



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



22
Beane
William Cass, P.E.
Assistant Commissioner

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
March 3, 2016

REQUESTED ACTION

Pursuant to RSA 228:57-a authorize the Department of Transportation to enter into a **retroactive** lease agreement with Marino Family Trust, 6 Berkeley Street, Reading, MA, in the amount of \$10,515.00 for the use of State-owned railroad property in Laconia, NH along Paugus Bay commencing January 1, 2015 through December 31, 2020 effective upon Governor and Council approval.

Lease income will be credited as follows:

Source of Funds Revenue:	<u>FY 2016</u>
04-96-96-960010-2991	
Special Railroad Fund	
009-407323 Railroad License Fees	\$ 10,515.00

EXPLANATION

This request is for a **retroactive** Dock Lease Agreement, because of several unexpected intermediate steps and approvals that were necessary due to the age of the original lease documents. These intermediate steps were unforeseen and resulted in delays in finalizing all of the Department's 2015 Dock Lease renewals. All 2015 Dock Lease renewals will be submitted separately for Governor and Council approval, but all experienced the same unforeseen delays. Intermediate steps and approvals included site visits to collect additional data, preparation and submission of documents for approval by the Council of Resources and Development, and communication with tenants explaining the lease fee increase as defined in RSA 228:57-a.

The Department of Transportation received a request from Stephen Marino to lease 50 linear feet of frontage along Paugus Bay on the State-owned Concord to Lincoln Railroad Line in Laconia. Dominic and Stephen Marino are Trustees of Marino Family Trust the owner of an adjacent property and that previously had a lease for a portion of the railroad property at this location from May 31, 2007 to June 12, 2010. This agreement has been prepared consistent with RSA 228:57-a as enacted in 2009.

RSA 228:57-a allows the Department to lease portions of a railroad corridor to the owners of adjacent properties separated from the shore of public waters (as defined by RSA 271:20) by only the railroad

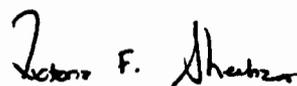
corridor for private, non-commercial use. This lease gives the lessee the right to cross the railroad corridor to access the lake and thereby request a permit for a dock or mooring field. The cost of a lease is calculated to be \$33.05 per linear foot per year as specified in RSA 228:57-a. The amount for the dock rights is \$1,652.50 and \$100.00 is assessed annually for the pedestrian crossing and utility crossing. The total annual lease fee for the subject parcel will be \$1,752.50 per year for a total of \$10,515.00.

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

The Council of Resources and Development approved the lease on May 14, 2015.

The Long Range Planning and Utilization Committee approved the lease on May 27, 2015.

Sincerely,

A handwritten signature in black ink that reads "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria F. Sheehan
Commissioner

Web GIS Summary Card

NHDRA Mosaic Parcel Map System -DOT Portal

CAMA Data Current to:
10/14/2014

7 PARADISE DR, Laconia New Hampshire

Address: 7 PARADISE DR	Municipality: Laconia	County: Belknap		
NHGIS ID: 01116-323-264-14	Unique ID: 116-1674	Town ID: 116		
Parcel ID: 323-264-14	CAMA ID: 1674	County ID: 1		
Map: 323	Block: 264	Lot: 14	Unit:	Sub:
Map Cut:	Block Cut:	Lot Cut:	Unit Cut:	No. Cards:

Owner Information

Owner: MARINO FAMILY TRUST **Co-Owner:** MARINO DOMENIC P TRUSTEE
Mailing Address: 7 PARADISE DR LACONIA, NH 03246

Land Information

Area: 0.22 ac **Zone:** RS **Land Use:** Local: 1010 State: 11(Single Family Home)
Flood Code: **Util Code 1:** **Util Code 2:** **Traffic Code:**

Building Information

Type: Cape Cod **Year Built:** 1971 **Rooms:** 5 **Beds:** 3 **Baths:** 2 **Full:** 2 **Half:** 0
Area (N): 1128 sqft **I-Wall:** Plywood **Roof Type:** Gable/Hip **Cond:** Average
Area (G): 1339 sqft **X-Wall:** Tex 111 **Roof Cover:** Asph/F **Grade:** 03

Transaction Information

Date: 07/18/2008 **Price:** \$1 **Book-Page:** 2507-0823 **Grantor:** D P M THE REALTY

Assessment Information

10/14/2014	Land: \$43500	Building \$93900	Features: \$0	Total: \$140800
2013-11-05	Land: \$43500	Building \$93900	Features: \$0	Total: \$140800

Supplemental Information

Current To: 10/14/2014 **Updated:** 2014-10-15 **Parcel Link?** Yes
Records: 9993 **State Owned:** No **Bld Vpsf:** 70 **Land Vpsf:** 4

This report was compiled using data believed to be accurate; however, a degree of error is inherent in all data. This report was distributed "AS-IS" without warranties of any kind, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No attempt has been made in either the design or production of the report to define the limits or jurisdiction of any federal, state, or local government. This is not an official municipal tax card. This report was generated from data supplied by the municipality for the Mosaic Parcel Map Project. The data is current to the date shown at the top of the page and may not represent finalized municipal values. For the most current information please contact the municipality directly.

