



New Hampshire Fish and Game Department

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AK WJ

December 1, 2017

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

REQUESTED ACTION

Authorize the New Hampshire Fish and Game Department (NHFG) to accept from the City of Manchester Department of Aviation 56.66 acres in Londonderry and Manchester as mitigation for wetlands impact associated with construction at the Manchester Airport, effective upon Governor and Council approval.

EXPLANATION

NHFG proposes to accept 56.66 acres in Londonderry and Manchester from the City of Manchester Department of Aviation. The permanent conservation of these parcels is a requirement of NH Department of Environmental Services and US Army Corps of Engineers permits issued in 1997 for runway expansion and associated infrastructure improvements. This condition of the permits was inadvertently overlooked at the time. In 2014 the Department was contacted by the Department of Environmental Services and the Aviation Department to request that NHFG work with them to permanently protect the property.

If approved this property will become part of NHFG's wildlife management area system and will be open to the public for wildlife related recreation activities.

Respectfully submitted,

Glenn Normandeau
Executive Director

Kathy Ann LaBonte
Chief, Business Division

STATE OF NEW HAMPSHIRE
Inter-Department Communication

DATE: November 28, 2017

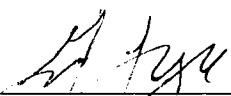
FROM: Gordon Landrigan
Attorney

AT (OFFICE) Department of Justice
Environmental Protection Bureau

SUBJECT: Transfer Fee Title to Manchester Airport Mitigation Parcel from City of
Manchester to New Hampshire Fish & Game.

TO: His Excellency Governor John H. Lynch
and the Honorable Council
State House

The Office of the Attorney General has reviewed and approved the enclosed documents for form and substance only. These documents are a Draft Warranty Deed, Executed Real Estate Transfer Agreement, Opinion of Title, Environmental Hazards Assessment, Certificate of Vote from the City of Manchester, A Recordable Survey, NHDWES Wetland Permit #97-00389, and USACOE Permit #199501152 and Amendment. Execution will not occur until after approval by the Governor and Executive Council. At that time, the Office of the Attorney General will review for execution and make the appropriate affirmation.



Gordon Landrigan
Attorney
Department of Justice
Environmental Protection Bureau

*Matthew Normand
City Clerk*



*Heather Freeman
Assistant City Clerk*

*JoAnn Ferruolo
Assistant City Clerk*

CITY OF MANCHESTER
Office of the City Clerk

CERTIFICATE OF VOTE

I, Matthew Normand, City Clerk for the City of Manchester, New Hampshire, do hereby certify that:

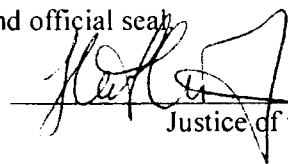
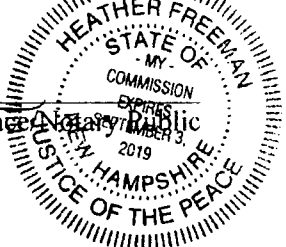
1. I am the duly appointed City Clerk in the city of Manchester, New Hampshire.
2. The Board of Mayor & Aldermen voted on August 15, 2017 to authorize the Airport Director to execute all necessary documents for the conveyance of two Airport properties totaling 56.66 acres, known as Manchester Map/Lot 712-1B and Londonderry Map/Lot 14-49-1, to the State of New Hampshire acting through its Fish & Game Department subject to their acceptance of all FAA restrictions imposed on said properties:
 - a. Land shall be maintained as conservation land;
 - b. Abide by the avigation easement requirements; and
 - c. Agree to a reversion clause.
3. This vote has not been amended, reconsidered, or rescinded and remains in full force and effect as of August 16, 2017,
4. Mark Brewer is the duly appointed Airport Director of the Manchester – Boston Regional Airport.


Matthew Normand, City Clerk

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

On this the 16th day of August, 2017, before me, Heather Freeman, the undersigned officer, personally appeared Matthew Normand, City Clerk, who I know to be the City Clerk for the City of Manchester, being authorized to do so, executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal


Justice of the Peace


REAL ESTATE TRANSFER AGREEMENT

This Real Estate Transfer Agreement ("Agreement") is entered into as of the 17th day of October, 2017, by and between the City of Manchester, New Hampshire, acting by and through its Department of Aviation, being the duly and lawfully constituted municipal corporation owning and operating the Manchester-Boston Regional Airport, located in the City of Manchester and Town of Londonderry, New Hampshire, with a principal place of business at 1 Airport Road, Suite 300, Manchester, County of Hillsborough, State of New Hampshire (hereinafter "Airport") and the State of New Hampshire, acting by and through its Fish and Game Department, with a principal mailing address of Eleven Hazen Drive, Concord, County of Merrimack, State of New Hampshire (hereinafter "NH Fish & Game").

WITNESSETH:

WHEREAS, the Airport is the owner of a two (2) adjacent parcels of land, one located off of Pettengill Road in the Town of Londonderry, Rockingham County, New Hampshire and shown on the Town of Londonderry Tax Map as Map14/Lot 49-1, and the other located on Brown Avenue in the City of Manchester, Hillsborough County, New Hampshire shown on the City of Manchester Tax Map as Map 712, Lot 1B, all as more particularly described in Schedule A attached hereto and hereinafter sometimes described as the "Trolley Crossing Site" and sometimes described as the "Property", which Property was acquired by the Airport in or about 2001 for purposes of satisfying state and federal wetland mitigation obligations in connection with runway expansion activities by the Airport;

WHEREAS, on or about the time of acquisition of the Property, it was determined by both the state and federal agencies having jurisdiction that the wetland mitigation requirements imposed upon the Airport with respect to the Property were no longer required, and that the Property should be preserved as a wildlife management area;

