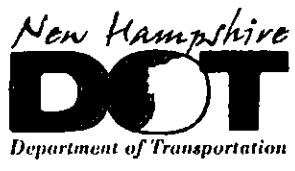


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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

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

Bureau of Right-of-Way
September 4, 2019

REQUESTED ACTION

Authorize the Department of Transportation (DOT) to transfer to the Department of Environmental Services (DES) sole management responsibility for a 6.56 +/- acre portion of the Interstate Limited Access Right-of-Way located on the Southerly side of Interstate 89 along Silk Farm Road in the City of Concord, effective upon Governor and Executive Council approval.

Pursuant to RSA 230:45, further authorize the Department of Transportation to adjust the limits of the Interstate 89 Limited Access Right-of-Way to accommodate the proposed transfer of management responsibility for the above-mentioned parcel to DES.

Because it has been determined by the DOT Division of Finance that this parcel was originally purchased with 90% Federal Funds and 10% Highway Funds, and because DES proposes to develop the parcel for a government use not directly related to highways or their safety, DES intends to reimburse proportionately the corresponding funds in the aggregate amount of one hundred thirty thousand dollars (\$130,000.00) by analogy to the reimbursement required by RSA 4:39-c upon the disposal of surplus real property acquired with highway funds, and further to transfer to DOT an administrative fee in the amount of one thousand one hundred dollars (\$1,100.00).

Funding is available based on the following:

03-44-44-442030-16870000-034-500161	<u>FY 2020</u>
17-228:1-VIII:G Const & Oper	\$131,100.00

Funding is to be credited as follows:

04-096-096-960015-0000-UUU-402156	<u>FY 2020</u>
Administrative Fee	\$1,100.00

04-096-096-960015-0000-UUU-409279	<u>FY 2020</u>
Sale of Parcel	\$13,000.00
(10% of \$130,000.00)	

04-096-096-963515-3054-401771
Consolidated Federal Aid
(90% of \$130,000.00)

FY 2020
\$117,000.00

EXPLANATION

The Department of Transportation (DOT) received a request from DES to acquire the management responsibility for a portion of the Interstate 89 Limited Access Right-of-Way located on the southerly side of Interstate 89, along the westerly side of Silk Farm Road, in the City of Concord. DES has received a capital appropriation pursuant to 2017 N.H. Laws 228:1, VIII.G. for the design and engineering of a new Dam Bureau Construction and Operations facility as well as for the acquisition of the land upon which the facility will be constructed. Because the subject land is purported to have been purchased initially by the State with Federal and Highway Funds, the proposed interagency transfer described herein will coincide with a corresponding reimbursement of these funds in the aggregate amount of \$130,000.00, which has been estimated by a DOT staff appraiser to be equivalent to the current fair market value of the land to be transferred. This interagency transfer is thereby treated as being analogous to a disposal of surplus highway funded property pursuant to RSA 4:39-c for purposes of Federal and Highway Fund reimbursement, in order to allow DES to develop and use the land for government purposes not directly related to highways, turnpikes, or their safety. Because the parcel is neither surplus to State needs nor being sold or transferred by the State to another party (i.e. "disposed"), RSA 4:39-c does not apply. Furthermore, as a result of the Federal and Highway Fund reimbursement, any future disposal or leasing of any portion of the subject land as surplus real property will be subject to RSA 4:40 and not RSA 4:39-c. DES has further agreed to transfer to DOT an administrative fee in the amount of \$1,100.00.

This parcel, consisting of 6.56 +/- acres, was acquired by the State in 1957 for the planned construction of an interchange at Interstate 89 and Silk Farm Road. That plan was later abandoned.