2015 DOCK LEASE

THIS LEASE, made and entered into this, between the State of New Hampshire, Department of Transportation, hereinafter called the "LANDLORD", and Marino Family Trust, 7 Paradise Drive, Laconia, NH 03246, c/o Stephen Marino, 6 Berkeley Street, Reading MA 01867 hereinafter (collectively) called the "TENANT".

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

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

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

NOW, THEREFORE, THIS LEASE WITNESSETH THAT:

1. DEMISE OF THE PREMISES

- 1.01 For and in consideration of the rent and the mutual covenants hereinafter stated, and the acceptance by the TENANT of each and every term and condition herein set forth, the LANDLORD hereby lease and demises to the TENANT the premises located in the City of Laconia on the State-owned Concord-Lincoln railroad line and nearly opposite Engineering Station 1572+70 and 1573+20+/-, as shown on the attached Railroad Valuation Section 21 Map 66 (EXHIBIT A).
- 1.02 The Landlord grants to the Tenant permission to cross a portion of the State-owned Concord-Lincoln railroad corridor to: construct, use, maintain, and reconstruct a private pedestrian crossing within the right-of-way near approximate Valuation Station 1572+70 and 1573+20+/-, Section 21 Map 66 (EXHIBIT A).
- 1.03 The Landlord grants to the Tenant permission to cross a portion of the State-owned Concord to Lincoln railroad corridor to: construct, use, maintain, and reconstruct an underground utility crossing within the right-of-way near Engineering Station 1572+70 and 1573+20+/-, as shown on the attached Railroad Valuation Map V21/66 (EXHIBIT A).

2. TERM

- 2.01 The term of this lease shall begin on the First of July 2015, or on approval by the Governor and Executive Council, whichever is later, and shall end on the June 30, 2020, unless terminated sooner in accordance with Condition 17.01 or 17.02.
- 2.02 The TENANT shall notify the LANDLORD no less than ninety (90) or no more than one hundred eighty (180) days of the ending date that the TENANT wishes to enter negotiations for a new LEASE for an additional five (5) year period. If the TENANT and the LANDLORD cannot agree upon a new LEASE, the TENANT shall surrender to the LANDLORD the premise in accordance with Condition 18.01.

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2015 DOCK LEASE

3. SECURITY DEPOSIT AND RENT

- 3.01 The TENANT agrees to pay to the LANDLORD as a Security Deposit for demised premises the sum of n/a (\$0.00) dollars to secure the performance of the TENANT's obligations hereunder. The LANDLORD may at its option set off all or portions of the deposit to pay for damages caused by any breach of the TENANT's obligations hereunder. The TENANT shall not have the right to apply the security deposit in payment of any past due rent.
- 3.02 All real or personal property taxes assessed by the City of Laconia as a result of this LEASE are not included in the rent and will be paid by the TENANT. In accordance with RSA 72:23, I(b), "failure of the lessee to pay any duly assessed personal and real estate taxes when due shall be cause to terminate said lease or agreement by the lessor."
- 3.03 Rent shall be \$1,652.50 per year, plus \$100.00 per year for the private pedestrian at-grade and electric utility crossings for a total of \$1,752.50, payable in advance, due on July 1 of each year to the LANDLORD at the following address:

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

If the total rental amount is not paid within ten (10) days after the due date, the TENANT agrees to pay a late charge of seventy-five (\$75.00) dollars.

4. QUIET ENJOYMENT

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

5. USE OF PREMISES

- 5.01 The premises shall be used and occupied by the TENANT exclusively as a personal dock facility, and neither the premises nor any part thereof shall be used at any time during the term of this LEASE by the TENANT for the purpose of carrying on any other business, profession or trade of any kind. The TENANT shall comply with all laws, ordinances, rules and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the demised premises during the term of this LEASE. The TENANT shall not use the premises in any manner that will disturb a neighbor's peaceful enjoyment of other property.
- 5.02 Procurement and delivery of a current Dock Permit issued by the New Hampshire Department of Environmental Services, Wetlands Bureau (NHDES) or a current Mooring Field Permit from Department of Safety – Safety Services-Moorings Program (NHDOS) to the State is a condition precedent to the effectiveness of this Agreement. The TENANT agrees to furnish a copy of a current Dock Permit issued by the NHDES that has been recorded at the Registry of Deeds or a copy of a current Mooring Field

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2015 DOCK LEASE

Permit from NHDOS to the Bureau of Rail & Transit. Failure to furnish documentation to the Bureau of Rail & Transit will result in termination of the lease subject to the provisions of Section 16.