WHEREAS, the Airport desires to impose upon and subject the Property to conservation restrictions for the benefit of the City of Manchester, acting by and through its Department of Aviation for the purpose of retaining the Trolley Crossing Site in its undeveloped state in perpetuity for the protection of wildlife (except to the extent any such wildlife protection would inhibit, interfere with, or prohibit the Airport from the operation of the Manchester-Boston Regional Airport), including wetlands and uplands, and to prevent any use of the Property which may impair or interfere with its conservation values, and to protect the Property against future development, and to conserve and maintain the unique characteristics of the Trolley Crossing Site substantially in its current scenic and open space condition, while expressly reserving unto the Airport all use and aviation rights in the Property required by the Airport for its operations as an airport on other property owned by the Airport in the vicinity of the Property;

WHEREAS, the Airport desires to transfer the Property to NH Fish & Game, subject to

the conservation restrictions and reserved use and avigation rights referenced above, and also subject to other restrictions to be set forth in the deed from the Airport to NH Fish & Game, for the exclusive use as a wildlife management area in order to provide for the optimal management and stewardship of the Property for the protection of wildlife, and to insure that both the conservation and the operational objectives of the Airport are addressed;

WHEREAS, NH Fish & Game desires to acquire ownership of the Trolley Crossing Site for the purpose of assuming the management, maintenance, and enhancement of the Property for the protection of wildlife, and to exercise its uniquely qualified expertise for the oversight and stewardship required to fulfill the environmental and conservation values of the Property.

NOW THEREFORE, the Airport, for and in consideration of the covenants, restrictions, and agreements herein contained on the part of itself and NH Fish & Game to be kept, observed and performed, hereby agrees to transfer and convey to NH Fish & Game, and NH Fish & Game hereby agrees to take title to and ownership of from the Airport, the Property, all upon and subject to the following express terms, provisions, covenants and conditions, to wit:

1. Transfer and Conveyance of Real Property. Airport shall transfer and convey to NH Fish & Game, and NH Fish & Game shall accept from Airport, all of Airport's right, title, and interest in and to those certain two (2) adjacent parcels of land, one located off of Pettengill Road in the Town of Londonderry, Rockingham County, New Hampshire and shown on the Town of Londonderry Tax Map as Map14/Lot 49-1, and the other located on Brown Avenue in the City of Manchester, Hillsborough County, New Hampshire shown on the City of Manchester Tax Map as Map 712, Lot 1B, all as more particularly described in Schedule A attached hereto and hereinafter sometimes described as the Trolley Crossing Site and sometimes described as the Property, subject to the matters set forth in Paragraphs 2 and 7 below.

2. Conveyance and Title of Property. The Property is to be conveyed by a good and sufficient Warranty Deed in the form attached hereto as Schedule C from Airport conveying good and clear record and marketable title thereto, free and clear of all encumbrances except:

- (a) Provisions of existing building and zoning laws for the Town of Londonderry and the City of Manchester;
- (b) All easements, and rights of way, if any, provided that the same do not materially interfere with the use of the Property for the protection of wildlife, including all matters listed as Permitted Encumbrances on Schedule B attached hereto.

- (c) Such state of facts, notes, and all matters as are disclosed on a plan of land entitled "Boundary Plat" prepared by Promised Land Survey, LLC dated June 27, 2017, and recorded at the Rockingham County Registry of Deeds as Plan # _____ at the Hillsborough County Registry of Deeds as Plan # _____ (collectively, the "Plan");
- (d) the United States Department of Army Corps of Engineers Permit # 199501152 first approved on August 14, 1997, and as amended on January 12, 2001;
- (e) the State of New Hampshire Department of Environmental Services Wetlands and Non-site Specific Permit # 97-00389 approved on June 20, 1997;
- (f) the Conservation Restrictions set forth in and incorporated into the Warranty Deed from the Airport to NH Fish & Game in the form attached hereto as Schedule C;
- (g) the Avigation Easement and Airport Use Restriction set forth in and incorporated into and made a part of the Warranty Deed in the form attached hereto as Schedule C; and
- (h) the Reversionary Rights reserved to the Airport set forth in and incorporated into and made a part of the Warranty Deed in the form attached hereto as Schedule C.

The Airport shall provide NH Fish & Game with an Opinion of Title pertaining to the Property.

3. Purchase Price. The total purchase price for the Property shall be **ZERO AND 00/100 DOLLARS (\$ 00.00)**.

4. Time for Performance. The consummation of the transaction contemplated by this Agreement (the "Closing") shall take place at a mutually agreed upon place and time on November 10, 2017 unless otherwise agreed by the parties.

- (a) Extension to Perfect Title or Make Premises Conform. If the Airport shall be unable to give title or make conveyance or to deliver possession of the Property all as herein stipulated or if at the time of the delivery of the deed the Property does not conform with the provisions hereof, then all obligations of the parties hereto shall cease and this Agreement shall be void and without recourse to the parties hereto, unless the Airport elects to use reasonable efforts to remove any defects in title or deliver possession as provided herein or to

make said Property conform to the provisions hereof, as the case may be, in which event Airport shall give written notice thereof to NH Fish & Game at or before the time for performance hereunder, and thereupon the time for performance shall be extended for a period of thirty (30) days.

- (b) Failure to Perfect Title or Make Property Conform. If at the expiration of the extended time the Airport shall have failed so to remove any defects in title, deliver possession or make the Property conform as the case may be, all as herein agreed, then at NH Fish & Game's option all other obligations of the parties shall cease and this Agreement shall be void without recourse to the parties hereto.
- (c) NH Fish & Game's Election to Accept Title. NH Fish & Game shall have the election at either the original or any extended time for performance to accept such title as the Airport can deliver to the Property in its then condition, in which case Airport shall convey such title.
- (d) Federal Aviation Administration ("FAA") Approval. In the event the parties wish to close this transaction prior to the receipt of the final approval from the FAA as set forth in Paragraph 7 below, the Warranty Deed in original duplicate form shall be delivered in executed and recordable form to Hamblett & Kerrigan, P.A., the Airport's counsel, at its offices at 20 Trafalgar Square, Suite 505, Nashua, New Hampshire, to hold in escrow pending receipt of final FAA approval. Upon receipt of such approval, the Warranty Deed shall be recorded in the Rockingham County Registry of Deeds and in the Hillsborough County Registry of Deeds.

