation schemes are as close as practicable to pre-construction conditions.
27. In accordance with Env-Wt 307.12(a), within 3 days of final grading or temporary suspension of work in an area that is in or adjacent to surface waters, all exposed soil areas shall be stabilized by seeding and mulching, if during the growing season; or mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1 if not within the growing season.
28. In accordance with Env-Wt 307.12(f), if any temporary impact area that is stabilized with seeding or plantings does not have at least 75% successful establishment of wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
29. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
30. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
31. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
32. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
33. In accordance with Env-Wt 514.06, the owner shall monitor the project and take corrective measures if the area is inadequately stabilized or restored by identifying corrective actions and follow-up plans in accordance with Env-Wt 307; and filing an appropriate application and plans where additional impacts are required.
34. In accordance with Env-Wt 307.18, the following plans and reports shall be submitted to the department within 60 days of the completion of construction and annually for 5 growing seasons, (a) Compensatory mitigation project monitoring reports in accordance with Env-Wt 803.04; (b) A construction monitoring plan with inspection reports, water quality reports, and a wetland planting plan prepared by a CPESC specialist or certified wetland scientist; (c) A report that describes the monitoring conducted and date(s) of inspections, and includes photos showing the extent of jurisdictional impacts, areas of restoration, and progress of any plantings; (d) A report that describes the stability of and status of stream or wetland systems, including a description of any necessary adjustments; and (e) A schedule and description of measures to be taken during construction and after completion of the project.

This approval is based on the following findings:

1. This is a Major Project per New Hampshire Administrative Rule Env-Wt 407.03, Table 407-1 having more than 10,000 square feet, and greater than 200 linear feet of impacts to jurisdictional area.
2. This project is the third and final phase of the affecting approximately 1.3 miles of NH Route 16 intended to improve the condition of the existing roadway pavement and road base, provide for a safe and reliable, continuous corridor and to enhance its long-term sustainability of the roadway by shifting it away from the Androscoggin River, and increase safety for motorists travelling along this segment of the roadway.

3. The applicant provided evidence that after consideration of project alternatives including Reconstructing on Existing Alignment, Partial Alignment shift, Offline Alignment Shift, and the proposed Offline Variation the selected alignment and associated culvert designs were the least impacting solution.
4. The applicant has provided documentation and evidence that the proposed Alternative Design is approvable under Env-Wt 904.10 as it is designed to balance geomorphic improvements while maintaining the upstream hydrology.
5. The New Hampshire Natural Heritage Bureau's (NHB) most recent DataCheck Results Letter (NHB21-2764) indicated that, "It was determined that, although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, we do not expect that it will be impacted by the proposed project."
6. Under a previous NHB review (NHB20-0897) a rare plant was identified as being documented in the vicinity of the proposed project. A rare plant survey was completed in July 2020, and no individuals or populations were observed within the proposed project area.
7. The New Hampshire Division of Historical Resources (NHDHR) has reviewed the proposed project and issued a finding of No Historic Properties Affected on February 2, 2020.
8. On September 19, 2022, NHDES held the public hearing. NHDES did not receive comments on the permit application during the public comment period or at the public hearing.
9. The Department finds that the compensatory mitigation plan titled "Mitigation Plan 33CFR 332(c) (2) through (14), NHDOT Dummer-Cambridge-Errol, 16304B, NH Route 16" to consist of establishment of a permanent vegetated buffer along the Androscoggin River, creation of 143 linear feet of stream channel, and either conserving 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests, not to exceed \$1,257,885.16, for the fee acquisition of the parcel located at the southern end of the Androscoggin watershed or establishment of a permanent vegetated buffer along the Androscoggin River, creation of 143 linear feet of stream channel and a one-time payment of \$1,257,885.16 to the NHDES Aquatic Resource Mitigation ("ARM") Fund (fee includes established mitigation credits) meets the requirements of RSA 482-A and Env-Wt 800.

Pursuant to RSA 482-A:28, this approval is contingent on compensatory mitigation in accordance with the Mitigation Plan 33CFR 332(c) (2) through (14), NHDOT Dummer-Cambridge-Errol, 16304B, NH Route 16 to consist of establishment of a permanent vegetated buffer along the Androscoggin River, creation of 143 linear feet of stream channel, and either conserving 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests, not to exceed \$1,257,885.16, for the fee acquisition of the parcel located at the southern end of the Androscoggin watershed or establishment of a permanent vegetated buffer along the Androscoggin River, creation of 143 linear feet of stream channel and a one-time payment of \$1,257,885.16 to the NHDES Aquatic Resource Mitigation ("ARM") Fund (fee includes established mitigation credits). NHDES recommends delaying payment until after the 30-day appeal period ending May 18, 2023. In accordance with Env-Wt 803.11(c)(2) and Env-Wt 807.01(b), if NHDES has not received the compensatory mitigation within 120 days of this letter, or by **August 16, 2023**, NHDES will deny the application. Please include a copy of this letter with the payment.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Env-WtC 100-200, **any person aggrieved by this decision may file a Notice of Appeal directly with the NH Wetlands Council (Council) within 30 days of the decision date, April 17, 2023.** Every ground claiming the decision is unlawful or unreasonable must be fully set forth in the Notice of Appeal. Only the grounds set forth in the Notice of Appeal are considered by the Council. Information about the Council, including Council Rules, is available at <https://nhec.nh.gov/wetlands/index.htm>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-6072.

If you have any questions, please contact Karl.Benedict@des.nh.gov or (603) 271-4194.

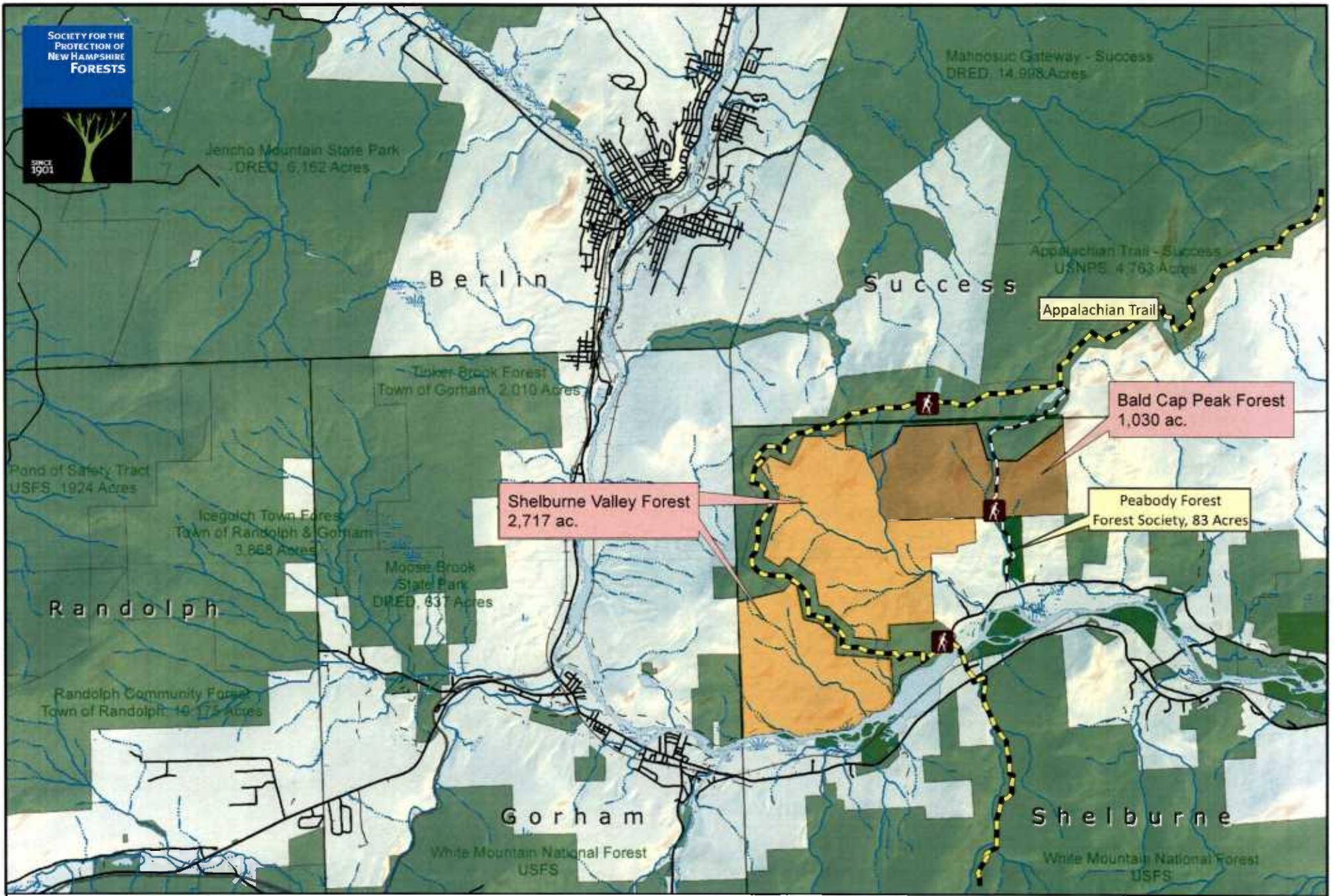
Sincerely,



Mary Ann Tilton
Assistant Bureau Administrator
Land Resources Management, Water Division

File # 2022-01959
November 2, 2022
Amendment 2-April 18, 2023
Page 5 of 5

cc: Property Owner
Agent
Municipal Clerk/Conservation Commission
ec: Property Owner



- Shelburne Valley Forest
- Bald Cap Mt. Forest
- Conservation Lands

Mahoosuc Highlands Project, 3,747 ac.
Shelburne Valley Forest & Bald Cap Peak Forest

Society for the Protection of New Hampshire Forests



DRAFT 12.15.2022

THE ABOVE SPACE IS FOR THE EXCLUSIVE USE OF
THE COOS COUNTY REGISTRY OF DEEDS
(FOR PLACEMENT OF RECORDING & TRANSFER TAX INFORMATION)

**QUITCLAIM DEED
WITH CONSERVATION RESTRICTIONS**

BAYROOT LLC, a Delaware limited liability company, having an address c/o Wagner Forest Management, Ltd., 150 Orford Road (P.O. Box 160), Lyme, Grafton County, New Hampshire 03768 (hereinafter referred to as the "Grantor", which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors and assigns),

for consideration paid, with QUITCLAIM covenants, grants to the

SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 54 Portsmouth Street, City of Concord, County of Merrimack, State of New Hampshire, 03301-5400, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code (hereinafter referred to as the "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns),

those two certain lots or parcels of land located in the Town of Shelburne, County of Coos, State of New Hampshire, with any and all buildings, structures, and improvements

thereon, consisting of approximately 2,671 acres, situated on Hogan Road and off North Road in the Town of Shelburne, Coos County, State of New Hampshire, shown on a survey plan entitled "Mahoosuc Highlands Tracts – Survey Plat to Accompany Deed Bayroot, LLC, Shelburne Valley Forest Tract 1 – Tax Map 7, Lot 59W & Shelburne Valley Forest Tract 2 – Tax Map 7, Lot 59E to Society For The Protection Of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire", by Burke J. York, surveyor, NH LLS #939, York Land Services, LLC, Riverside Courtyards, 3 Twelfth Street, Berlin, New Hampshire 03570, dated/last revised _____ and to be recorded at the Coos County Registry of Deeds (hereinafter "Survey Plan"), more particularly bounded and described in Attachment "A" attached hereto and made a part hereof (referred to herein as the "Premises" or the "Property").