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

6. MAINTENANCE OF PREMISES

- 6.01 The TENANT agrees that all work on construction, maintenance, repair, and reconstruction of said at-grade pedestrian crossing FACILITY shall be performed at a time and under conditions acceptable to the State, and shall at no time interfere with the operation of the railroad by the State, its lessees or assigns. The TENANT shall construct the FACILITY as shown on the Typical Crossing Plan (Exhibit B) attached to this LEASE.
- 6.02 The TENANT agrees that it is liable for the cost of all work and materials required to construct, use, maintain, repair, relocate and reconstruct said FACILITY on NHDOT Railroad Property as indicated in the Standard Prosecution of Work for a Pedestrian Crossing Constructed on NHDOT Railroad Property. Such responsibility shall include but not be limited to the cost of all on-site inspectors or other representatives of the State to inspect the materials and to monitor construction and a railroad flagman, if such individuals are necessary in the sole judgment of the State. Any deficiencies in materials, methods of construction or workmanship shall be promptly corrected to the mutual satisfaction of the TENANT and the State. The TENANT is solely responsible for the presence of its equipment along the State-owned railroad corridor.
- 6.03 The TENANT will assume the cost of temporary removal, restoration and adjustment of the FACILITY in the event track repairs or additional track installations require such modifications.
- 6.04 The TENANT shall retain the Railroad Operator responsible for maintenance of the track adjacent to the FACILITY, or, if not available, a contractor approved by the State, to perform all railroad related track work (such as replacing and/or installing ballast, defective ties, tie plates, spikes and crossing structures) during the construction or whenever the track structure is disturbed, distorted or altered due to the existence of said FACILITY. The Operator's current fee and wage structure will be used for all services rendered by the Operator.
- 6.05 Any damage to the State-owned railroad corridor contained herein which, as determined by the State, is caused by, results from or arises out of the installation, maintenance or presence of the TENANT's FACILITY shall be repaired by the State. The TENANT shall fully compensate the State for all costs associated with the repair of any such damage.
- 6.06 The TENANT shall coordinate any and all work within the State-owned railroad corridor with the Plymouth & Lincoln Railroad, and State by contacting railroad personnel at (603) 745-2135 and State personnel at (603) 271-2468 respectively and giving them a minimum of 48 hours advance notice of the work to be performed in the area so that the Railroad Operator and inspectors can schedule railroad related work around the construction. The TENANT cannot enter onto the State owned Railroad Corridor at any time without first obtaining authorization from the State and the Railroad Operator.
- 6.07 The TENANT shall, at the State's request and the TENANT's expense, provide whatever protection is deemed necessary by the State, in the event the State performs any work on or within the State-owned railroad property limits, including but not limited to inspection, maintenance, cleaning, snow removal, construction, rehabilitation, and repair of such State-owned railroad property.

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2015 DOCK LEASE

- 6.08 The TENANT shall submit its written maintenance policies and procedures to be used for the inspectio repair and maintenance of said FACILITY to the State for review and approval. Such policies and procedures shall be approved by the State prior to initial operation of the constructed FACILITY.
- 6.09 The TENANT acknowledges that the premises are in good order and repair at the beginning of the LEASE term, unless otherwise indicated by attached written statement. The TENANT shall at their own expense maintain the premises in a clean and sanitary manner. The TENANT shall not allow brush, leaves, grass or other plant matter, ice, snow, dirt or any other material to be placed on the premises.
- 6.10 The TENANT shall be responsible for any damage caused during this tenancy. The TENANT shall return the premises to the LANDLORD in as good order and condition as when received, ordinary wear and tear accepted. The TENANT agrees to be responsible for all single job repair costs. The LANDLORD reserves the right to select the persons or company to perform any such repairs.

7. DAMAGE TO PREMISES

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

8. ALTERATIONS AND IMPROVEMENTS

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

9. ENTRY AND INSPECTION

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

10. ASSIGNMENT AND SUBLETTING

- 10.01 Without the prior written consent of the LANDLORD, the TENANT shall not assign this LEASE, or sublet or grant any concession or license to use the premises or any part thereof. A consent by the LANDLORD to one assignment, subletting, concession, or license shall not be deemed to be a consent to any subsequent assignment, subletting, concession or license. An assignment, subletting, concession, or license without th

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2015 DOCK LEASE

prior written consent of the LANDLORD or an assignment or subletting or operation of law, shall be void and shall, at the LANDLORD's option, terminate this LEASE.

11. UTILITIES

11.01 The TENANT shall be responsible for arranging for and paying for all utility services required on the premises.

12. DANGEROUS MATERIALS

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

13. INDEMNIFICATION AND INSURANCE

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

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

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

13.03 Procurement and delivery of a certificate indicating such insurance acceptable to the State is a condition precedent to the effectiveness of this Agreement. The TENANT shall provide to the State a certificate of insurance demonstrating that the required coverage has been obtained and containing the following

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2015 DOCK LEASE

wording. "The State of New Hampshire and Plymouth & Lincoln Railroad are named as additional insured with respect to liability arising from the use and/or occupation of State-owned premises under this Agreement between the State and the Named Insured." Nothing contained herein shall be construed as a waiver of sovereign immunity.