5. Closing Costs. There are no real estate transfer taxes stamps due hereunder because the Airport is a department of a municipality and the NH Fish & Game is a department of the State of New Hampshire. NH Fish & Game shall pay the cost of recording the deed and any additional instruments, if any. Airport shall pay the costs of clearing title, if any, to the Property. There shall be no apportionment of real estate taxes hereunder, it being acknowledged that neither party is required to pay real estate taxes with respect to the Property.

6. Possession and Condition of Property. Full possession of the Property is to be delivered at the time of the Closing, free of all tenants and occupants, the Property to be then:

- (a) free of all surface debris, refuse, junk, and garbage which has been dumped on the Property;
- (b) not in violation of any building, zoning and environmental laws;
- (c) in compliance with the provisions of Paragraph 2 hereof;
- (d) with all Property boundaries marked and staked by the Airport, or its agent, based upon the Plan referenced in Paragraph 2(c) above;
- (e) with approximately thirty (30) signs to be erected on the Property by the Airport at locations designated by NH Fish & Game for the purpose of posting notice of ownership of Property by NH Fish & Game. The signs shall be provided to Airport by NH Fish & Game, with the Airport providing the posts and sheet metal backing for same; and
- (f) subject to possible encroachments, such as sheds, fences, and playsets, for example, located along portions of the Charlotte Street, Ellingwood Street, and Landsdowne Avenue boundaries of the Property where residential properties are located. Note: the Airport shall make a good faith attempt to cause the removal any such encroachments prior to the Closing, but failure to do so shall not constitute an event of default by Airport, nor shall NH Fish & Game be excused from performance hereunder if such encroachments are not removed.

7. Approval by the FAA. The Airport's obligation to perform hereunder is subject to the receipt by the Airport from the FAA of final approval of the transfer by the Airport of the Trolley Crossing Site to NH Fish & Game.

8. Airport's Representations. Airport hereby represents and warrants to NH Fish & Game as of the date hereof and as of the Closing as follows:

- 8.1 Authority. The execution, delivery and performance of this Agreement by Airport and the consummation by Airport of the transaction contemplated hereby are within Airport's authority and capacity, do not violate any prior agreements of Airport and the person executing this Agreement on behalf of Airport is duly authorized to do so for and on behalf of Airport.
- 8.2 Litigation. There is no pending or threatened litigation affecting the Property or any part thereof.

- 8.3 Condemnation. There is no condemnation or eminent domain proceeding affecting the Property or any portion thereof currently pending nor, to Airport's knowledge, is any such proceeding threatened and there have been no takings by condemnation or eminent domain of any land of which the Property is a part and for which compensation has not been paid or for which compensation has been paid within the past three years.
- 8.4 Mechanic's Liens. No work has been performed or conducted on the Property which could give rise to any liens under New Hampshire RSA 447 and no contracts are outstanding or in effect with respect to the performance of any such work. If any such work is performed by or on behalf of Airport prior to the Closing (it being expressly understood that Airport shall not assume any obligations under this Section with respect to work performed by or on behalf of NH Fish & Game), Airport shall discharge prior to the Closing all obligations arising therefrom and shall remain liable after the Closing for discharge of all such obligations unless NH Fish & Game expressly agrees to assume such obligations.
- 8.5 Prior Agreements. The Airport has not entered into any agreement, commitments or arrangements presently in effect concerning the Property or development thereof with any persons, including, but not limited to governmental agencies, councils, boards or other entities, adjoining landowners, utilities, and highway or street authorities, other than NH Fish & Game.
- 8.6 Parties in Possession. There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, licensees and as trespassers and no person or entity has any right or option to lease, purchase, occupy or possess all or any part of the Property or any interest therein.

9. Condemnation. If prior to the Closing all or any part of the Property is subjected to a bona fide threat of condemnation or taking by eminent domain, then NH Fish & Game, at its option, may: 1) terminate this Agreement; or 2) may accept title to the Property in its then condition.

10. Airport's Default. If Airport fails or refuses to perform hereunder (and within ten (10) days of written notice of same from NH Fish & Game, the Airport has not cured the same provided that if such default is of such a nature that it cannot be cured prior to the expiration of such ten (10) day period, then such default shall not be deemed to continue so long as Airport proceeds to cure the default as soon as possible to complete such cure, but in no event beyond thirty (30) days from said written notice), then the NH Fish & Game, at its sole option, may: 1) enforce the specific performance

of this Agreement; or 2) pursue any other available remedies against Airport for such default either at law or equity.

11. Brokerage. NH Fish & Game and Airport represent and warrant to the other that neither of them has had any contact with any real estate broker in connection with this transaction. Each party agrees to hold the other harmless from any cost, claim, loss, liability, damage or expense arising from any claim for any brokerage commission or fee which may be asserted against the other in connection with this transaction which arises from any action of either party, including, without implied limitation, reasonable attorney's fees and expenses for defending any such claim from any broker. The provisions of this paragraph shall survive the Closing hereunder.

12. Miscellaneous.

12.1 Entire Agreement. This instrument constitutes the entire agreement between the NH Fish & Game and the Airport and there are no agreements, understandings, warranties or representations between the NH Fish & Game and the Airport except as set forth herein. This Agreement cannot be amended except in writing executed by the NH Fish & Game and the Airport.