The Grantee hereby acknowledges that the Property is being acquired by the Grantee in part with grant funding from the below funders:

1. A \$600,000.00 financial assistance grant awarded through the **U.S. Forest Service Community Forest Program**. The purpose of this acquisition is to effect the U.S. Forest Service Community Forest Program authorized by Section 8003 of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 2103d) for the purposes of establishing community forests that provide community benefits by acquiring and protecting private forestlands. This authority continues indefinitely. Program delivery is guided by the Community Forest Program regulations (36 CFR Part 230 Subpart A) (published 04/02/2021; 86 FR 17302). This property was acquired with Federal funds under the U.S. Forest Service, Community Forest Program, in accordance with the Community Forest Program Project Grant # _____. In the event the Property conveyed herein is sold or converted to nonforest uses or a use inconsistent with the purpose of the U.S. Forest Service Community Forest Program, the grant recipient or subsequent owner of the Property shall: (1) pay the United States an amount equal to the current sale price or the current appraised value of the parcel, whichever is greater; and (2) not be eligible for additional grants under the U.S. Forest Service Community Forest Program, and subject to more restrictions and conditions specifically set forth in the Grant Agreement attached hereto as Attachment B.

2. A \$500,000.00 financial assistance grant awarded through the **Land and Community Heritage Investment Program Authority** pursuant to New Hampshire RSA 227-M, which award places continuing obligations on Grantee and restrictions on Grantee's use of the Property as described in a Grant Agreement (attached hereto as Attachment C and incorporated herein). Pursuant to RSA 227-M:14, the Property shall be held in public trust. No deviation in the uses of the Property to uses or purposes not consistent with the intent of NH RSA 227-M shall be permitted, and the sale, transfer, conveyance, or release of this Property from public trust is prohibited, except as provided in NH RSA 227-M:13. Pursuant to RSA 227-M:15, the Property shall be open in perpetuity for passive recreational purposes by members of the public, and subject to more restrictions and conditions specifically set forth in the Grant Agreement attached hereto as Appendix C.

3. A \$1,300,000(?) financial assistance grant awarded as a compensatory mitigation Permittee Responsible Payment by the **New Hampshire Department of Transportation** for "NH DOT Dummer – Cambridge-Erron project # 16304B, NH Application 2022-01959" required by the **New Hampshire Department of Environmental Services (NHDES)**, and in compliance with the New Hampshire Aquatic Resources Mitigation Fund Final In-lieu Fee Program Instrument (U.S. Army Corps of Engineers, New England District, Regulatory Division, File Number NAE-_____) and subject to more restrictions and conditions specifically set forth in the Grant Agreement attached hereto as Attachment D. Further, in order to fulfill said above grant requirements, following acquisition of the fee, the Grantee is further required to convey a **CONSERVATION EASEMENT** on the Property, in accordance with RSA 477:45-47, to the **MAHOOSUC LAND TRUST, INC.**, a Maine Nonprofit Corporation duly registered to transact business in the State of New Hampshire, having an address of 162 North Road (P.O. Box 981), Bethel, Maine 04217 (hereinafter referred to as the "Conservation Restrictions Holder" or the "Holder").

No funds supplied by the above 3 mentioned Funders will be utilized to pay for the acquisition of the two Camp Lease Areas shown on said Plan.

Upon the conveyance of title, the Grantor Bayroot LLC, shall have no rights or responsibilities at all with respect to the restrictions, grant agreements or the conveyed conservation easement described herein.

Executed this ___ day of _____, 2023 by the duly authorized Manager of Bayroot LLC, a Delaware limited liability company, which has caused its duly authorized officer to execute and deliver this Quitclaim Deed.

Bayroot LLC
By Wagner Forest Management, Ltd.
Its sole Manager

By _____
Daniel H. Hudnut
Its President
Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF GRAFTON, SS.

Personally appeared before me this _____ day of _____, 2023, the above named Daniel H. Hudnut, President of Wagner Forest Management, Ltd., a New Hampshire corporation and the sole Manager of Bayroot LLC, a Delaware limited liability company, and acknowledged before me the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Wagner Forest Management, Ltd. in its capacity as Manager of and the free act and deed of said Bayroot LLC.

Notary Public
My commission expires: _____
Notary Seal or Stamp:

ATTACHMENT A
LEGAL DESCRIPTION

Tract 1 (Corners 1-16)
Tax Map 7 Lot 59W

The following described parcel of land is located off the west side of North Road and Hogan Road in the Town of Shelburne, New Hampshire.

BEGINNING at CORNER 1, an aluminum pipe on the line between Upland Lots 27 & 28.

Thence S03°23'03"E along land of the State of New Hampshire Lead Mine Forest for 2304.24 feet to CORNER 2, an iron pipe on the southerly side of Hogan Road.

Thence continuing S03°23'03"E along land of said State of New Hampshire for 239.62 feet to CORNER 3, a point on edge of Androscoggin River witnessed by an iron pin located N02°58'27"W, 11 feet distant.

Thence southwesterly along the Androscoggin River for approximately 8724.00 feet to CORNER 4, a point on edge of Androscoggin River witnessed by an iron pipe located N02°31'52"W, 41 feet distant.

Thence N02°31'52"W along land of Matthew Gordan for 2715.72 feet to CORNER 5, an iron pipe.

Thence N02°08'41"W along land of Bradley P. Waterman and Garret I. Waterman for 1840.26 feet to CORNER 6, an iron pin.

Thence N01°51'04"W along land of Gorham Land Company for 1163.44 feet to CORNER 7, an iron pin.

Thence N01°29'29"W along land of said Gorham Land Company for 1555.91 feet to CORNER 8, an aluminum pipe.

Thence N01°32'06"W along land of United States of America, White Mountain National Forest for 329.82 feet to CORNER 9, an aluminum pipe.

Thence along land of United States of America, Appalachian Trail Corridor the following eight courses:

1. N78°36'23"E for 2428.34 feet to CORNER 10, an aluminum disk.
2. N39°26'37"E for 691.00 feet to CORNER 11, an aluminum pipe.
3. S54°40'17"E for 360.86 feet to CORNER 12, an aluminum pipe.
4. S09°36'07"E for 1905.38 feet to CORNER 13, an aluminum disk.
5. S76°24'31"E for 882.20 feet to CORNER 14, an aluminum pipe.
6. S46°54'12"E for 1147.37 feet to CORNER 15, an aluminum disk.

7. S04°01'03"W for 941.26 feet to CORNER 16, an aluminum pipe.
8. S85°14'22"E for 3037.63 feet to the **POINT OF BEGINNING**.

EXCEPTING AND RESERVING rights of others to Hogan Road.

MEANING AND INTENDING to describe a parcel of land containing approximately 1,068 Acres (Tract 1) as shown on a plan prepared by York Land Services, LLC titled "Mahoosuc Highlands Tracts"- Survey Plat to Accompany Deed, Bayroot, LLC, Shelburne Valley Forest Tract 1- Tax Map 7 Lot 59W and Shelburne Valley Forest Tract 2- Tax Map 7 Lot 59E to Society for the Protection of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire," Dated December 1, 2022 and recorded at the Coos County Registry of Deeds as plan # _____; being a portion of the premises conveyed in the Quitclaim Deed of Mead Westvaco Oxford Corporation to Bayroot, LLC, dated November 21, 2003 and recorded on December 2, 2003 in the Coos County Registry of Deeds, Book 1061, Page 952.

Tract 2 (Corners 1-27) Tax Map 7 Lot 59E

The following described parcel of land is located off the west side of North Road and Lead Mine Brook Road in the Town of Shelburne, New Hampshire.

BEGINNING at CORNER 1, an aluminum disk on the line between Upland Lots 27 & 28.

Thence along land of United States of America, Appalachian Trail Corridor the following seventeen courses:

9. N85°14'32"W for 1908.28 feet to CORNER 2, an aluminum disk.
10. N04°02'07"E for 430.57 feet to CORNER 3, an aluminum disk.
11. N46°54'55"W for 1885.87 feet to CORNER 4, an aluminum disk.
12. N76°20'34"W for 486.34 feet to CORNER 5, an aluminum disk.
13. N09°35'00"W for 1660.79 feet to CORNER 6, an aluminum pipe.
14. N54°39'10"W for 1706.88 feet to CORNER 7, an aluminum disk.
15. S39°26'51"W for 719.95 feet to CORNER 8, an aluminum pipe.
16. N56°25'38"W for 997.89 feet to CORNER 9, an aluminum disk.
17. N14°40'49"E for 3438.41 feet to CORNER 10, an aluminum pipe.
18. N32°52'29"W for 1890.45 feet to CORNER 11, an aluminum disk.
19. N38°12'54"E for 803.06 feet to CORNER 12, an aluminum disk.
20. S65°34'48"E for 1210.97 feet to CORNER 13, an aluminum disk.
21. N24°24'52"E for 1724.87 feet to CORNER 14, an aluminum pipe.
22. N89°35'11"E for 1653.84 feet to CORNER 15, a point witnessed by an aluminum disk located S89°35'11"W, 0.90 feet distant.
23. N56°02'32"E for 734.80 feet to CORNER 16, an aluminum pipe.
24. S01°52'31"E for 995.39 feet to CORNER 17, an aluminum pin.
25. S58°39'55"E for 1404.91 feet to CORNER 18, a point in the thread of Lead Mine Brook witnessed by an aluminum pin located N58°06'42"E, 31.45 feet distant.