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

13.04.1 Comprehensive Automobile Liability: \$500,000.00 combined limit

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

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

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

14. HOLDOVER BY TENANT

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

15. DEFAULT

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

16. TERMINATION OF LEASE FOR CAUSE

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

16.02 If it becomes necessary for the LANDLORD to institute suit for eviction or damages on account of rental arrears or violation of the terms of this LEASE, the LANDLORD shall be entitled to include in such suit for

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eviction or damages, a claim for attorney's fees and court costs incident thereto, which fees the TENANT hereby covenants and agrees to pay.

17. TERMINATION FOR CONVENIENCE

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

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

18. SURRENDER OF THE PREMISES

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

19. INDEMNIFICATION AND RELEASE FROM LIABILITY

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

20. DISCRIMINATION PROHIBITED

20.01 The TENANT hereby covenants and agrees that no person on the ground of race, color, national origin or sex, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the premises, and that in the construction of any improvements on, over or under such premises and the furnishing of services thereon, no person on the ground of race, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and that the TENANT shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

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2015 DOCK LEASE

21. MISCELLANEOUS

- 21.01 LANDLORD's Agents. All rights and obligations of the LANDLORD under this LEASE may be performed or exercised by such agents as the LANDLORD may select.
- 21.02 Notice. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by registered or certified mail, postage prepaid, in a United States Post Office.
- 21.03 Extent of Instrument, Choice of Laws, Amendment, etc. This LEASE, which may be executed in a number of counterparts, each of which shall have been deemed an original, but which shall constitute one and the same instrument, is to be construed according to the Laws of the State of New Hampshire, is to take effect as a sealed instrument, is binding upon, inures to the benefit of, and shall be enforceable by the parties hereto and their respective successors and assigns, and may be canceled, modified, or amended only by a written instrument executed and approved by the LANDLORD and the TENANT.
- 21.04 No Waiver of Breach. No assent, by either party, whether express or implied, to a breach of covenant, condition or obligation by the other party, shall act as a waiver of a right of action for damages as a result of such breach, or shall be construed as a waiver of any subsequent breach of the covenant, condition or obligation.
- 21.05 Unenforceable Terms. If any terms of this LEASE or any application thereof shall be invalid or unenforceable, the remainder of this LEASE and any application of such term shall not be affected thereby.
- 21.06 Entire LEASE. This LEASE embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.
- 21.07 No Waiver of Sovereign Immunity. No provision in this LEASE is intended to be nor shall it be interpreted by either party to be a waiver of the State's sovereign immunity.

2015 DOCK LEASE

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

TENANT

By: Stephen Marino Date: 2-23-16
Print Name: **STEPHEN MARINO**
Trustee

By: Domenic Marino Date: 2/23/16
Print Name: **Domenic MARINO**
Trustee

STATE OF _____
COUNTY OF _____

On, _____, before the undersigned officer personally appeared _____ known to me (or satisfactorily proven) to be Domenic Marino and Stephen Marino identified in the foregoing document, and acknowledged that they executed the foregoing document.

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

Date 2/23/16

Andrea Julianna Mangano
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 15, 2017

STATE

By: [Signature]
Commissioner
New Hampshire Department of Transportation

Date: 2/3/16

The foregoing Agreement, having been reviewed by this office, is approved as to form and execution on 2/8, 2016.

OFFICE OF THE ATTORNEY GENERAL
By: [Signature]
Attorney

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

ATTEST: _____
Secretary of State

Approved by New Hampshire Council on Resources and Development on May 14, 2015.
Approved by Long Range Capital Planning and Utilization Committee on May 27, 2015.