12.2 Binding Effect. This Agreement will inure to the benefit of and bind the respective successors and permitted assigns of the parties hereto.

12.3 Interpretation. This Agreement shall be interpreted under the laws of the State of New Hampshire and shall inure to the benefit of, and be binding upon, the heirs, successors and assigns of the parties. The captions used herein are for convenience only, are not a part of this Agreement, and shall not be used in construing it.

12.4 Not An Offer. This Agreement is transmitted for examination only and does not constitute an offer to purchase or sell and this Agreement shall become effective only upon the full execution hereof by both parties hereto.

12.5 Counterparts. For the convenience of the parties, this Agreement may be executed in several counterparts, which are in all respects identical and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.

12.6 Litigation Expense. In the event either party hereto commences litigation against the other to enforce its rights hereunder, the prevailing party in such litigation shall be entitled to recover from


the other its reasonable attorney's fees and expenses incidental to such litigation.

12.7 Force Majeure. In the event that Airport or NH Fish & Game shall be delayed, hindered or prevented from the performance of any act reasonably required hereunder by reason of riots, insurrection, the act or failure to act or default of the other party, Acts of God, war or other reason beyond their control, then the time for performance of any act required to be done by either party shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

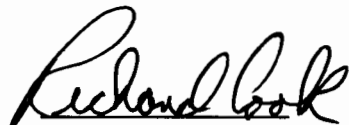
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this 17th day of October, 2017.

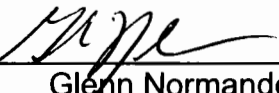

Witness

CITY OF MANCHESTER, NEW HAMPSHIRE

By: 
Mark P. Brewer
Its: Airport Director

**STATE OF NEW HAMPSHIRE
FISH AND GAME DEPARTMENT**


Witness

By: 
Glenn Normandeau
Its: Executive Director

SCHEDULE A
LEGAL DESCRIPTION

Two (2) certain abutting tracts or parcels of land and the improvements thereon, if any, located partly in the City of Manchester, Hillsborough County, New Hampshire, and partly in the Town of Londonderry, Rockingham County, State of New Hampshire and being shown as "Tax Map 712 Lot 1B (389,207 Sq. Ft (8.93 acres) and Tax Map 14 Lot 49-1 (2,079,249 Sq. Ft. (47.73 acres) " on a plan of land entitled "Boundary Plat Londonderry Tax Map 14 Lot 49-1 and Manchester Tax Map 712 Lot 1B, 62 Rear Pettengill Road, Londonderry, New Hampshire and Brown Ave., Manchester, New Hampshire dated June 27, 2017 Owner/Prepared For: City of Manchester, 1 City Hall Plaza, Manchester, NH 03103 & State of New Hampshire, PO Box 483, Hazen Drive, Concord, NH 03302, Scale 1"= 200' prepared by Promised Land Survey," recorded at the Hillsborough County Registry of Deeds as Plan # _____ and at the Rockingham County Registry of Deeds as Plan # D-_____, and more particularly described as follows:

Beginning at a rebar found in the ground at the Northwesterly corner of Tax map 712 Lot 1B on the southerly side of Raymond Wieczorek Drive;
Thence N 75°52'14" E a distance of 145.01' to a concrete New Hampshire Highway bound;
Thence with a curve turning to the left with a radius of 2450.00', with an arc length of 155.35', with a delta angle of 03°37'59" to a concrete New Hampshire Highway bound;
Thence N 79°24'40" E a distance of 107.75' to a concrete New Hampshire Highway bound;
Thence with a curve turning to the left with a radius of 2465.00', with an arc length of 315.33', with a delta angle of 07°19'46" to a point on the Town Line between Manchester, NH and Londonderry, NH;
Thence with a curve turning to the left with a radius of 2465.00', with an arc length of 248.76', with a delta angle of 05°46'55" to a rebar found in the ground;
Thence S 18°16'00" E a distance of 159.09' to a granite bound;
Thence N 81°56'19" E a distance of 416.88' to a rebar;
Thence S 41°29'31" E a distance of 438.97' to a rebar;
Thence N 75°22'39" E a distance of 331.16' to a rebar;
Thence S 14°49'47" E a distance of 487.45' to a rebar;
Thence S 75°02'38" W a distance of 244.69' to a rebar;
Thence S 14°31'46" E a distance of 382.69' to a rebar;
Thence N 75°24'20" E a distance of 454.16' to a rebar;
Thence S 15°11'59" E a distance of 534.47' to a rebar;
Thence S 79°22'39" W a distance of 972.24' to a rebar;
Thence S 79°51'45" W a distance of 544.33' to a granite bound;
Thence N 11°21'53" W a distance of 1231.00' to a granite bound;
Thence S 79°36'15" W a distance of 751.92' to a granite bound;
Thence N 05°06'56" W a distance of 501.52' to a rebar, which is the point of beginning;