Thence S15°24'19"E along land of The Conservation Fund for 3460.64 feet to CORNER 19, a point in the thread of Lead Mine Brook witnessed by an iron pin located N88°21'43"E, 60.26 feet distant.

Thence N88°21'45"E along said land of The Conservation Fund for 4945.72 feet to CORNER 20, an iron pin.

Thence S02°04'49"E along land of Timothy C. Hayes and James R. Hayes for 1441.68 feet to CORNER 21, an iron pipe.

Thence S85°15'42"W along land of Gerard R. Turcotte and Alicia C. Turcotte for 1055.78 feet to CORNER 22, an iron pipe.

Thence S01°31'39"E along land of said Turcotte for 414.54 feet to CORNER 23, an iron pipe.

Thence S88°38'51"W along land of Janet C. Peabody Revocable Trust of 1996 for 1480.97 feet to CORNER 24, an iron pipe.

Thence S02°35'49"E along land of said Peabody for 3754.04 feet to CORNER 25, an iron pin.

Thence along land of the State of New Hampshire Lead Mine Forest the following three courses:

1. S02°35'49"E for 87.22 feet to CORNER 26, an iron pin.
2. S86°42'53"W for 2592.26 feet to CORNER 27, an iron pin.
3. S03°20'10"E for 854.00 feet to the **POINT OF BEGINNING**.

MEANING AND INTENDING to describe a parcel of land containing approximately 1,603 Acres (Tract 2) as shown on a plan prepared by York Land Services, LLC titled "Mahoosuc Highlands Tracts"- Survey Plat to Accompany Deed, Bayroot, LLC, Shelburne Valley Forest Tract 1- Tax Map 7 Lot 59W and Shelburne Valley Forest Tract 2- Tax Map 7 Lot 59E to Society for the Protection of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire," Dated December 1, 2022 and recorded at the Coos County Registry of Deeds as plan # _____; being a portion of the premises conveyed in the Quitclaim Deed of Mead Westvaco Oxford Corporation to Bayroot, LLC, dated November 21, 2003 and recorded on December 2, 2003 in the Coos County Registry of Deeds, Book 1061, Page 952.

All courses of this description are referenced to New Hampshire State Plane Grid NAD83.

ATTACHMENT B
U.S. FOREST SERVICE COMMUNITY FOREST PROGRAM
GRANT AGREEMENT

**ATTACHMENT C
LAND AND COMMUNITY HERITAGE INVESTMENT PROGRAM
GRANT AGREEMENT**

**ATTACHMENT D
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES (NHDES)
GRANT AGREEMENT**

4884-6910-7012, v. 1

DRAFT 12.15.2022

CONSERVATION EASEMENT DEED

SUMMARY INFORMATION

Grantor/Landowner(s) Name(s): Society for the Protection of New Hampshire Forests

Mailing Address: 54 Portsmouth Street, Concord, New Hampshire, 03301

Grantee/Easement Holder's Name: Mahoosuc Land Trust, Inc.,

Mailing Address: 162 North Road (P.O. Box 981), Bethel, Maine 04217

Third Party Right of Enforcement: State of New Hampshire acting through its Department of Environmental Services

Mailing Address: 29 Hazen Drive, Concord, New Hampshire, 03302

Municipality & County Where Premises Located: Town of Shelburne, County of Coos

Acreage of Area Subject to Conservation Easement: 2,671 acres

Survey Title & Recording Information: "Mahoosuc Highlands Tracts – Survey Plat to Accompany Deed Bayroot, LLC, Shelburne Valley Forest Tract 1 – Tax Map 7, Lot 59W & Shelburne Valley Forest Tract 2 – Tax Map 7, Lot 59E to Society For The Protection Of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire", by Burke J. York, surveyor, NH LLS #939, York Land Services, LLC, Riverside Courtyards, 3 Twelfth Street, Berlin, New Hampshire 03570, dated/last revised _____ and to be recorded at the Coos County Registry of Deeds.

The **SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS**, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 54 Portsmouth Street, City of Concord, County of Merrimack, State of New Hampshire, 03301-5400, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code, (hereinafter referred to as the "Landowner", which includes the Landowner's successors, assigns, and agents),

for consideration paid, with QUITCLAIM covenants, grants in perpetuity to

the **MAHOOSUC LAND TRUST, INC.**, a Maine Nonprofit Corporation duly registered to transact business in the State of New Hampshire, having an address of 162 North Road (P.O. Box 981), Bethel, Oxford County, Maine 04217, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal

Revenue Code,

(hereinafter referred to as the "Easement Holder" which shall, unless the context clearly indicates otherwise, include the Easement Holder's successors, assigns, and agents),

the **CONSERVATION EASEMENT** (herein referred to as the "Easement") hereinafter described with respect to two certain parcels of land (herein referred to collectively as the "Conservation Area") with any and all buildings, structures, and improvements thereon, consisting of approximately 2,671 acres, situated on Hogan Road and off North Road in the Town of Shelburne, Coos County, State of New Hampshire, shown on a survey plan entitled "Mahoosuc Highlands Tracts – Survey Plat to Accompany Deed Bayroot, LLC, Shelburne Valley Forest Tract 1 – Tax Map 7, Lot 59W & Shelburne Valley Forest Tract 2 – Tax Map 7, Lot 59E to Society For The Protection Of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire", by Burke J. York, surveyor, NH LLS #939, York Land Services, LLC, Riverside Courtyards, 3 Twelfth Street, Berlin, New Hampshire 03570, dated/last revised _____ and to be recorded at the Coos County Registry of Deeds (hereinafter "Survey Plan"), more particularly bounded and described in Appendix "A" attached hereto and made a part hereof,

with a **Third Party Right of Enforcement**, as further defined in Section 9 below, therein granted to the **STATE OF NEW HAMPSHIRE** acting through its **DEPARTMENT OF ENVIRONMENTAL SERVICES**, an administrative agency duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 29 Hazen Drive, City of Concord, County of Merrimack, State of New Hampshire, 03302, (referred to herein as "NHDES" and sometimes otherwise hereinafter referred to as the "**Third Party Holder**", which term shall include the Third Party Holder's successors and assigns). This Conservation Easement is achieved through financial assistance awarded to the Landowner for the acquisition of the Conservation Area as compensatory mitigation by the New Hampshire Department of Transportation for NH DOT Dummer – Cambridge-Errrol project # 16304B, NH Application 2022-01959.

The Conservation Area includes the following significant recreational, educational, natural habitat, open space, scenic, forestry and other conservation attributes which are protected by the terms of this Easement (hereinafter "Conservation Attributes") and which, along with other present conditions of the Conservation Area, are further described and set forth in a Baseline Documentation Report on file with the Easement Holder, the Landowner, and NHDES, the terms of which are incorporated herein by reference. The parties acknowledge that environmental or other conditions that sustain the Conservation Attributes may change over time, and that the resulting change or disappearance of any given Conservation Attribute does not necessarily negate the significance or public benefit of the others. Similarly, the parties acknowledge that the Conservation Area may have certain significant conservation features as of creation of this Easement whose presence is unknown as of that time but may be discovered later. Additionally, certain significant conservation features may arrive to and become established on the Conservation Area after creation of this Easement. In either case, such conservation features are not specifically identified in the following description of Conservation Attributes and are worthy of permanent conservation or protection consistent with the Purposes of this Easement as described in Section 1, below. Accordingly, the parties agree that, upon the

appropriate documentation of such features as a supplement to the Baseline Documentation Report, such features shall be considered part of the Conservation Attributes to be conserved or protected prospectively by this Easement. The Conservation Attributes are as follows:

Forest Resources:

- The Conservation Area is 95% forested with the exception of small areas of open ledges, non-forested wetlands, and man-made openings such as woods roads and log landings. The forest contains a mixture of hardwood and softwood forests of diverse age classes, specifically of Eastern Hemlock, Red Maple, Red Oak, American Beech, and Red Spruce. The Conservation Area has been extensively harvested over the preceding five years.

Water Resources:

- The Conservation Area encompasses 8,724 feet of frontage on the Androscoggin River, and 24.3 miles of stream frontage including the headwaters of the Leadmine Brook, a cold-water stream supporting native brook trout, a NH Species of Greatest Conservation Need.
- The shoreline along the Androscoggin River hosts exemplary state-significant silver maple floodplain forests and the uplands contain small cranberry bogs, red spruce swamps and other riverine habitats.
- The Conservation Area contains 16 confirmed Vernal Pools located within the floodplain forest along the Androscoggin River and 22 acres of total wetlands.

Climate Resiliency:

- The Conservation Area ranks as Above Average in the Nature Conservancy's Resilient and Connected Landscape analysis.
- The Conservation Area's elevation gain from the Androscoggin River valley floor to a to the ridgeline of the Mahoosucs provides habitat connectivity across elevational and longitudinal gradients, allowing species to better adapt to a changing climate.

Prioritization by Local/ Regional Conservation Plans:

- Approximately 30% (827 acres) of the Conservation Area is classified as Tier 1 wildlife habitat or the "Best in the State," or Tier 2 wildlife habitat or the "Best in the Region," under the 2020 New Hampshire Wildlife Action Plan.
- The Conservation Area falls within the Northeast Kingdom VT--Northern NH priority linkage landscape of the "Staying Connected Initiative" (SCI).
- The Conservation Area aligns with Shelburne Master Plan adopted in 2016 and mutually supports the Shelburne Conservation Commission's efforts to protect and conserve the Androscoggin River and forested uplands and contributes to a long-standing successful conservation effort in the region.

Scenic Resources:

- The Conservation Area forms a scenic backdrop when traveling along the State Scenic Byway Route 2 in Shelburne, New Hampshire. Specifically, the Conservation Area is

seen by travelers who stop at a popular pull-off along this byway to look over the so called "Reflection Pond" of the Androscoggin River, toward the Conservation Area.

- The Conservation Area is also visible from the Appalachian Trail along the Presidential range summits of Mounts Adams and Madison, and the Carter Moriah range summit of Mount Moriah.

Recreation:

- Current recreational uses of the Conservation Area include hunting, fishing, biking, and walking, among others.
- Hogan Road, which passes through the Conservation Area, is part of the Cross NH Adventure Trail, an 84-mile bike-packing trail that traverses northern New Hampshire.
- Hogan Road also provides access to the Androscoggin River for fishing, swimming and boating.

Landscape and Connectivity:

- The Conservation Area flanks both sides of the Appalachian Trail corridor, providing a significant protective buffer on both sides of the Trail for 2.6 miles.
- With 8.5 miles of shared boundary with other conserved lands, the Conservation Area builds a connection between two significant conserved forest blocks, the 30,000-acre Mahoosuc Gateway and the nearly 800,000-acre White Mountain National Forest.