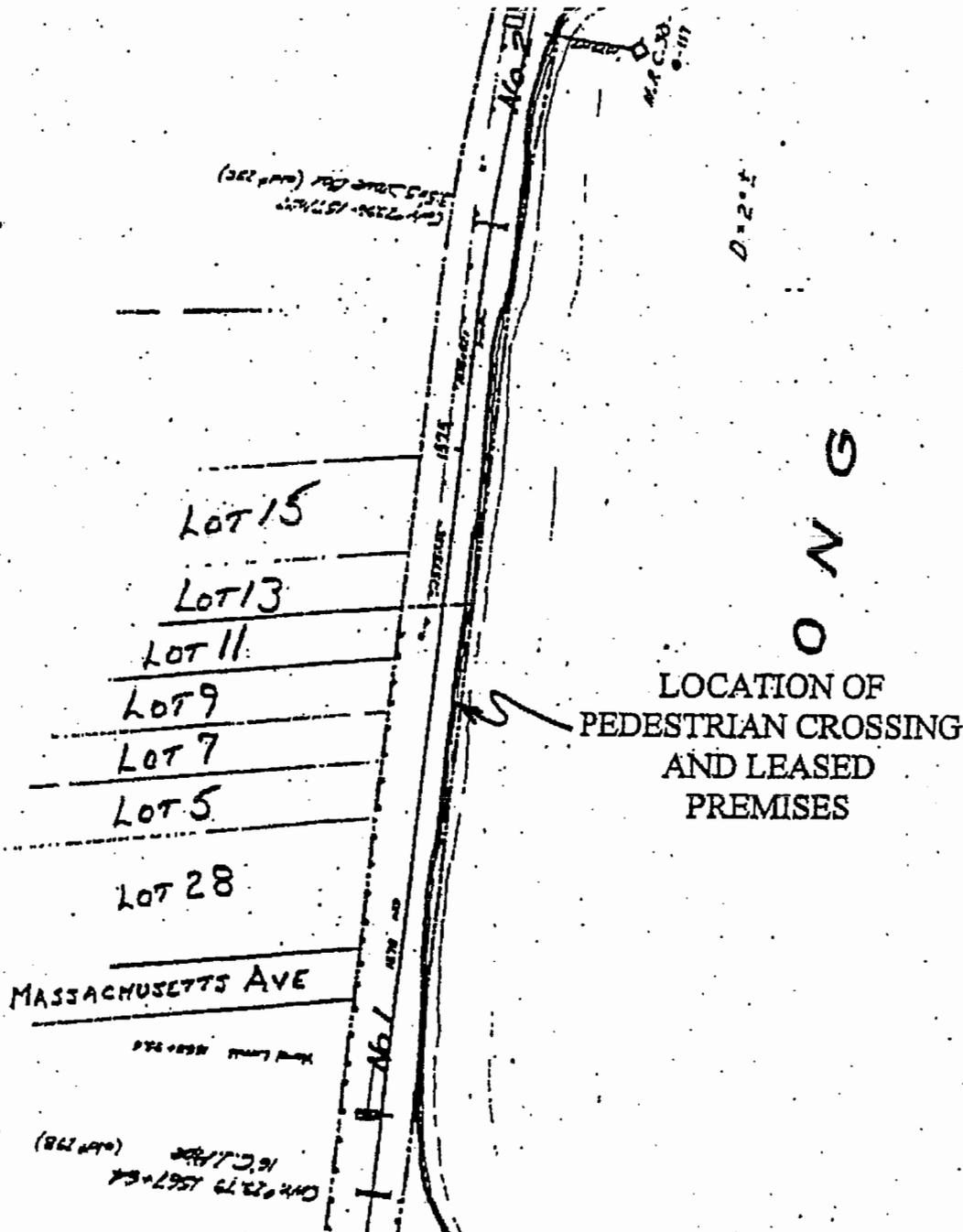
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LEASED AREA

EXHIBIT A

NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL & TRANSIT
FILE NO. 1081
LEASED TO Marino Family Trust c/o Stephen Marino
V21/66, Station 1572+70 and 1573+20+/-
50 +/- Linear FT.