**SCHEDULE B
PERMITTED ENCUMBRANCES**

1. Matters in deed from Carl R. Gray to Arthur W. Paquette dated May 13, 1949 recorded in the Hillsborough County Registry of Deeds at Book 1221, Page 459.
2. Matters in deed from Peter J. King to Peter J. King and Lillian King dated January 10, 1974 recorded in the Hillsborough County Registry of Deeds at Book 2342, Page 206.
3. Matters in deed from Peter J. King to Peter J. King, Lillian King, Anna McLaughlin King, and John W. King dated January 10, 1974 recorded at the Rockingham County Registry of Deeds at Book 2373, Page 1760 (corrected by corrective deed dated January 23, 1997 recorded at said Registry at Book 3198, Page 2249).
4. Matters in deed from Peter J. King and Lillian King to The Peter J. King Irrevocable Trust of 1988 dated December 27, 1994 recorded at the Rockingham County Registry of Deeds at Book 3085, Page 563.
5. Current use taxation status dated May 17, 1995 recorded at the Rockingham County Registry of Deeds at Book 3100, Page 1508.
6. Notice of Condemnation by State of New Hampshire Department of Transportation dated June 27, 2007 recorded at the Rockingham County Registry of Deeds at Book 4816, Page 1691.
7. Matters in deed to State of New Hampshire dated December 26, 2007 recorded at the Rockingham County Registry of Deeds at Book 4875, Page 729.
8. Notice of Condemnation by State of New Hampshire Department of Transportation dated June 27, 2007 recorded in the Hillsborough County Registry of Deeds at Book 7869, Page 1346, including all rights of access, light, air, and view, and the drainage and utility/water easements described therein.
9. Easements and matters contained in deed from Peter J. King, Trustee of the Peter J. King Revocable Trust of 1994 and Lillian J. King, Trustee of the Lillian J. King Revocable Trust of 1994 to the State of New Hampshire dated December 26, 2007 and recorded in the Hillsborough County Registry of Deeds at Book 7937, Page 1621.
10. Utility easement to Public Service Company of New Hampshire dated May 19, 2011 and recorded in the Hillsborough County Registry of Deeds at Book 8321, Page 170.
11. Utility easement to Public Service Company of New Hampshire dated May 19, 2011 recorded at the Rockingham County Registry of Deeds at Book 5219, Page 710.

12. Matters in deed dated June 3, 2014 from City of Manchester to James M. Winston, Trustee of the Peter J. King Irrevocable Trust of 1988 u/d/t dated December 29, 1988 recorded at the Rockingham County Registry of Deeds at Book 5555, Page 2967.
13. Town of Londonderry Planning Board Decision dated August 22, 2014 recorded at the Rockingham County Registry of Deeds at Book 5565, Page 1688.
14. All matters shown on Plan Nos. 29791 and 35814 recorded in the Hillsborough County Registry of Deeds.
15. All matters shown on Plan Nos. D-35156, D-35164, and D-38398 recorded at the Rockingham County Registry of Deeds.
16. Possible encroachments, such as sheds, fences, and playsets, for example, located along portions of the Charlotte Street, Ellingwood Street, and Landsdowne Avenue boundaries of the Property where residential properties are located.

SCHEDULE C

WARRANTY DEED

Note: This deed is to be executed in duplicate for recording at the Rockingham County Registry of Deeds and the Hillsborough County Registry of Deeds

KNOW ALL PERSONS BY THESE PRESENTS The **City of Manchester, NH, acting through its Department of Aviation**, with a principal place of business at 1 Airport Road, Suite 300, Manchester, County of Hillsborough, State of New Hampshire, (hereinafter "Grantor," which unless the context clearly indicates otherwise, includes the Grantor's successors and assigns), for consideration paid, grants, with **WARRANTY COVENANTS**, to the **State of New Hampshire, acting by and through its Fish and Game Department**, with a principal mailing address of Eleven Hazen Drive, Concord, County of Merrimack, State of New Hampshire, (hereinafter "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns), the following:

Two (2) certain abutting tracts or parcels of land and the improvements thereon, if any, located partly in the City of Manchester, Hillsborough County, New Hampshire, and partly in the Town of Londonderry, Rockingham County, State of New Hampshire and being shown as "Tax Map 712 Lot 1B (389,207 Sq. Ft (8.93 acres) and Tax Map 14 Lot 49-1 (2,079,249 Sq. Ft. (47.73 acres) " on a plan of land entitled "Boundary Plat Londonderry Tax Map 14 Lot 49-1 and Manchester Tax Map 712 Lot 1B, 62 Rear Pettengill Road, Londonderry, New Hampshire and Brown Ave., Manchester, New Hampshire dated June 27, 2017 Owner/Prepared For: City of Manchester, 1 City Hall Plaza, Manchester, NH 03103 & State of New Hampshire, PO Box 483, Hazen Drive, Concord, NH 03302, Scale 1"= 200' prepared by Promised Land Survey," recorded at the Hillsborough County Registry of Deeds as Plan # _____ and at the Rockingham County Registry of Deeds as Plan # D-_____, as more particularly described in Exhibit A attached hereto (the "Property").

The within-described Property is conveyed subject to the following:

- (i) the United States Department of Army Corps of Engineers Permit # 199501152 first approved on August 14, 1997, and as amended on January 12, 2001;
- (ii) the State of New Hampshire Department of Environmental Services Wetlands and Non-site Specific Permit #97-00389 approved on June 20, 1997;
- (iii) the Conservation Restrictions set forth in Section I below contained within this Warranty Deed;
- (iv) the Avigation Easement and Airport Use Restriction set forth in Section II below contained within this Warranty Deed; and

- (v) the reversionary rights reserved to the within Grantor set forth in Section III below contained within this Warranty Deed.

I. CONSERVATION RESTRICTIONS

This conveyance is also made subject to the following restrictions, which shall run with the land and be enforceable as permanent conservation restrictions as defined in NH RSA 477:45 – 47, for the benefit of the City of Manchester, acting by and through its Department of Aviation and its successors and assigns.

For the purposes hereof, "Wildlife Habitat Management" shall include, but not be limited to, alteration of vegetation and soil and the placement of structures to provide habitat for a wide range of wildlife species; periodic removal of debris and other items dumped on the Property; other access ways for the purpose of performing such activities, the use of forest and maintenance equipment, all as not to be detrimental to the Purposes stated below.

The following activities are prohibited:

A. Subdivision of the Property or conveyance of the individual tracts that comprise the Property.

B. The placement or construction of new structures, including, but not limited to, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, aircraft landing strip, tower, commercial facility, conduit or utility line, driveway or road, mobile home or other temporary or permanent structure or improvement unless such structures are used solely for the conservation and/or Wildlife Habitat Management purposes stated below:

New ancillary structures and improvements such as a road, fence or bridge, may be constructed, placed, or introduced onto the Property only as necessary for the accomplishment of conservation and/or Wildlife Habitat Management and provided that they are not detrimental to the purposes stated below. Such structures and improvements may be allowed if they only temporarily impact wetland soils, intermittent or perennial streams, vernal pools, or other hydrology.