Conditions of the proposed transfer include:

- Access to the parcel will be from Silk Farm Road. No access will be allowed from Interstate 89.
- DES shall, at its own expense, commission a Right-of-Way Adjustment Plan to be prepared by a Licensed Land Surveyor showing the parcel as separate from, and no longer a part of, the Interstate 89 Limited Access Right-of-Way. Said Plan shall be recorded by DES in the Merrimack County Registry of Deeds.
- DES shall, at its own expense, install fencing around the perimeter of the parcel in accordance with DOT specifications.
- DES shall, at its own expense, install a gate in accordance with DOT specifications along Silk Farm Road at the beginning of the access road to be constructed from Silk Farm Road across the Interstate 89 Limited Access Right-of-Way abutting the parcel and leading to the remaining DOT land west of the parcel.

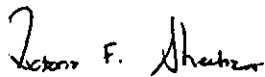
- The DOT will retain the land 150 feet southerly of the Interstate 89 center line (to the north of the subject parcel) and also retain the land 55 feet northerly from the southerly sideline of the Interstate 89 Limited Access Right-of-Way (to the south of the subject parcel), the latter to accommodate the existing West End Farm Trail Bicycle Path and access to remaining land owned by DOT.
- DES will work with the DOT to construct the new access road from Silk Farm Road across the Limited Access Right-of-Way to the remaining DOT land.

This request has been reviewed by DOT, and it has been determined that the requested land is surplus to its operational needs and interest.

The Long Range Capital Planning and Utilization Committee reviewed the proposed transfer as an informational item at its March 6, 2019 meeting.

Authorization is respectfully requested to transfer sole management responsibility for this State owned parcel from DOT to DES with noted conditions as stated above.