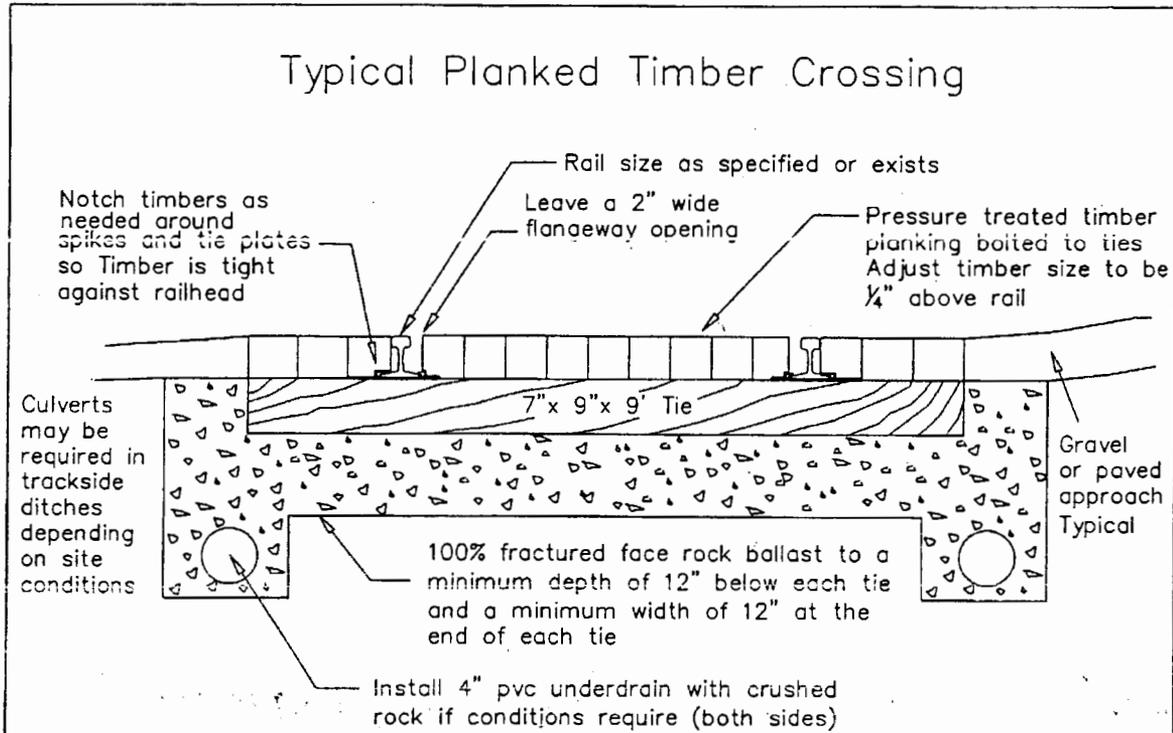


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2015 DOCK LEASE

EXHIBIT B

TYPICAL PLANKED CROSSING DETAIL



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

Not to scale

Brian Lombard PE
revised February 21, 2008



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

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

PLANKED TIMBER CROSSING TYPICAL CONSTRUCTION DETAILS

REVISIONS		SHEET:
DATE	DESCRIPTION	
2 - 2008	UPDATES	CT-1

Initial *ML DM*

2015 DOCK LEASE

MARINO FAMILY TRUST

7 Paradise Drive
Laconia, NH 03246

CERTIFICATE OF VOTE

We, Stephen Marino and Domenic Marino, Trustees of Marino Family Trust, do hereby certify that:

- 1. Per Trust Deed recorded at Belknap Registry of Deeds, Book _____, Page _____, dated _____, the following person(s) were named to the offices set forth to serve until their resignation or until the successors become trustee(s) per the terms of the Deed:

Trustee Stephen Marino

Trustee Domenic Marino

- 2. Stephen Marino and Domenic Marino are the Trustees of this corporation, and are still qualified and serving in such capacity, and are authorized to sign contracts in this capacity.
- 3. Stephen Marino and Domenic Marino are the only Trustees of the corporation.

2-23-16
Date

Stephen Marino
Stephen Marino, Trustee
Marino Family Trust

2/23/16
Date

Domenic Marino
Domenic Marino, Trustee
Marino Family Trust

STATE OF _____
COUNTY OF _____

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

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

2/23/16

Date

Andrea Julianna Mangano
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 15, 2017
Notary Public

Initial SM DM

DECLARATION OF TRUST

Declaration of Trust and covenant entered into this 14 day of May, 2008 for the purpose of creating a Trust Fund, under the terms and conditions hereinafter stated.

Witnessed that I, DOMENIC P. MARINO, for good and valuable consideration do hereby declare that the Trustee(s) named herein and the successor Trustee(s) shall hold the Trust Fund for the benefit of the beneficiaries with powers, duties and purposes as hereinafter stated, reserving to myself as donor hereunder, the power to amend, alter or revoke this Trust instrument in any and every particular, by attaching any such amendment, alteration or revocation hereto:

1. This Trust shall be known as the Marino Family Trust.
2. The term "Trustee" shall mean the present or any future Trustees. The term "he" shall mean singular or plural male or female, as the context may require.
3. The Trustees shall have all the necessary banking powers to open and manage financial accounts, including but not limited to, checking accounts, savings accounts, financial accounts and other related financial instruments and to conduct all necessary financial business in reference to the management of the financial assets of the Trust. Included is the right to buy and sell securities, insurance, annuities and other financial instruments and to do all other acts in relation to the management of finances that the Trustees deem necessary to manage the Trust portfolio.
4. The Trustees shall hold, manage, improve all real estate and personal property at any time subject to this Trust, and shall have full power to lease the same or any part thereof, to sell or convey the whole or any part thereof by public auction, or private sale, for cash or credit and on such terms and conditions as the Trustees may see fit; to borrow money for the purposes of the Trust and to mortgage the whole or any part of the Trust property to secure the payment thereof with or without power of sales; to lend money at such terms and on such security as he shall deem best; or may buy or sell mortgages, real estate, and other interest in real or personal property; to conduct any business and do any acts which a natural person may or can do in the management or sale or purchase of property or conduct of business; and to do such other acts which may be allied with or for the best interest of the Trust in their discretion.
5. The Trustees shall have as absolute and complete mastery and power over the property of this Trust as if absolute owner thereof, and no person dealing with the

Trustees shall be bound to make inquiry concerning the validity of any sale, pledge, mortgage, loan or any other transaction, or as to the existence of any facts or of compliance with any pre-requisites necessary to the validity thereof, or relative to the application of any purchase money or money loaned.