C. The placement of outdoor advertising structures such as signs and billboards except as desirable or necessary in the accomplishment of conservation and or Wildlife Habitat Management, and provided such signs are not detrimental to the purposes stated below. The placement of signs exceeding sixteen (16) square feet in size and/or artificially illuminated.

D. There mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property.

E. The removal, filling, or other disturbances of soil surface, changes in topography, surface or subsurface water systems, wetlands, or natural habitats unless such activities:

- i. are commonly necessary in the accomplishment of Wildlife Habitat Management;
- ii. do not harm state or federally recognized rare, threatened, or endangered species or exemplary natural communities, such determination of harm to be made at the sole discretion of the Grantee and to be based upon information from the New Hampshire Fish and Game Department, Natural Heritage Bureau or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and
- iii. are not detrimental to the Purposes stated below; and
- iv. are permitted and approved by all federal, state, local, and other governmental entities, as necessary before said activities take place.

F. The dumping, injection, burning, or burial of refuse, trash, rubbish, biosolids, debris, junk, waste, man-made materials or materials then known to be environmentally hazardous, including vehicle bodies or parts, or other similar substances.

G. The conducting of any industrial or commercial activities except forestry associated with Wildlife Habitat Management activities.

H. Overnight camping and/or the construction of fires on the Property.

I. The authorization of the use of motorized wheeled vehicles for recreational purposes.

These restrictions serve the following purposes:

A. To retain the Property forever in its undeveloped state for the protection of wildlife habitat including wetlands and uplands, and to prevent any use of the Property that will impair or interfere with its conservation values.

B. To protect the Property from future development, and to conserve and maintain the unique characteristics of the Property substantially in its present scenic and open space condition, the preservation of which is important to the public.

C. To conserve and manage the wildlife habitats of which the Property consists to benefit a diversity of wildlife species.

D. To restore, protect, manage, maintain, and enhance the functional values of wetlands, vernal pools, streams, riparian areas 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.

F. To prevent any future development, construction, or use that will negatively impair or interfere with the conservation values of the Property.

II. AVIGATION EASEMENT AND AIRPORT USE RESTRICTION

(a) Reserving in the Grantor the right to protect all Airport Imaginary Surfaces (as defined by 40 CFR 77) and to cause in all airspace above the surface of the Property such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at Manchester•Boston Regional Airport; and the Grantee hereby fully waives, demises and releases any right or cause of action which they may now have or which they may have in the future against the Grantor, its successors and assigns, due to such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on Manchester•Boston Regional Airport.

And for the consideration hereinabove set forth, the Grantee, for themselves, and their successors and assigns, do hereby agree they will not hereafter erect, permit the erection or growth of, or permit or suffer to remain upon the Property any building, structure, tree or other object extending into the aforesaid prohibited airspace, that they shall not hereafter use or permit or suffer the use of the Property in such a manner as to create electrical interference with radio communication between any installation upon said Manchester•Boston Regional Airport and aircraft, or as to make it difficult for flyers of aircraft to distinguish between airport lights and others, or as to impair visibility in the vicinity of the Manchester•Boston Regional Airport or as otherwise to endanger the landing, taking off or maneuvering of aircraft, it being understood and agreed that the aforesaid covenants and agreements shall run with the Property described herein.

And for the consideration hereinabove set forth, the Grantee, for themselves, and their successors and assigns, do hereby agree they will not hereafter cause, directly or indirectly, use of the Property such that it would cause an incompatible land use with the Airport or airport operations. This includes, but is not limited to, the introduction of flora or fauna classified as species of special concern, threatened species, or endangered species as classified by any agency of the State of New Hampshire or any agency of the United States Government that could or would impact the present or future development of the Airport, Airport operations, and the movement of aircraft in the vicinity of the Airport.

III. Reversionary Rights

Notwithstanding anything contained herein to the contrary, and in addition to and not in limitation of any of the rights and remedies granted to and/or reserved in Grantor elsewhere in this Warranty Deed, in the event that the Property is not used exclusively for purposes of a the protection of wildlife c and as otherwise set forth in Paragraph 1 in compliance with the terms and conditions of the contained herein, or in the event the Property is transferred by the Grantee to a non-qualifying, non-environmental entity, fee title to the Property shall, without any further action required on the part of the Grantor, automatically revert to the Grantor.

THIS IS A CONVEYANCE TO AN INSTRUMENTALITY OF THE STATE OF NEW HAMPSHIRE WHICH IS EXEMPT FROM THE NEW HAMPSHIRE REAL ESTATE TRANSFER TAX PURSUANT TO NEW HAMPSHIRE RSA 78-B:2, I AND FROM THE LCHIP SURCHARGE PURSUANT TO RSA 478:17-g, II.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of (Month), 2017.

The City of Manchester, New Hampshire,

By: _____
Mark P. Brewer, Airport Director

Print Name: _____

Title: _____
Duly Authorized

The State of New Hampshire
County of Hillsborough

Personally appeared, _____ of the City of Manchester
this _____ day of _____, 2017 and being duly authorized acknowledged
the foregoing on behalf of the City of Manchester.

Before me, _____
Print Name: _____

Justice of the Peace/Notary Public

My commission expires: _____

Accepted: State Of New Hampshire Fish & Game Department

By: _____
Glenn Normandeau, Executive Director

Print Name: _____

Title: _____
Duly Authorized

The State of New Hampshire
County of Merrimack

Personally appeared, Glenn Normandeau, Executive Director of the New Hampshire Fish and Game Department, this _____ day of _____, 2017 and being duly authorized acknowledged the foregoing on behalf of the State of New Hampshire.