1. PURPOSES

In order to conserve and protect the Conservation Attributes, the Landowner hereby grants this Easement pursuant to NH RSA 477:45-47, exclusively for the following conservation Purposes (herein referred to as the "Purposes") for the public benefit:

A. The protection of the natural habitats or ecosystems found on or otherwise supported by the Conservation Area as documented in the Conservation Attributes hereinabove mentioned and in the Baseline Documentation Report;

B. The conservation of open spaces, particularly the Conservation Area's productive forest land, the protection of the Conservation Area's productive soils, and the protection of the Conservation Area's capacity to produce economically valuable forestry products;

C. To restore, protect, manage, maintain, and enhance the functional values of wetlands, vernal pools, streams, rivers, riparian areas, surface and ground water and other lands, and for the conservation of natural values including fish and wildlife and their habitat, ecological integrity of the water resources, water quality improvement, flood water retention, groundwater recharge, and open space; and

D. The protection of the Conservation Area for the general public's use for outdoor recreational and educational purposes, to the extent that these purposes will have minimal impact on the Conservation Attributes and the forestry uses of the Conservation Area.

The Purposes are consistent with New Hampshire RSA Chapter 79-A:1 "Declaration of Public Interest," which states:

"It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources;"

and which also states, relative to the Conservation Area's acreage being enrolled in the Current Use Assessment Program:

"It is further declared to be in the public interest to prevent the loss of open space due to Conservation Area taxation at values incompatible with open space usage. Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens. The means for encouraging preservation of open space authorized by this chapter is the assessment of land value for Conservation Area taxation on the basis of current use."

These Purposes are consistent with the U.S. Internal Revenue Code, Section 170(h).

2. **USE LIMITATIONS** (Subject to the reserved rights specified in Section 3 below)

The Conservation Area shall be maintained in perpetuity as undeveloped open space in a manner that is not detrimental to or inconsistent with the Purposes of this Easement. Accordingly, the Conservation Area shall be subject to all of the following Use Limitations, more than one of which may apply to any given use or activity and if so, with the more stringent controlling:

- A. **Commercial Activities, Including Forestry.** There shall not be conducted on the Conservation Area any industrial or commercial activities, except forestry (including timber harvesting) as described below, and provided that the productive capacity of the Conservation Area to yield forest crops shall not be degraded by on-site activities.
- i. Definitions:
 - a. **Forestry:** For the purposes of this Easement, "forestry" shall include the production of plant products for domestic or commercial purposes; the growing of forest trees of any size capable of producing timber or other forest products; the construction of roads or other access ways for the purpose of removing forest products from the Conservation Area; and the sale of products produced on the Conservation Area (such as firewood and maple syrup), all as not detrimental to the Purposes of this Easement.
 - b. **Riparian Buffers:** For the purposes of this Easement, "Riparian Buffers" shall be the areas within 100 feet of perennial streams and Significant Wetland Areas as defined below. A map entitled "Water Resources & Buffers" on file

with the Landowner, the Easement Holder, and NHDES as part of the Baseline Documentation Report, designates the approximate locations of the Riparian Buffers; in-field verification and marking shall be conducted prior to undertaking nearby forestry activities. The Riparian Buffer perimeter shall be measured from the stream or wetland edge, beginning at the normal high-water mark. In cases where the top of the embankment is less than 50 feet from the stream edge, the Riparian Buffer perimeter shall be measured from the top of embankment. In cases where wetlands surround the stream edge, the Riparian Buffer perimeter shall be measured from the boundary of the upland edge of the wetland area.

- c. Significant Wetland Areas: For the purposes of this Easement, "Significant Wetland Areas," as shown on the aforesaid map entitled "Water Resources & Buffers," mentioned above in Section 2.A.i.b, are those areas that by virtue of their unspoiled condition, unique physical or biological features, rarity, and/or exemplary nature have special value in a particular locale. This value is reflected in a high degree of functioning relative to the Significant Wetland Areas' ecological integrity, wildlife and aquatic life habitat, flood storage, groundwater interactions, and/or sediment and toxicant attenuation, and special social values such as education, scenic quality, and recreation. Significant wetlands are typically identified and evaluated by wetland scientists, wildlife biologists, or Natural Heritage ecologists and verified by a Licensed Professional Forester, through fieldwork and/or high-resolution aerial photograph interpretation. Streams and rivers shall be identified as those shown on 7.5-minute United States Geologic Survey Quadrangle maps. Wetlands may include any wetlands shown on National Wetland Inventory maps, documents/plans that include wetland delineations with said wetland delineations prepared by a licensed soils or wetlands scientist, Town wetland inventory maps, NH GRANIT land cover maps, or other sources mutually agreed to by the Landowner and the Easement Holder. Significant wetlands include, but are not necessarily limited to:

- I. Wetland communities or systems that are classified as exemplary due to their high quality as determined by their size, condition, and landscape context (that is, the condition of the surrounding landscape).
- II. Wetland communities or systems that are classified as exemplary (S1 and S2) due to their rarity in the State of New Hampshire by the NH Natural Heritage Bureau (NHB). Rare wetland types need not be of high quality to qualify as exemplary, but they must be considered viable in light of their size, condition, and landscape context.
- III. New Hampshire Wildlife Action Plan Tier 1 and Tier 2 wetlands.
- IV. Wetlands providing habitat for Endangered, Threatened and Special Concern wildlife.

Examples of significant wetland types in New Hampshire include, but are not limited to cedar swamps, black gum swamps, exemplary natural communities tracked in the Natural Heritage

Bureau (NHB) database, any wetland community type ranked by the NHB as critically imperiled/or imperiled, bogs, fens (peat lands), and floodplain forests.

- ii. For the purposes of this Easement, forestry shall not be performed in any Significant Wetland Area or within the 100-foot Riparian Buffer and within a 200-foot Riparian Buffer surrounding any documented Vernal Pool, as defined in Section 2.A.i.b and c above. Existing roads, landings, crossings, bridges, culverts river access points and trails as identified in the baseline documentation may be retained, repaired, relocated and used, but must be maintained to minimize degradation of water quality and aquatic habitat.
- iii. Forestry for industrial or commercial purposes shall be performed, to the extent reasonably practicable, as hereinafter specified in accordance with the following goals, and in a manner not detrimental to the Purposes of this Easement.
 - a. The goals are:
 - protection of wetlands, vernal pools, riparian buffer zones, and water quality;
 - maintenance of soil productivity;
 - protection of unique or fragile plants or natural areas;
 - conservation of native plant and animal species;
 - maintenance or improvement of the overall quality of forest products;
 - conservation of scenic quality and recreational infrastructure found on the Conservation Area and associated with the adjacent Appalachian Trail; and
 - protection of unique historic and cultural features, specifically those noted in the Baseline Documentation Report.
 - b. Such forestry for industrial or commercial purposes shall be performed in accordance with a written forest management plan consistent with this Easement, prepared by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder (the "Forest Management Plan"). Said Plan shall have been prepared not more than fifteen (15) years prior to the date any harvesting is expected to commence or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said date.
 - c. At least thirty (30) days prior to harvesting, the Landowner shall submit to the Easement Holder a written certification, signed by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder, that such Forest Management Plan has been prepared in compliance with the terms of this Easement and a summary of the proposed commercial harvest. Upon request by the Easement Holder, the Landowner shall submit the said Forest Management Plan itself to the Easement Holder within ten (10) days of such request, with the Easement Holder's acknowledgment that the said Plan's purpose is to guide forest management activities in compliance with this Easement, and that the actual activities will

determine compliance therewith.

d. Forestry Management Planning.

- I. Timber harvesting with respect to such forestry shall be conducted in accordance with said Plan and shall be supervised by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder.
- II. Riparian buffers and Significant Wetlands shall be marked in the field by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder prior to timber harvesting.
- III. Such forestry shall be carried out in accordance with all applicable local, state, federal, and other governmental laws and regulations, and, to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Conservation Area (hereinafter, "BMPs"). For references, see "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire 2004," and "Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire" (Good Forestry in the Granite State Steering Committee, 2010), or similar successor publications.

e. The Forest Management Plan shall include:

- I. Explanation of how significant wetlands, riparian buffer areas, vernal pools, and soils will be protected in association with road construction, other soil disturbing activities, and the implementation of stand prescriptions;
- II. A statement of landowner objectives;
- III. A map showing soil types as determined by the U.S. Natural Resources Conservation Service, access roads, significant wetlands, vernal pools, and surface waters;
- IV. A Map showing existing infrastructure such as forestry/access roads, landings, gates, sand pits, culverts, bridges, river access locations, parking areas or other known structures;
- V. Forest type map showing stands related to the prescriptions provided in the Plan; and
- VI. Prescriptions for each described stand, including commercial and non-commercial treatments;

and shall specifically address:

- the accomplishment of those Purposes for which this Easement is granted;
- the goals in Section 2.A.vi.a above;
- maintenance of a buffer of 100 feet from the significant wetland edge as noted in the Riparian Buffer and Significant Wetland Areas limitations described in Section 2.A.i. b and c, above;
- maintenance of a buffer of 200 feet around all documented Vernal Pools; and
- steps to be taken protect the adjacent Appalachian Trail and the experience of the hikers that use the trail.

B. Subdivision & Separate Conveyance. The Conservation Area shall not be subdivided so as to create additional or reconfigured municipally approved lots (including by boundary or lot line adjustment), and none of the lots, tracts, sites, or other divisions of land which together may comprise the Conservation Area shall be conveyed separately from one another. However, as exceptions to this use limitation only, the Landowner shall be permitted to:

- i. Adjust internal boundaries of lots or tracts comprising the Conservation Area only so long as said adjustment does not alter the perimeter boundary or ownership of the Conservation Area.
- ii. Rent or lease any or all of the Conservation Area for a use or activity permitted by this Easement.
- iii. Subdivide (including by boundary or lot line adjustment) and convey any physical portion of the fee interest in the Conservation Area to a public agency or qualified organization described in Section 5. "Burdens & Benefits" below (hereinafter "Qualified Holder") as an addition to an existing, abutting conservation area held in fee by said entity or organization, but only under the following conditions:
 - a. The Landowner obtains advance written approval of such conveyance by the Easement Holder and the Third Party Holder after the latter find, in their sole discretion, that the proposed conveyance is consistent with the Purposes of this Easement;
 - b. Fee interest in the premises so conveyed shall continue to be held only by a Qualified Holder;
 - c. The Landowner ensures the recording of a survey plan of the area being subdivided or conveyed; and
 - d. The premises so conveyed shall continue to be subject to the terms and conditions of this Easement; any reference to the "Landowner" in this Easement shall refer to the owner(s) of each of the resulting tracts, shall apply to the owner(s) of each

tract as the time, facts, and circumstances may indicate and require, and shall not create an obligation upon, or require the participation of, the owner(s) of the other tract(s) if the particular matter at issue does not involve the owner(s) of the other tract(s).