6. The Trustees shall have full power to sign, seal, execute, acknowledge and deliver any and all deeds, mortgages, leases, releases, assignments, discharges, and partial releases of mortgages and all other instrument of conveyance and contracts or agreements of whatever kind or nature without the consent or approval of the beneficiaries.

7. All acts done, and all deeds, drafts, notes or checks or other instruments executed by an individual Trustee on behalf of the Trust shall be conclusive evidence of authority to do and execute same and shall be binding upon Trust and all conveyances shall transfer title. The Trustees shall also represent the beneficiaries of this Trust in all legal proceedings where their interest, or the interest of any of them is involved with reference to this Trust in any matter arising out of this Trust with full power to compromise or settle any and all claims.

8. The Trustees shall have no power to bind the beneficiaries of this Trust, or any of them personally; and in every contract, written or otherwise, entered into, reference shall be made to this Trust, and all persons contracting with the Trustees, shall look to the Trust Fund only for the payment of any debt, damage, judgment, or decree, or for any money that otherwise may become due or payable by reason of the act of omission on the part of the Trustee to perform such contract in whole or in part.

9. The income of this Trust, or the use of the Trust property or such part thereof as the Trustee may deem advisable and such part or parts of the capital of the Trust as the Trustee may deem advisable shall from time to time at such intervals as the Trustee may deem advisable be paid or used and expended for the support, maintenance or other needs, in equal shares to the Beneficiaries as the Trustee shall deem proper or advisable. Undistributed income may in the discretion of the Trustee be held as such for future distribution or may be added to the principal or capital of the Trust Fund. The decision of the Trustee as to what constitutes income, between the Trustee and the Beneficiaries, shall be final.

10. Domenic P. Marino shall serve as Trustee of this Trust during his lifetime. ~~At his death Stephen D. Marino and Domenic P. Marino, Jr. shall serve as Substitute Co-Trustees during the duration of this Trust. At the death or mental incapacity of either of them, the survivor of them shall be the sole Trustee. If both Trustees die or become mentally incapacitated, then the beneficiaries over the age of eighteen (18) shall elect by majority vote a new Trustee.~~

11. The beneficiary of this Trust Domenic P. Marino during his lifetime. At his death, the beneficiaries of this Trust shall be Mary M. Doolan, Stephen D. Marino and Domenic P. Marino, Jr., in equal shares. If any of the secondary beneficiaries dies during

this Trust. then their children will receive the deceased beneficiary(ies) share. in equal shares.

Provided further that any share or part distributable to a beneficiary who has not yet attained the age of twenty-five (25) years, shall not vest in such child until the child has reached the age of twenty-five (25) years, but instead I give, devise and bequeath the same to my Trustee, at the sole discretion of the Trustee, in trust, to apply to the use of such child at any time and from time to time, so much or all of the income and so much of the principal as my Trustee, in his discretion deems advisable for the support, education, and welfare of such child: my Trustee may in his/her discretion, consider or disregard, to such extent as he/she deems advisable such child's other income or property or the duty of anyone to support such child and make any such application among other methods, by payments to such child or the person with whom such child resides, without bond or surety and my Trustee shall not be bound to see to the application or use of payments so made; my Trustee shall pay over any then remaining principal and accumulated income regarding such child's share to such child when such child attains said age, then upon such child's death, to such child's then living children, in equal shares, and if he/she dies without issue, then to the beneficiaries as listed above.

This Trust shall terminate, if not terminated earlier, two (2) years after the death of Domenic P. Marino, or when the youngest beneficiary attains the age of 25 years, if applicable, at which time the Trustee shall liquidate the Trust assets, pay the debts of the Settlor, and distribute any yet undistributed Trust assets to the beneficiaries. If, when the youngest beneficiary attains the age of 25 years violates the rule against perpetuities, then the Trust shall terminate twenty-one (21) years after the death of the last living beneficiary.

12. No beneficiary of this Trust shall have the power to anticipate, assign, transfer, alienate or in any way pledge or hypothecate his or her respective interest in this Trust, or any part thereof, and any attempt so to do shall be of no effect. No beneficiary shall have such any interest in the Trust Fund that may be attached or be subject to levy for his or her private or particular debts.

13. The beneficiaries shall have no legal title in the Trust property itself, real or personal, or right to a division or partition of the same or for an accounting or to direct the Trustees in the administration of this Trust.

~~14. The Trustees shall not be required to give bond for the faithful performance of this Trust, nor be liable personally on any contract, or for any debt or damage or for any act or failure to act, excepting only for personal willful breach of trust. The Trustees may make a reasonable charge for service performed hereunder, and shall be entitled to be reimbursed and indemnified for all disbursements, expenses or other liabilities.~~

15. The Trustee does not need any consent of the beneficiaries to deed or mortgage the Trust property.

IN WITNESS WHEREOF the said DOMENIC P. MARINO has hereunto set his hand and seal the day and year first above mentioned.