Before me, _____
Print Name: _____
Justice of the Peace/Notary Public
My commission expires: _____

Approved by the New Hampshire Governor and Executive Council:

Approval Date: _____ Item #: _____

**EXHIBIT A
LEGAL DESCRIPTION**

Two (2) certain abutting tracts or parcels of land and the improvements thereon, if any, located partly in the City of Manchester, Hillsborough County, New Hampshire, and partly in the Town of Londonderry, Rockingham County, State of New Hampshire and being shown as "Tax Map 712 Lot 1B (389,207 Sq. Ft (8.93 acres) and Tax Map 14 Lot 49-1 (2,079,249 Sq. Ft. (47.73 acres) " on a plan of land entitled "Boundary Plat Londonderry Tax Map 14 Lot 49-1 and Manchester Tax Map 712 Lot 1B, 62 Rear Pettengill Road, Londonderry, New Hampshire and Brown Ave., Manchester, New Hampshire dated June 27, 2017 Owner/Prepared For: City of Manchester, 1 City Hall Plaza, Manchester, NH 03103 & State of New Hampshire, PO Box 483, Hazen Drive, Concord, NH 03302, Scale 1"= 200' prepared by Promised Land Survey," recorded at the Hillsborough County Registry of Deeds as Plan # _____ and at the Rockingham County Registry of Deeds as Plan # D-_____, and more particularly described as follows:

Beginning at a rebar found in the ground at the Northwesterly corner of Tax map 712 Lot 1B on the southerly side of Raymond Wieczorek Drive;
Thence N 75°52'14" E a distance of 145.01' to a concrete New Hampshire Highway bound;
Thence with a curve turning to the left with a radius of 2450.00', with an arc length of 155.35', with a delta angle of 03°37'59" to a concrete New Hampshire Highway bound;
Thence N 79°24'40" E a distance of 107.75' to a concrete New Hampshire Highway bound;
Thence with a curve turning to the left with a radius of 2465.00', with an arc length of 315.33', with a delta angle of 07°19'46" to a point on the Town Line between Manchester, NH and Londonderry, NH;
Thence with a curve turning to the left with a radius of 2465.00', with an arc length of 248.76', with a delta angle of 05°46'55" to a rebar found in the ground;
Thence S 18°16'00" E a distance of 159.09' to a granite bound;
Thence N 81°56'19" E a distance of 416.88' to a rebar;
Thence S 41°29'31" E a distance of 438.97' to a rebar;
Thence N 75°22'39" E a distance of 331.16' to a rebar;
Thence S 14°49'47" E a distance of 487.45' to a rebar;
Thence S 75°02'38" W a distance of 244.69' to a rebar;
Thence S 14°31'46" E a distance of 382.69' to a rebar;
Thence N 75°24'20" E a distance of 454.16' to a rebar;
Thence S 15°11'59" E a distance of 534.47' to a rebar;
Thence S 79°22'39" W a distance of 972.24' to a rebar;
Thence S 79°51'45" W a distance of 544.33' to a granite bound;
Thence N 11°21'53" W a distance of 1231.00' to a granite bound;
Thence S 79°36'15" W a distance of 751.92' to a granite bound;
Thence N 05°06'56" W a distance of 501.52' to a rebar, which is the point of beginning.

WARRANTY DEED

Note: This deed is to be executed in duplicate for recording at the Rockingham County Registry of Deeds and the Hillsborough County Registry of Deeds

KNOW ALL PERSONS BY THESE PRESENTS The City of Manchester, NH, acting through its Department of Aviation, with a principal place of business at 1 Airport Road, Suite 300, Manchester, County of Hillsborough, State of New Hampshire, (hereinafter "Grantor," which unless the context clearly indicates otherwise, includes the Grantor's successors and assigns), for consideration paid, grants, with **WARRANTY COVENANTS**, to the State of New Hampshire, acting by and through its Fish and Game Department, with a principal mailing address of Eleven Hazen Drive, Concord, County of Merrimack, State of New Hampshire, (hereinafter "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns), the following:

Two (2) certain abutting tracts or parcels of land and the improvements thereon, if any, located partly in the City of Manchester, Hillsborough County, New Hampshire, and partly in the Town of Londonderry, Rockingham County, State of New Hampshire and being shown as "Tax Map 712 Lot 1B (389,207 Sq. Ft (8.93 acres) and Tax Map 14 Lot 49-1 (2,079,249 Sq. Ft. (47.73 acres) " on a plan of land entitled "Boundary Plat Londonderry Tax Map 14 Lot 49-1 and Manchester Tax Map 712 Lot 1B, 62 Rear Pettengill Road, Londonderry, New Hampshire and Brown Ave., Manchester, New Hampshire dated June 27, 2017 Owner/Prepared For: City of Manchester, 1 City Hall Plaza, Manchester, NH 03103 & State of New Hampshire, PO Box 483, Hazen Drive, Concord, NH 03302, Scale 1"= 200' prepared by Promised Land Survey," recorded at the Hillsborough County Registry of Deeds as Plan # _____ and at the Rockingham County Registry of Deeds as Plan # D-_____, as more particularly described in Exhibit A attached hereto (the "Property").

The within-described Property is conveyed subject to the following:

- (i) the United States Department of Army Corps of Engineers Permit # 199501152 first approved on August 14, 1997, and as amended on January 12, 2001;
- (ii) the State of New Hampshire Department of Environmental Services Wetlands and Non-site Specific Permit #97-00389 approved on June 20, 1997;
- (iii) the Conservation Restrictions set forth in Section I below contained within this Warranty Deed;
- (iv) the Avigation Easement and Airport Use Restriction set forth in Section II below contained within this Warranty Deed; and

- (v) the reversionary rights reserved to the within Grantor set forth in Section III below contained within this Warranty Deed.