There shall be no limit on the number of times the Landowner may exercise the rights described in the provisions of Sections 2.B. i-iii. above nor on the number of separately conveyable interests or lots resulting therefrom.

C. Structures & Improvements. The following provisions shall apply to structures or improvements on the Conservation Area:

- i. No structure or improvement shall be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, above, or below the Conservation Area, except for structures and improvements which:
 - a. Assist in the accomplishment of forestry, conservation, habitat management, outdoor educational, or outdoor recreational uses on the Conservation Area, which may include but shall not be limited to: permeable roads, fences, bridges, trails, or boardwalks; and
 - b. Do not cause the total impervious surface coverage of the Conservation Area to exceed 5,000 square feet; for the purposes of this restriction, impervious surfaces are defined as material that does not allow water to percolate into the soil on the Conservation Area. Impervious surfaces include but are not limited to buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. Notwithstanding the foregoing, impervious surfaces shall specifically exclude bridges; boardwalks; culverts; impervious surfaces not in place year-round such as tents and awnings; and roadways, or other improvements established on the Conservation Area by third parties exercising lawful rights obtained prior to the date of this Easement; and
 - c. Are not detrimental to the Purposes of this Easement.
- ii. Prior to the Landowner's construction, placement, introduction, enlargement, or relocation of any structure with a footprint exceeding two hundred and fifty (250) square feet, the Landowner must obtain written approval of the same from the Easement Holder and Third Party Holder. The footprint of any roofed structure shall include the area within the dripline. For an enlargement of a structure, the square footage calculation under this provision shall only be the enlargement and shall not include the original structure.
 - a. At least forty-five (45) days prior to the commencement of any such construction, placement, introduction, enlargement, relocation, or on-site preparation therefor including but not limited to land clearing, the Landowner shall provide the Easement Holder with written notice with details of said structure including but

not limited to scope, size, and location, and method and timing of said construction/installation. Within thirty (30) days after Easement Holder's receipt of such notice, the Easement Holder shall inform the Landowner in writing of its approval, approval with conditions, or disapproval of the proposed structure, such approval not to be unreasonably withheld. Any disapproval shall specify the reasons therefor.

iii. Notwithstanding the above provisions of this Section 2.C., there shall not be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, under, or above the Conservation Area any of the following structures or improvements, including any portion thereof: commercial business facility, dwelling, mobile home, cabin, residential driveway, any portion of a septic system, underground petroleum/gas storage tank, tower, tennis court, swimming pool, athletic field, golf course, or aircraft landing area.

D. **Signs & Outdoor Advertising Structures.** No outdoor advertising structures shall be displayed on the Conservation Area except as desirable or necessary in the accomplishment of the forestry, conservation, or outdoor recreational or outdoor educational uses of the Conservation Area, and provided such structures are not detrimental to the Purposes of this Easement. No sign on the Conservation Area shall be artificially illuminated.

E. **Soil Disturbance, Water Manipulation & Extraction, & Topographic Alteration.** No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat, nor any extraction of surface or subsurface water resources, shall be allowed on or under the Conservation Area unless such activities:

- i. are in the accomplishment of forestry, conservation, habitat management, outdoor recreation, or outdoor education on the Conservation Area; and
- ii. do not significantly impair significant natural communities, or significant plant and animal species or their habitats with such determination of significance and impairment, in the sole discretion of the Easement Holder, to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for the identification or conservation of such communities, species, or habitats; and
- iii. do not significantly impair significant cultural, historical, or archeological resources with such determination of significance and impairment, in the sole discretion of the Easement Holder, to be based upon information from the New Hampshire State Archeologist, the New Hampshire Division of Historic Resources, or other party or agency then recognized by the State of New Hampshire as having responsibility for the identification or conservation of such resources; and

- iv. do not degrade or threaten to degrade the quality and sustainable yield of ground and surface water resources associated with the Conservation Area; and
- v. are guided by relevant BMPs; and
- iv. are not detrimental to the Purposes of this Easement.

Prior to commencement of any such activities, all necessary federal, state, local, and other governmental permits and approvals shall be secured.

F. **Mining & Extraction.** There shall be no mining, quarrying, excavation, drilling, or removal (hereinafter referred to as "Extractive Activities") of surface or subsurface materials, including but not limited to hydrocarbons, rocks, minerals, gravel, sand, topsoil, or other similar materials (hereinafter referred to as "Extractive Materials"), on, under, or from the Conservation Area, unless Extractive Activities will have a limited and localized impact on the Conservation Area, shall not be irretrievably destructive of the Conservation Attributes, shall not be detrimental to the Purposes of this Easement, and all of the following additional conditions are met:

- i. Said Extractive Activities shall be undertaken in furtherance of improvements made on or to the Conservation Area pursuant to and consistent with Sections 2.A. "Forestry," 2.C. "Structures & Improvements," and 2.E. "Soil Disturbance..." and shall be guided by relevant BMPs;
- i. No Extractive Materials shall be removed from the Conservation Area, except with advance written approval of the Easement Holder and Third Party Holder.

G. **Disposal.** There shall be no dumping, disposal, or burning on, above, or below the Conservation Area of man-made materials or materials then known to be environmentally hazardous, except as may be permitted elsewhere in this Easement, and except man-made materials as may be permitted by advance written approval of the Easement Holder following receipt from the Landowner of a proposed plan for said disposal and following determination by the Easement Holder, in its sole discretion, that the implementation of said plan would not be detrimental to the Purposes of this Easement, nor significantly impair the Conservation Attributes.

H. **Landowner's Conveyance of Right of Way or Easements.** No rights-of-way or easements of ingress or egress in favor of any third party shall be created or developed into, on, over, or across the Conservation Area without the prior written approval of the Easement Holder, except those of record as of the execution of this Easement and those specifically permitted in the provisions of this Easement.

I. **Use of Conservation Area for Developing Other Premises.** The Conservation Area shall not be used to satisfy the density, open space, frontage, setback, or other

requirements of any applicable zoning ordinance, subdivision regulation, site plan regulation, or other land and water use regulation of any governmental unit with respect to the development of any other premises, including but not limited to adjacent public waters, in which the Landowner may otherwise have certain rights. Notwithstanding the foregoing, any application by the Landowner for enrollment in, release from, or other change with respect to N.H. Current Use Assessment under RSA 79-A or N.H. Conservation Restriction Assessment under RSA 79-B, both as may be amended from time to time, shall be exempt from this Section 2.G.

- J. **Public Access.** The Conservation Area shall not be posted against, and the Landowner shall keep access to and use of the Conservation Area open to the public for, pedestrian, non-motorized, non-wheeled, non-commercial, outdoor recreational and outdoor educational purposes as will have minimal impact on the Conservation Area, such as but not limited to hiking, wildlife observation, cross-country skiing, fishing and hunting. However, the Easement Holder shall be under no duty to supervise said access, use, or purpose. The Landowner reserves the right to post the Conservation Area against public access to forestland during harvesting or other forest management activities, and against camping, horseback riding, biking, motorized use, target practice and other activities that may be detrimental to the Conservation Areas' Attributes and Purposes of this Easement.

The intent of the Landowner and Easement Holder is to permit the Landowner to undertake all other uses of the Conservation Area that are not detrimental to the Purposes of this Easement, as determined by the Easement Holder, and that are not expressly prohibited herein.

3. **RESERVED RIGHTS OF LANDOWNER**

Notwithstanding any other provision of this Easement, and specifically as exceptions to the restrictions of Section 2. "Use Limitations," above, the Landowner reserves the following rights on, over, and under the Conservation Area:

- A. **Educational & Recreational Activities.** Subject to the following conditions, the Landowner or its designee(s) reserves the right to sponsor and conduct educational and recreational activities on the Conservation Area, including but not limited to the hosting of school programs, youth & family, community, and adult environmental related educational and recreational programs, events, demonstrations, classes, studies, ecological experiments, trail races, passive recreation programs (such as birding, hiking, snowshoe, cross country skiing tours), or other organized outdoor educational and recreational events. Landowner or its designee(s) reserves the right to collect fees for such sponsored educational & recreational activities; however, the Landowner or its designee(s) shall not charge fees or admission to the general public for access to the Conservation Area for allowed uses as otherwise provided in this Easement that are independent of Landowner's said sponsored educational or recreational activities. The conduct of such sponsored educational recreational activities shall not be detrimental to the Purposes of this Easement. This provision is an exception to the limitation on commercial activities on the Conservation Area under Section 2.A. above.

B. **Motorized Vehicles and Equipment.** The Landowner reserves the right to operate motorized vehicles, and permit others to operate said vehicles, for the purposes of maintaining, managing and monitoring the Conservation Area, including but not limited to emergency rescue operations, forestry, habitat management, education management, recreational management and to control or remove non-native or invasive species. The Landowner also reserves the right for the public, holders of Cabin Lease Areas (defined in Section 3.H, below), and others with rights of way to operate motorized vehicles along Hogan Road which is a partial public unmaintained and private road running through the Conservation Area.

C. **Trails.** The Landowner shall have the right to clear, construct, relocate and maintain trails for outdoor recreational and/or outdoor educational activities within and across the Conservation Area.

- i. Any new or relocated trails shall be consistent with and not detrimental to the Purposes of this Easement, shall not impact the required Significant Wetland Buffers and shall conform to BMPs recommended by the State of New Hampshire and Appalachian Mountain Club or similar trail-maintaining organization (For reference, see Appalachian Mountain Club, The Complete Guide to Trail Building and Maintenance, 2017, 5th edition; and State of New Hampshire, Best Management Practices for Erosion Control During Trail Maintenance and Construction, 2017, or similar successor publications).

Included in this Section 3.C is the right to install benches, trail signage, kiosks, culverts, bridges, and other improvements commonly associated with recreational trail usage, including viewing areas or cleared overlooks.

- ii. The Landowner shall notify the Easement Holder in writing at least thirty (30) days before constructing any new trails or relocating existing trails.

This provision is an exception to the limitation on disturbance of soil surfaces on the Conservation Area under Section 2.C. and the movement and excavation of surface and subsurface materials under Section 2.E. above.