Sincerely,



Victoria F. Sheehan
Commissioner
Department of Transportation

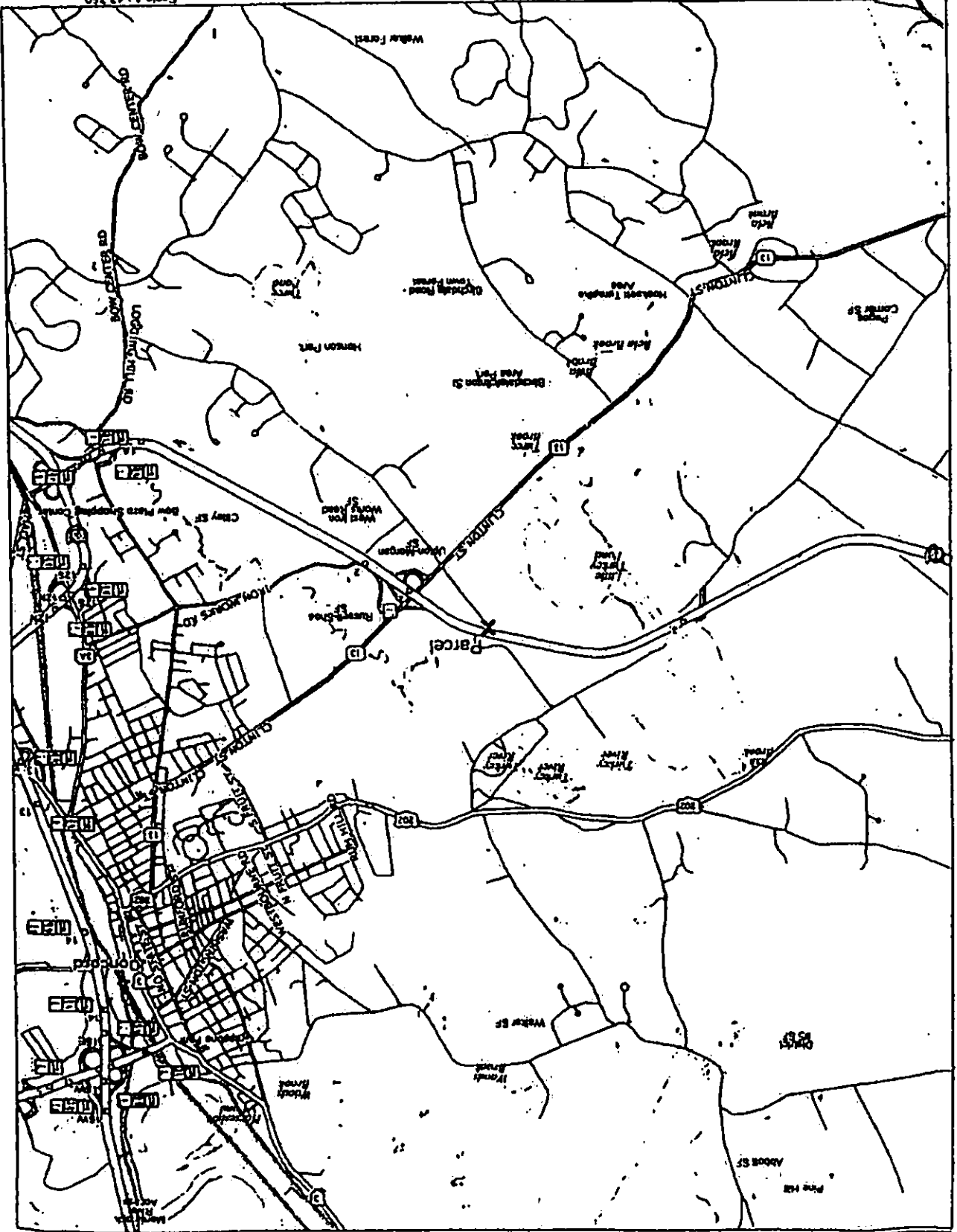


Robert R. Scott
Commissioner
Department of Environmental Services

VFS/PJM/jl
Attachments

Scale 1:43,750
1" = 3,645.8 ft
Data Zoom 12-2

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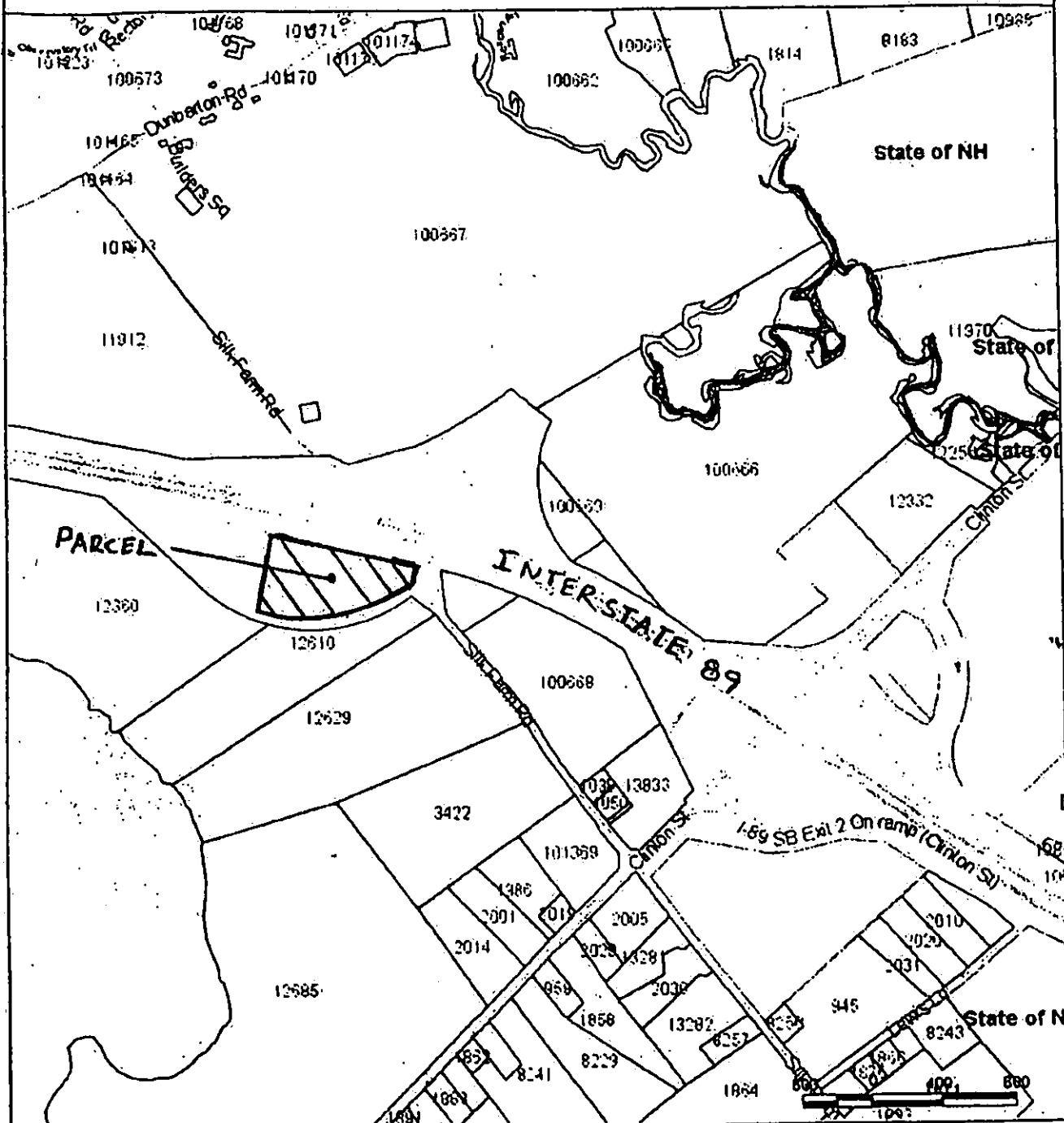