I. CONSERVATION RESTRICTIONS

This conveyance is also made subject to the following restrictions, which shall run with the land and be enforceable as permanent conservation restrictions as defined in NH RSA 477:45 – 47, for the benefit of the City of Manchester, acting by and through its Department of Aviation and its successors and assigns.

For the purposes hereof, "Wildlife Habitat Management" shall include, but not be limited to, alteration of vegetation and soil and the placement of structures to provide habitat for a wide range of wildlife species; periodic removal of debris and other items dumped on the Property; other access ways for the purpose of performing such activities, the use of forest and maintenance equipment, all as not to be detrimental to the Purposes stated below.

The following activities are prohibited:

A. Subdivision of the Property or conveyance of the individual tracts that comprise the Property.

B. The placement or construction of new structures, including, but not limited to, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, aircraft landing strip, tower, commercial facility, conduit or utility line, driveway or road, mobile home or other temporary or permanent structure or improvement unless such structures are used solely for the conservation and/or Wildlife Habitat Management purposes stated below:

New ancillary structures and improvements such as a road, fence or bridge, may be constructed, placed, or introduced onto the Property only as necessary for the accomplishment of conservation and/or Wildlife Habitat Management and provided that they are not detrimental to the purposes stated below. Such structures and improvements may be allowed if they only temporarily impact wetland soils, intermittent or perennial streams, vernal pools, or other hydrology.

C. The placement of outdoor advertising structures such as signs and billboards except as desirable or necessary in the accomplishment of conservation and or Wildlife Habitat Management, and provided such signs are not detrimental to the purposes stated below. The placement of signs exceeding sixteen (16) square feet in size and/or artificially illuminated.

D. There mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property.

E. The removal, filling, or other disturbances of soil surface, changes in topography, surface or subsurface water systems, wetlands, or natural habitats unless such activities:

- i. are commonly necessary in the accomplishment of Wildlife Habitat Management;
- ii. do not harm state or federally recognized rare, threatened, or endangered species or exemplary natural communities, such determination of harm to be made at the sole discretion of the Grantee and to be based upon information from the New Hampshire Fish and Game Department, Natural Heritage Bureau or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and
- iii. are not detrimental to the Purposes stated below; and
- iv. are permitted and approved by all federal, state, local, and other governmental entities, as necessary before said activities take place.

F. The dumping, injection, burning, or burial of refuse, trash, rubbish, biosolids, debris, junk, waste, man-made materials or materials then known to be environmentally hazardous, including vehicle bodies or parts, or other similar substances.

G. The conducting of any industrial or commercial activities except forestry associated with Wildlife Habitat Management activities.

H. Overnight camping and/or the construction of fires on the Property.

I. The authorization of the use of motorized wheeled vehicles for recreational purposes.

These restrictions serve the following purposes:

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B. To protect the Property from future development, and to conserve and maintain the unique characteristics of the Property substantially in its present scenic and open space condition, the preservation of which is important to the public.

C. To conserve and manage the wildlife habitats of which the Property consists to benefit a diversity of wildlife species.

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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.

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(a) Reserving in the Grantor the right to protect all Airport Imaginary Surfaces (as defined by 40 CFR 77) and to cause in all airspace above the surface of the Property such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at Manchester•Boston Regional Airport; and the Grantee hereby fully waives, demises and releases any right or cause of action which they may now have or which they may have in the future against the Grantor, its successors and assigns, due to such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on Manchester•Boston Regional Airport.

And for the consideration hereinabove set forth, the Grantee, for themselves, and their successors and assigns, do hereby agree they will not hereafter erect, permit the erection or growth of, or permit or suffer to remain upon the Property any building, structure, tree or other object extending into the aforesaid prohibited airspace, that they shall not hereafter use or permit or suffer the use of the Property in such a manner as to create electrical interference with radio communication between any installation upon said Manchester•Boston Regional Airport and aircraft, or as to make it difficult for flyers of aircraft to distinguish between airport lights and others, or as to impair visibility in the vicinity of the Manchester•Boston Regional Airport or as otherwise to endanger the landing, taking off or maneuvering of aircraft, it being understood and agreed that the aforesaid covenants and agreements shall run with the Property described herein.

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THIS IS A CONVEYANCE TO AN INSTRUMENTALITY OF THE STATE OF NEW HAMPSHIRE WHICH IS EXEMPT FROM THE NEW HAMPSHIRE REAL ESTATE TRANSFER TAX PURSUANT TO NEW HAMPSHIRE RSA 78-B:2, I AND FROM THE LCHIP SURCHARGE PURSUANT TO RSA 478:17-g, II.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of (Month), 2017.

The City of Manchester, New Hampshire,

By: _____
Mark P. Brewer, Airport Director

Print Name: _____

Title: _____
Duly Authorized

The State of New Hampshire
County of Hillsborough

Personally appeared, _____ of the City of Manchester
this _____ day of _____, 2017 and being duly authorized acknowledged
the foregoing on behalf of the City of Manchester.

Before me, _____
Print Name: _____

Justice of the Peace/Notary Public

My commission expires: _____

Accepted: State Of New Hampshire Fish & Game Department

By: _____
Glenn Normandeau, Executive Director

Print Name: _____

Title: _____
Duly Authorized

The State of New Hampshire
County of Merrimack

Personally appeared, Glenn Normandeau, Executive Director of the New Hampshire Fish and Game Department, this _____ day of _____, 2017 and being duly authorized acknowledged the foregoing on behalf of the State of New Hampshire.

Before me, _____
Print Name: _____
Justice of the Peace/Notary Public
My commission expires: _____

Approved by the New Hampshire Governor and Executive Council:

Approval Date: _____ Item #: _____

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