D. **Parking Areas.** The Landowner shall have the right to clear, construct, relocate and maintain two (2) parking areas for outdoor recreational and/or outdoor educational activities on the Conservation Area of sufficient size to accommodate up to 30 vehicles on each parking lot, and to erect informational kiosks and signs thereon. This provision is an exception to the limitation on disturbance of soil surfaces on the Conservation Area under Section 2.C. and the movement and excavation of surface and subsurface materials under Section 2.E. above.

E. **Signs.** The Landowner shall have the right to place, maintain, and replace signs on the Conservation Area as follows:

- i. Signs, and/or boundary markings (e.g., metal tags, blazes) to facilitate inspection of the Conservation Area and to identify the Conservation Area

as conservation land, said signs or boundary markings located along the Conservation Area's boundaries.

- ii. Signs and kiosks, to identify to the public that the Conservation Area is conserved land and to recognize funding entities who contributed funding toward the conservation of the Conservation Area, as may be required. Said signs shall be located at a visible location on the Conservation Area. The Landowner shall be responsible for ensuring that said sign(s) conform with applicable local, state, and federal regulations and shall bear the cost of installation.

F. **Carbon Sequestration or Offset Credits**. - The Landowner expressly reserves the right to enter into agreements governing the management of the Conservation Area ("Carbon Agreements") and to manage the Conservation Area in accordance with those agreements so as to (i) maintain and increase carbon stocks on the protected Conservation Area, and (ii) remain in compliance with the 17 CCR § 91500 et seq. and the Compliance Offset Protocol for U.S. Forest Projects established by the California Air Resources Board, a department of the California Environmental Protection Agency ("ARB") or other appropriate carbon project protocols implemented by a reputable carbon-trading program. The terms and conditions of this Easement shall be taken into account when calculating the baseline/business as usual of the Protected Conservation Area for purposes of establishing a new Carbon Agreement or developing other carbon credits or other emissions offsets that Landowner proposes to authorize, create, sell, exchange or transfer. The Landowner will notify Easement Holder at least thirty (30) days prior to entering into a new Carbon Agreement.

G. **Archeological Investigations**. The Landowner reserves the right to permit archaeological investigations on the Conservation Area after receiving written approval from the Easement Holder and the Third Party Holder. Prior to permitting any such investigations, the Landowner shall send written notice to the New Hampshire State Archaeologist (or other person or agency then recognized by the State as having responsibility for archaeological resources) for review and comment, and to the Easement Holder and the Third Party Holder, such notice describing the nature, scope, location, timetable, qualifications of investigators, site restoration, research proposal, and any other material aspect of the proposed activity. The Landowner, the Easement Holder, and the Third Party Holder shall request the State Archaeologist (or other person or agency, as above) to consider the proposal, to apply the standards as specified in rules implementing RSA 227-C:7 (Permits Issued for State Lands and Waters), as may be amended from time to time, and to provide written comments to the Landowner, the Easement Holder and the Third Party Holder. The Easement Holder and the Third Party Holder may, in their sole discretion, approve the proposed investigations only if it finds that all of the following conditions are met:

- i) The archaeological investigations shall be conducted by qualified individuals and according to a specific research proposal;

- ii) The proposed activities will not harm state or federally recognized rare, endangered, or threatened species, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and
- iii) The proposed activities will not be materially detrimental to the Purposes of this Easement.

H. **Cabin Lease Areas.** The Landowner has excluded the two Cabin Lease Areas shown on said Survey Plan and described in Attachment A hereto from the Easement to preserve the Landowner's right to utilize, maintain, repair, or replace the two existing cabins and ancillary buildings, structures, and improvements located thereon, and to preserve the Landowner's right to charge fees, rent or lease said Cabin Lease Areas to outside parties. The following reserved rights are associated with the two Cabin Lease Areas:

- i. The Landowner, lessees and guests may use motorized vehicles to cross the Conservation Area to access said Cabin Lease Areas and may park said vehicles on the Conservation Area;
- ii. The Landowner, lessees and guests may install and maintain piping within the Conservation Area in order to draw water from the nearby streams to serve the said Cabin Lease Areas; and
- iii. The Landowner, lessees and guests may post the boundaries of the excluded Cabin Lease Areas to prevent the public's access to said Cabin Lease Areas.

4. **NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE**

- A. The Landowner agrees to notify the Easement Holder in writing or via email within ten (10) days of offering the Conservation Area for sale. In addition, the Landowner agrees to notify the Easement Holder in writing or via email at least ten (10) days before the transfer of title to the Conservation Area.
- B. The Easement Holder shall be under no obligation to maintain the Conservation Area or pay any taxes or assessments thereon.
- C. The Landowner will provide the Easement Holder copies of any aerial or satellite photos taken of the Conservation Area as part of its own annual monitoring to assist the Easement Holder in its monitoring of the Easement.

5. **BENEFITS AND BURDENS**

The burden of the Easement conveyed hereby shall run with the Conservation Area and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and

assignable or transferable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas, agrees to and is capable of protecting the conservation purposes of this Easement, and has the resources to enforce the restrictions of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

6. AFFIRMATIVE RIGHTS OF EASEMENT HOLDER

A. The Easement Holder and Third Party Holder shall have reasonable access to the Conservation Area and all of its parts for such inspection as is necessary to determine compliance with and to enforce this Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

7. RESOLUTION OF DISAGREEMENTS

A. The Landowner and the Easement Holder desire that issues arising from time to time concerning uses or activities in light of the provisions of the Easement will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Landowner and the Easement Holder agree that if either party becomes concerned whether any use or activity (which together for the purposes of this Section, "Resolution of Disagreements," shall be referred to as the "Activity") complies with the provisions of this Easement, wherever reasonably possible the concerned party shall notify the other party of the perceived or potential problem, and the parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.

B. If informal dialogue does not resolve a disagreement regarding the Activity, and the Landowner agrees not to proceed or to continue with the Activity pending resolution of the disagreement concerning the Activity, either party may refer the disagreement to mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the parties shall agree on a single impartial mediator. Mediation shall be conducted in Concord, New Hampshire, or such other location as the parties shall agree. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

C. If the parties agree to bypass mediation or mediation does not resolve the disagreement, then either party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by permanent injunction, to require the restoration of the Conservation Area to its condition prior to the breach, and to recover such damages as appropriate.

D. Notwithstanding the availability of mediation to address disagreements concerning the compliance of any Activity with the provisions of this Easement, if the Easement Holder

believes that some action or inaction of the Landowner or a third party is causing irreparable harm or damage to the Conservation Area, the Easement Holder may seek a temporary restraining order, preliminary injunction or other form of equitable relief from any court of competent jurisdiction to cause the cessation of any such damage or harm, to enforce the terms of this Easement, to enjoin any violation by permanent injunction, and to require the restoration of the Conservation Area to its condition prior to any breach.

- E. In the event of a dispute involving the Third Party Holder, the provisions of paragraph B of this Section 7 shall not apply.

8. BREACH OF EASEMENT – EASEMENT HOLDER’S REMEDIES

- A. If the Easement Holder determines that a breach of this Easement has occurred or is threatened, the Easement Holder shall notify the Landowner in writing of such breach and demand corrective action to cure the breach and, where the breach involves injury to the Conservation Area, to restore the portion of the Conservation Area so injured to its prior condition.
- B. The Landowner shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach and to repair any damage. The Landowner shall promptly notify the Easement Holder of its actions taken hereunder.
- C. If the Landowner fails to perform its obligations under the immediately preceding paragraph B. above, or fails to continue diligently to cure any breach until finally cured, the Easement Holder may undertake any actions that are reasonably necessary to repair any damage in the Landowner’s name or to cure such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Conservation Area to the condition that existed prior to any such injury.
- D. If the Easement Holder, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation features of the Conservation Area, the Easement Holder may pursue its remedies under this Section, “Breach of Easement...,” without prior notice to the Landowner or without waiting for the period provided for cure to expire.
- E. The Easement Holder shall be entitled to recover damages from the party directly or primarily responsible for violation of the provisions of this Easement or injury to any conservation features protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, or environmental attributes of the Conservation Area. Without limiting the Landowner’s liability therefor, the Easement Holder, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Conservation Area.

- F. The Easement Holder's rights under this Section, "Breach of Easement...", apply equally in the event of either actual or threatened breach of this Easement and are in addition to the provisions of the preceding Section, "Resolution of Disagreements," which section shall also apply to any disagreement that may arise with respect to activities undertaken in response to a notice of breach and the exercise of the Easement Holder's rights hereunder.
- G. The Landowner and the Easement Holder acknowledge and agree that should the Easement Holder determine, in its sole discretion, that the Conservation Attributes protected by this Easement are in immediate danger of irreparable harm, the Easement Holder may seek the injunctive relief described in the third paragraph of this Section, "Breach of Easement...", both prohibitive and mandatory, in addition to such other relief to which the Easement Holder may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Easement Holder's remedies described in this Section, "Breach of Easement...", shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- H. Provided that the Landowner is directly or primarily responsible for the breach, all reasonable costs incurred by the Easement Holder in enforcing the terms of this Easement against the Landowner, including, without limitation, staff and consultant costs, reasonable attorneys' fees and costs and expenses of suit, and any costs of restoration necessitated by the Landowner's breach of this Easement shall be borne by the Landowner; and provided further, however, that if the Landowner ultimately prevails in a judicial enforcement action each party shall bear its own costs. Notwithstanding the foregoing, if the Easement Holder initiates litigation against the Landowner to enforce this Conservation Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Easement Holder to reimburse the Landowner's reasonable costs and reasonable attorney's fees in defending the action.
- I. Forbearance by the Easement Holder or Third Party Holder to exercise its rights under this Easement in the event of any breach of any term thereof by the Landowner shall not be deemed or construed to be a waiver by the Easement Holder or Third Party Holder of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Easement Holder's or Third Party Holder's rights hereunder. No delay or omission by the Easement Holder or Third Party Holder in the exercise of any right or remedy upon any breach by the Landowner shall impair such right or remedy or be construed as a waiver. The Landowner hereby waives any defense of laches or estoppel.
- J. Nothing contained in this Easement shall be construed to entitle the Easement Holder to bring any action against the Landowner for any injury to or change in the Conservation Area resulting from causes beyond the Landowner's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, disease, infestation and earth movement, or from any prudent action taken by the Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the

Conservation Area resulting from such causes. The Easement Holder and the Landowner reserve the right, separately or collectively, to pursue all legal and/or equitable remedies, as set forth in this Section, "Breach of Easement...", against any third party responsible for any actions inconsistent with the provisions of this Easement.