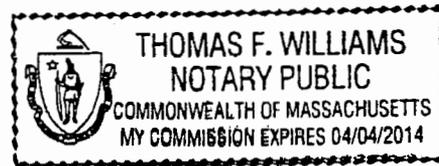
Domenic P. Marino
DOMENIC P. MARINO

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this 17 day of May, 2008 before me, the undersigned notary public, personally appeared DOMENIC P. MARINO and proved to me through satisfactory evidence of identification, which was per [unclear] OR personally known to me to be the person(s), whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.

[Signature]



AMENDMENT TO
DPM REALTY TRUST

I, Domenic P. Marino, as the Settlor and Trustee of the DPM Realty Trust under a Declaration of Trust dated June 21, 1984, and recorded at the Suffolk Registry of Deeds at Book 11155, Page 268. under the powers reserved to me in said Trust, hereby amend said Trust

by stating the following:

Domenic P. Marino shall serve as Trustee of this Trust during his lifetime. At his death or mental incapacity of Domenic P. Marino, Jr. and Stephen D. Marino shall become the substitute Co-Trustees.

WITNESS my hand and seal this 14 day of May, 2008.

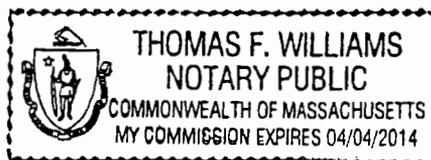
Domenic P. Marino
DOMENIC P. MARINO, Settlor/Trustee

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this 14 day of May, 2008, before me, the undersigned notary public, personally appeared DOMENIC P. MARINO, Settlor and proved to me through satisfactory evidence of identification, which was personal to myself OR personally known to me to be the person(s), whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.

Thomas F. Williams





EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
02/23/2016

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

AGENCY StateFarm State Farm Insurance 101 Court Street Laconia, NH 03246	PHONE (A/C, No, Ext): 603-524-7733	COMPANY	NAIC #
FAX (A/C, No): 603-524-9476	E-MAIL ADDRESS: mike@mike-testa.com		
CODE: 29-2059	SUB CODE:		
AGENCY CUSTOMER ID #:			
INSURED THE MARINO FAMILY TRUST 7 PARADISE DR LACONIA, NH 03246	LOAN NUMBER	POLICY NUMBER 29-BE-N473-9	
	EFFECTIVE DATE 03/31/2016	EXPIRATION DATE 03/31/2017	<input checked="" type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:			

PROPERTY INFORMATION

LOCATION/DESCRIPTION
7 PARADISE DR
LACONIA, NH 03246

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

COVERAGE INFORMATION

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
A-DWELLING	154,100	
B-PERS PROP	115,575	
C-LOSS USE ACT LOSS		
L-PERS LIAB	1,000,000	
DAMAGE TO PROP OF OTHERS	500	
M-MED/PERS	5000	

REMARKS (Including Special Conditions)

THE STATE OF NEW HAMPSHIRE & TRANSIT & PLYMOUTH & LINCOLN RAILROAD ARE NAMED AS ADDITIONAL INSURED WITH RESPECT TO LIABILITY ARISING FROM THE USE AND/OR OCCUPATION OF STATE OWNED PREMISES UNDER THIS CROSSING AGREEMENT BETWEEN THE STATE AND THE NAMED INSURED.

CANCELLATION

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

ADDITIONAL INTEREST

NAME AND ADDRESS STATE OF NH TRANSPORT BUREAU OF RAIL & TRANSIT & PLYMOUTH & LINCOLN RAILROAD PO BOX 483 CONCORD NH 03302-0483	MORTGAGEE	ADDITIONAL INSURED
	LOSS PAYEE	Marino, Stephen D & Domenic P Jr
	LOAN #	
	AUTHORIZED REPRESENTATIVE	



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
02/23/2016

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AGENCY State Farm State Farm Insurance 101 Court Street Laconia, NH 03246	PHONE (A/C, No, Ext): 603-524-7733	COMPANY	NAIC #
FAX (A/C, No): 603-524-9476	E-MAIL ADDRESS: mike@mike-testa.com		
CODE: 29-2059	SUB CODE:		
AGENCY CUSTOMER ID #:			
INSURED THE MARINO FAMILY TRUST 7 PARADISE DR LACONIA, NH 03246	LOAN NUMBER	POLICY NUMBER 29-BE-N473-9	
	EFFECTIVE DATE 03/31/2016	EXPIRATION DATE 03/31/2017	<input checked="" type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:			

PROPERTY INFORMATION

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--

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	LOSS PAYEE	Marino, Stephen D & Domenic P Jr
	LOAN #	
	AUTHORIZED REPRESENTATIVE	