9. THIRD PARTY RIGHT OF ENFORCEMENT

- A. If the Easement Holder ceases to enforce the Easement conveyed hereby or fails to enforce it within thirty (30) days after receipt of written notice from the Third Party Holder requesting such, then the notifying Third Party Holder shall have all the rights heretofore granted to the Easement Holder to enforce this Easement and be entitled to recover the costs of such enforcement from the Landowner.
- B. The interests held by NHDES are assignable or transferable to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended. Any holder of an interest in this Easement desiring to transfer or assign its interest shall send written notice describing said intention to all other holders of any interest in this Easement at least thirty (30) days prior to such transfer or assignment taking effect.

10. NOTICES

All notices, requests and other communications, required to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Landowner or the Easement Holder may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

11. SEVERABILITY

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

12. EXTINGUISHMENT & CONDEMNATION

- A. Extinguishment. If circumstances arise in the future such as render the Purposes of this Easement impossible or impracticable to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which the Easement Holder shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Conservation Area subsequent to such judicial termination or extinguishment, shall be determined in accordance with Section 12.C. below and said proceeds shall be used in a manner consistent with the Purposes of

this Easement. In making this grant of Easement, the Landowner has considered and acknowledges the possibility that uses prohibited by the terms of this Easement may become more economically viable than the uses specifically reserved by the Landowner pursuant to this Easement. It is the intent of both the Landowner and the Easement Holder that any such change in economic conditions shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to this Section.

- B. **Condemnation.** If all or any part of the Conservation Area is taken, in whole or in part, by exercise of the power of eminent domain or is acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, the Landowner and the Easement Holder shall act jointly to recover the full value of their interests in the Conservation Area subject to the taking or in-lieu purchase and to recover all direct or incidental damages resulting therefrom. The amount of the proceeds to which the Easement Holder shall be entitled shall be determined in accordance with Section 12.C. below and said proceeds shall be used in a manner consistent with the Conservation Purposes of this Conservation Easement.
- C. **Valuation.** This Easement constitutes a real property interest immediately vested in Easement Holder, which, for the purposes of Sections 12.A and 12.B above, shall have a fair market value which shall be determined by an appraisal prepared by a qualified appraiser as of the time of said extinguishment or condemnation. The balance of the amount recovered, after payment of any expenses, shall be divided between the Landowner and the Easement Holder in proportion to the fair market value, as determined by the appraisal, of their respective interests in that part of the Conservation Area extinguished or condemned. Whichever party obtains said appraisal shall submit timely a complete copy of said appraisal to the other party to this Easement.

13. **AMENDMENT & DISCRETIONARY CONSENT**

The Landowner, Easement Holder and Third Party Holder recognize and agree that natural conditions, landscapes, consistency of uses, cultural conditions, and technologies change over time, and that unforeseen or changed circumstances could arise in which an amendment to certain terms or restrictions of this Easement would be appropriate and desirable, or that some activities may require the discretionary consent of the Easement Holder, as further described below. To this end, the Landowner, Easement Holder and Third Party Holder have the right to agree to amendments to this Easement, and the Easement Holder may exercise discretionary consent, all in accordance with:

- The provisions and limitations of this Section 13;
- The then-current policies of the Easement Holder; and
- Applicable governmental laws, rules, regulations, and guidelines.

Any amendment or exercise of discretionary consent shall:

- Be consistent with the Purposes of this Easement; and

- Not significantly impair Conservation Attributes; and
- Not affect the qualification of this Easement or the status of the Easement Holder under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986 and regulations promulgated thereunder, and NH RSA 477:45-47, all as may be amended from time to time; and
- Not affect the perpetual duration of this Easement or the perpetual protection of its Purposes.

Any request by the Landowner for an amendment or for discretionary consent shall be in writing and shall describe the proposed amendment or the activity for which consent is sought in sufficient detail to allow the Easement Holder to judge the consistency of the request and of the proposed activity with the Purposes and other terms and conditions of this Easement. To evaluate and then make a determination on the Landowner's request, the Easement Holder shall have the right to engage independent experts, at the Landowner's sole cost, necessary for the Easement Holder to evaluate the adequacy of the proposal. If a proposed amendment or exercise of discretionary consent has aspects which, in some respects, would be detrimental to the Purposes of this Easement or would impair the Conservation Attributes, but, in other respects, enhance said Purposes or Conservation Attributes, then the Easement Holder shall evaluate the net effect of such impacts when considering any amendment or exercise of discretionary consent. Nothing in this Section 13 shall require the Easement Holder to consider, negotiate, or approve any proposed amendment or request for discretionary consent. The Easement Holder shall have sole discretion in all of its determinations regarding an amendment of this Easement or discretionary consent therefor.

- A. **Amendments.** Any amendment shall be executed by the Landowner and the Easement Holder, subject to review by the N.H. Attorney General's Office, Charitable Trusts Unit as necessary, and shall be recorded in the Coos County Registry of Deeds.
- B. **Discretionary Consent.** If the Landowner and the Easement Holder agree that any activity otherwise prohibited herein or not contemplated by the Easement is desirable, and if the Easement Holder determines, in its sole discretion, that such activity (i) is not detrimental to the Purposes of the Easement and (ii) would not have more than *de minimis* negative impacts on the Conservation Attributes protected hereby, the Easement Holder may then consent to such activity and under the conditions and circumstances described herein. The Easement Holder's consent to a proposed use or activity may be limited or restricted in time, locale, or by ownership, and shall be in writing.
- C. Notwithstanding the foregoing, the Landowner and Easement Holder shall have no right or power to agree to any amendment or consent to any activities that would result in the termination of this Easement.

14. **HOLD HARMLESS**

The Landowner shall release, hold harmless, defend, and indemnify the Easement Holder and Third Party Holder, except as provided for in Section 8.J., from any and all liabilities including but not limited to injuries, losses, damages, judgments, costs, expenses and fees

which the Easement Holder may suffer or incur as a result of, arising out of, or connected with: (A) the activities of the Landowner on the Conservation Area, other than those caused by the negligent acts or acts of misconduct by the Easement Holder; or (B) violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation or requirement by the Landowner in any way affecting, involving, or relating to the Conservation Area.

15. SOVEREIGN IMMUNITY

Nothing herein shall be construed as a waiver of sovereign immunity by the State of New Hampshire, such immunity being hereby specifically reserved. If the interests held by the State of New Hampshire herein are assigned or transferred to a qualified party other than the State of New Hampshire or agency thereof, as allowed by Section 9.B above, this provision "Sovereign Immunity" shall not apply to the assignee or transferee.

16. GENERAL DISCLAIMER

The State of New Hampshire, acting through the Third Party Holder, and its employees, agents, and assigns disclaim and will not be held responsible for Easement Holder's or Landowner's negligent acts or omissions or Easement Holder's or Landowner's breach of any representation, warranty, covenant, or agreements contained in this Easement, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the State of New Hampshire acting through the Third Party Holder may be subject or incur relating to the Conservation Area.

17. NO MERGER

This Easement is to last in perpetuity, and to that end, no conveyance by the Landowner of the underlying fee interest in the Conservation Area, or by the Easement Holder or by the holder of any other third-party interest in this Easement of its interest, to any other party holding an interest in the Conservation Area shall be deemed to extinguish or eliminate this Easement or any portion thereof under the doctrine of "merger" or any other legal doctrine.

18. GOVERNING LAW

This Easement shall be interpreted under and governed by the laws of the State of New Hampshire and shall be liberally construed to effect the Purposes of this Easement especially in the case of any ambiguity in the meaning or interpretation of any terms or provisions of this Easement.

19. ADDITIONAL EASEMENT

Should the Landowner determine that the expressed Purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Landowner may execute an additional instrument to that effect, provided that the Purposes of this Easement are not diminished thereby and that a public agency or qualified organization described in the Section "Benefits and Burdens," above, accepts and records the additional easement.

20. **ENVIRONMENTAL WARRANTY**

The Landowner warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. The Landowner warrants that is not aware of any notice by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Conservation Area. The Landowner further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law. Moreover, The Landowner hereby promises to hold harmless and indemnify the Easement Holder and the Third Party Holder against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Conservation Area, or arising from or connected with a violation of any Environmental Laws by the Landowner. The Landowner's indemnification obligation will not be affected by any authorizations or approvals provided by the Third Party Holder or the Easement Holder to the Landowner with respect to the Conservation Area. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

The Easement Holder and Third Party Holder, by accepting and recording this Easement, shall be bound by, observe, and enforce the provisions hereof and assume(s) the rights and responsibilities herein granted to and incumbent upon the Easement Holder and Third Party Holder, all in the furtherance of the conservation purposes for which this Easement is delivered.

This Easement is effective as of the date of the last signature below.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2023.

LANDOWNER: SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

By: _____

Printed Name: _____

Title: _____
Duly authorized

Date: _____

STATE OF NEW HAMPSHIRE
COUNTY OF _____

This instrument was acknowledged before me on this ____ day of _____, 2023 by _____ on behalf of the Society for the Protection of New Hampshire Forests. The identity of the subscribing party was determined by

(check box that applies and complete blank line, if any):

- My personal knowledge of the identity of said person OR
- The oath or affirmation of a credible witness, _____ (name of witness), the witness being personally known to me OR
- The following identification documents: _____ (driver's license, passport, other).

Notary Public/Justice of the Peace

(Printed name)

My Commission Expires: _____

EASEMENT HOLDER: MAHOOSUC LAND TRUST, INC.

By: _____

Printed Name: _____

Title: _____
Duly authorized

Date: _____

STATE/COMMONWEALTH OF _____

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____, 2023 by _____ (name and title of individual) on behalf of the Mahoosuc Land Trust, Inc. The identity of the subscribing party was determined by (check box that applies and complete blank line, if any):

- My personal knowledge of the identity of said person OR
- The oath or affirmation of a credible witness, _____ (name of witness), the witness being personally known to me OR
- The following identification documents: _____ (driver's license, passport, other).

Notary Public/Justice of the Peace

(Printed name)

My Commission Expires: _____

THIRD PARTY HOLDER ACCEPTED: STATE OF NEW HAMPSHIRE

Robert R. Scott, Commissioner

New Hampshire Department of Environmental Services

STATE OF NEW HAMPSHIRE

COUNTY OF MERRIMACK, ss.

On this _____ day of _____, 2023, before me personally appeared **Robert R. Scott**, Commissioner of the New Hampshire Department of Environmental Services, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same as his free act and deed for the purposes therein contained.

Notary Public/Justice of the Peace

My commission expires:

**ATTACHMENT A
LEGAL DESCRIPTION**

TRACT 1 (CORNERS 1-16) TAX MAP 7 LOT 59W

The following described parcel of land is located off the west side of North Road and Hogan Road in the Town of Shelburne, New Hampshire.

BEGINNING at CORNER 1, an aluminum pipe on the line between Upland Lots 27 & 28.

Thence S03°23'03"E along land of the State of New Hampshire Lead Mine Forest for 2304.24 feet to CORNER 2, an iron pipe on the southerly side of Hogan Road.

Thence continuing S03°23'03"E along land of said State of New Hampshire for 239.62 feet to CORNER 3, a point on edge of Androscoggin River witnessed by an iron pin located N02°58'27"W, 11 feet distant.

Thence southwesterly along the Androscoggin River for approximately 8724.00 feet to CORNER 4, a point on edge of Androscoggin River witnessed by an iron pipe located N02°31'52"W, 41 feet distant.

Thence N02°31'52"W along land of Matthew Gordan for 2715.72 feet to CORNER 5, an iron pipe.

Thence N02°08'41"W along land of Bradley P. Waterman and Garret I. Waterman for 1840.26 feet to CORNER 6, an iron pin.

Thence N01°51'04"W along land of Gorham Land Company for 1163.44 feet to CORNER 7, an iron pin.

Thence N01°29'29"W along land of said Gorham Land Company for 1555.91 feet to CORNER 8, an aluminum pipe.

Thence N01°32'06"W along land of United States of America, White Mountain National Forest for 329.82 feet to CORNER 9, an aluminum pipe.

Thence along land of United States of America, Appalachian Trail Corridor the following eight courses:

1. N78°36'23"E for 2428.34 feet to CORNER 10, an aluminum disk.
2. N39°26'37"E for 691.00 feet to CORNER 11, an aluminum pipe.
3. S54°40'17"E for 360.86 feet to CORNER 12, an aluminum pipe.
4. S09°36'07"E for 1905.38 feet to CORNER 13, an aluminum disk.
5. S76°24'31"E for 882.20 feet to CORNER 14, an aluminum pipe.
6. S46°54'12"E for 1147.37 feet to CORNER 15, an aluminum disk.
7. S04°01'03"W for 941.26 feet to CORNER 16, an aluminum pipe.

8. S85°14'22"E for 3037.63 feet to the **POINT OF BEGINNING**.

EXCEPTING AND RESERVING from the Conservation Easement 2 camp leases each approximately 1.5 acres in area (255.62 feet x 255.62 feet) located northeasterly of Hogan Road and shown on said Plan (the "Camp Lease Areas").

The northerly corner of the first is located S34°53'49"E, 1075.00 feet from CORNER 1-5.

Thence S36°52'12"E for 255.62 feet to a point.

Thence S53°07'48"W for 255.62 feet to a point.

Thence N36°52'12"W for 255.62 feet to a point.

Thence N53°07'48"E for 255.62 feet to the **POINT OF BEGINNING**.

The northerly corner of the second is located S45°17'47"E, 2400.00 feet from CORNER 1-5.

Thence S56°31'25"E for 255.62 feet to a point.

Thence S33°28'35"W for 255.62 feet to a point.

Thence N56°31'25"W for 255.62 feet to a point.

Thence N33°28'35"E for 255.62 feet to the **POINT OF BEGINNING**.

EXCEPTING AND RESERVING rights of others to Hogan Road.

MEANING AND INTENDING to describe a parcel of land containing approximately 1,068 Acres (Tract 1) as shown on a plan prepared by York Land Services, LLC titled "Mahoosuc Highlands Tracts"- Survey Plat to Accompany Deed, Bayroot, LLC, Shelburne Valley Forest Tract 1- Tax Map 7 Lot 59W and Shelburne Valley Forest Tract 2- Tax Map 7 Lot 59E to Society for the Protection of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire," Dated December 1, 2022 and recorded at the Coos County Registry of Deeds as plan # _____; being a portion of the premises conveyed in the Quitclaim Deed of Bayroot, LLC to the Society for the Protection of New Hampshire Forests dated _____, 2023 and recorded in the Coos County Registry of Deeds on _____, 2023 in Book ____, Page ____, and portion of the premises conveyed in the Quitclaim Deed of Mead Westvaco Oxford Corporation to Bayroot, LLC dated November 21, 2003 and recorded on December 2, 2003 in the said Registry of Deeds in Book 1061, Page 952.

TRACT 2 (CORNERS 1-27) TAX MAP 7 LOT 59E

The following described parcel of land is located off the west side of North Road and Lead Mine Brook Road in the Town of Shelburne, New Hampshire.

BEGINNING at CORNER 1, an aluminum disk on the line between Upland Lots 27 & 28.

Thence along land of United States of America, Appalachian Trail Corridor the following seventeen courses:

9. N85°14'32"W for 1908.28 feet to CORNER 2, an aluminum disk.
10. N04°02'07"E for 430.57 feet to CORNER 3, an aluminum disk.
11. N46°54'55"W for 1885.87 feet to CORNER 4, an aluminum disk.
12. N76°20'34"W for 486.34 feet to CORNER 5, an aluminum disk.
13. N09°35'00"W for 1660.79 feet to CORNER 6, an aluminum pipe.
14. N54°39'10"W for 1706.88 feet to CORNER 7, an aluminum disk.
15. S39°26'51"W for 719.95 feet to CORNER 8, an aluminum pipe.
16. N56°25'38"W for 997.89 feet to CORNER 9, an aluminum disk.
17. N14°40'49"E for 3438.41 feet to CORNER 10, an aluminum pipe.
18. N32°52'29"W for 1890.45 feet to CORNER 11, an aluminum disk.
19. N38°12'54"E for 803.06 feet to CORNER 12, an aluminum disk.
20. S65°34'48"E for 1210.97 feet to CORNER 13, an aluminum disk.
21. N24°24'52"E for 1724.87 feet to CORNER 14, an aluminum pipe.
22. N89°35'11"E for 1653.84 feet to CORNER 15, a point witnessed by an aluminum disk located S89°35'11"W, 0.90 feet distant.
23. N56°02'32"E for 734.80 feet to CORNER 16, an aluminum pipe.
24. S01°52'31"E for 995.39 feet to CORNER 17, an aluminum pin.
25. S58°39'55"E for 1404.91 feet to CORNER 18, a point in the thread of Lead Mine Brook witnessed by an aluminum pin located N58°06'42"E, 31.45 feet distant.

Thence S15°24'19"E along land of The Conservation Fund for 3460.64 feet to CORNER 19, a point in the thread of Lead Mine Brook witnessed by an iron pin located N88°21'43"E, 60.26 feet distant.

Thence N88°21'45"E along said land of The Conservation Fund for 4945.72 feet to CORNER 20, an iron pin.

Thence S02°04'49"E along land of Timothy C. Hayes and James R. Hayes for 1441.68 feet to CORNER 21, an iron pipe.

Thence S85°15'42"W along land of Gerard R. Turcotte and Alicia C. Turcotte for 1055.78 feet to CORNER 22, an iron pipe.

Thence S01°31'39"E along land of said Turcotte for 414.54 feet to CORNER 23, an iron pipe.

Thence S88°38'51"W along land of Janet C. Peabody Revocable Trust of 1996 for 1480.97 feet to CORNER 24, an iron pipe.

Thence S02°35'49"E along land of said Peabody for 3754.04 feet to CORNER 25, an iron pin.

Thence along land of the State of New Hampshire Lead Mine Forest the following three courses:

1. S02°35'49"E for 87.22 feet to CORNER 26, an iron pin.
2. S86°42'53"W for 2592.26 feet to CORNER 27, an iron pin.
3. S03°20'10"E for 854.00 feet to the **POINT OF BEGINNING**.

MEANING AND INTENDING to describe a parcel of land containing approximately 1,603 Acres (Tract 2) as shown on a plan prepared by York Land Services, LLC titled "Mahoosuc Highlands Tracts"- Survey Plat to Accompany Deed, Bayroot, LLC, Shelburne Valley Forest Tract 1- Tax Map 7 Lot 59W and Shelburne Valley Forest Tract 2- Tax Map 7 Lot 59E to Society for the Protection of New Hampshire Forests, Off North Road & Hogan Road, Shelburne, Coos County, New Hampshire," Dated December 1, 2022 and recorded at the Coos County Registry of Deeds as plan # ____; being a portion of the premises conveyed in the Quitclaim Deed of Bayroot, LLC to the Society for the Protection of New Hampshire Forests dated _____, 2023 and recorded in the Coos County Registry of Deeds on _____, 2023 in Book ____, Page ____, and portion of the premises conveyed in the Quitclaim Deed of Mead Westvaco Oxford Corporation to Bayroot, LLC dated November 21, 2003 and recorded on December 2, 2003 in the said Registry of Deeds in Book 1061, Page 952.

All courses of this description are referenced to New Hampshire State Plane Grid NAD83.

4864-0465-7220, v. 1

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on March 03, 1910. 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: 64922

Certificate Number: 0006224290

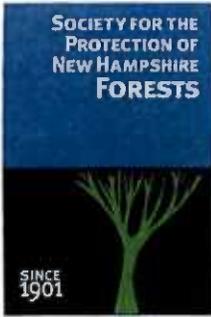


IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 5th day of May A.D. 2023.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan
Secretary of State



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Concord, NH 03301

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EXCERPT

Be it noted that the Board of Trustees of the Society for the Protection of New Hampshire Forests, in a board vote taken on April 21, 2023.

VOTED to authorize David Jackson Savage (Jack), President, and Anne G. Truslow, Vice President of Development, to sign all contracts, deeds checks, drafts and orders drawn on SPNHF General Funds or Restricted funds; and that they are hereby authorized to deposit checks and drafts payable to this Corporation; and further are authorized to sell, assign, and endorse for transfer, certificates representing stocks, bonds, annuities, or other securities now registered or hereafter registered in the name of this Corporation and specifically to execute any documents which may be necessary to effect such agreements on the proposed Shelburne Valley Forest project in Shelburne, NH.

As the duly authorized Assistant Secretary of the Society for the Protection of New Hampshire Forests, having been appointed at the meeting of December 4, 2019, I hereby confirm that the above Vote was taken by said Board of Trustees on April 21, 2023.

Maria E. Stewart, Assistant Secretary

Attested:

Connelly A. Colton, Notary Public Commission expires: March 13, 2024

CONNELLY A. COLTON
NOTARY PUBLIC
State of New Hampshire
My Commission Expires
March 13, 2024