Delorme Street Atlas USA® 2015



STATE OF NEW HAMPSHIRE
DEPARTMENT OF REVENUE
ADMINISTRATION

MOSAIC PARCEL
MAP SHARING
POOL



This map was compiled using data believed to be accurate; however, a degree of error is inherent in all maps. This map 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 maps to define the limits or jurisdiction of any federal, state, or local government. Detailed on-the-ground surveys and historical analyses of sites may differ from the maps.

Return to:

Mark C. Stevens, LLS

Land Agent

NHDES

PO Box 95

6 Hazen Drive

Concord, New Hampshire 03302-0483

**THIS IS A TRANSFER OF RESPONSIBILITY FOR
REAL PROPERTY BETWEEN AGENCIES OF THE
STATE OF NEW HAMPSHIRE AND IS NOT A
SALE, GRANT, OR TRANSFER OF AN INTEREST
IN REAL PROPERTY SUBJECT TO THE NEW
HAMPSHIRE REAL ESTATE TRANSFER TAX
IMPOSED BY RSA 78-B:1**

**Interagency Transfer of Management Responsibility
for a tract of land
Located along Silk Farm Road and Interstate 89 Southbound
In Concord, NH**

**From
The New Hampshire Department of Transportation
To
The New Hampshire Department of Environmental Services**

THIS IS NOT A DEED OR A TRANSFER OF TITLE OR AN INTEREST IN LAND

The State of New Hampshire Department of Transportation, whose address is PO Box 483, 7 Hazen Drive, Concord, New Hampshire 03302-0483, (DOT), transfers to the State of New Hampshire Department of Environmental Services of 20 Hazen Drive, Concord, 03301, County of Merrimack, State of New Hampshire (NHDES), pursuant to Governor and Executive Council authorization on _____, 2019 (Agenda Item # _____), sole management responsibility for the following described tract of land held in title by the State of New Hampshire, located in the City of Concord, County of Merrimack, State of New Hampshire (the "Premises"):

A certain tract of land situated on the westerly side of Silk Farm Road, as now travelled, and on the southerly side of the limited access right-of-way of Interstate 89, as now travelled, consisting of approximately 6.56 acres, more or less, and shown as "Management Area to be Transferred to NHDES" on that certain plan entitled "Right-of-Way Boundary Adjustment Plan for the Proposed NHDES Dam Bureau Facility located in Concord, NH" dated July 25, 2019, prepared by HEB Engineers, Inc., and recorded as Plan No. _____ in the Merrimack County Registry of Deeds (the "Plan"), said tract being more particularly bounded and described as follows:

Beginning at an HEB disk on rebar to be set in the Interstate 89 Limited Access Right of Way boundary, nearly opposite Station 150+46.27, 150 feet left, in the westerly sideline of Silk Farm Road (lying N75°24'13"W, 114.55 feet from an NHHD bound found), as shown on the Plan, being the northeast corner of the Premises described herein;

Thence southerly by the westerly side of Silk Farm Road along a curve to the left having a radius of 266.00 feet and an arc length of 61.46 feet (chord bearing and length = S16°50'12"W, 61.32 feet) to an HEB disk on rebar to be set;

Thence southwesterly along a 55-foot-wide corridor of Interstate 89 Limited Access Right-of-Way land containing the West End Farm Trail Bicycle Path, as shown on the Plan, along a curve to the right having a radius of 1522.00 feet and an arc length of 438.03 feet (chord bearing and length = S61°58'47"W, 436.52 feet) to an HEB disk on rebar to be set;

Thence continuing westerly along said Limited Access Right-of-Way land corridor containing the West End Farm Trail Bicycle Path, as shown on the Plan, along a curve to the right with a radius of 782.00 feet and an arc length of 571.07 feet (chord bearing and length = S89°18'48"W, 511.48 feet) to an HEB disk on rebar to be set, being the southwest corner of the Premises described herein;

Thence N12°03'28"E a distance of 431.98 feet along Interstate 89 Limited Access Right-of-Way land to an HEB disk on rebar to be set at Interstate 89 nearly opposite Station 158+84.27, 150 feet left, as shown on the Plan, being the northwest corner of the Premises described herein;

Thence S72°56'32"E, a distance of 338.00 feet along the Interstate 89 Limited Access Right-of-Way to the point of beginning.

The above described Premises being a portion of the land acquired from St. Paul's School by the State of New Hampshire as was included in the highway layout described in the Commissioners' Report of Section One, Interstate Route 3, Bow-Concord-Hopkinton 1957 dated May 9, 1957, recorded in the Merrimack County Registry of Deeds on May 13, 1957 at Book 808, Page 158, and also being an interest that the State of New Hampshire, Department of Transportation holds in a portion of the Interstate 89 Limited Access Right-of-Way. The intention is to discontinue completely the above described Premises from being a portion of the Limited Access Right-of-Way.

EXCEPTING AND RESERVING from the herein described Premises all rights of access, light, air, and view to, from, and over Interstate 89 and all rights of access to, from, and over the West End Farm Trail Bicycle Path, as shown on the Plan, across the portion of Limited Access Right-of-Way boundary line described as follows:

Beginning at a point in the Interstate 89 Limited Access Right of Way, as now travelled, said point being at an HEB disk on rebar to be set at Interstate 89 nearly opposite Station 150+46.27, 150 feet left, in the west sideline of Silk Farm Road (lying N75°24'13"W, 114.55 feet from an NHHD bound found), as shown on the Plan, being the northeast corner of the Premises described herein;

Thence N77°56'32"W, a distance of 838.00 feet along the Interstate 89 Limited Access Right-of-Way to an HEB disk on rebar to be set at Interstate 89 nearly opposite Station 158+84.27, 150 feet left, being the northwesterly corner of the Premises described herein;

Thence S12°03'28"W a distance of 454.98 feet along the Interstate 89 Limited Access Right-of-Way line to an HEB disk on rebar to be set, being the southwesterly corner of the Premises described herein;

Thence easterly along said Limited Access Right-of-Way land corridor containing the West End Farm Trail Bicycle Path, as shown on the Plan, along a curve to the left with a radius of 782.00 feet and an arc length of 521.07 feet (chord bearing and length = N89°18'48"E, 511.48 feet) to an HEB disk on rebar to be set;

Thence continuing easterly along said Limited Access Right-of-Way land corridor along a curve to the left having a radius of 1122.00 feet and an arc length of 438.03 feet (chord bearing and length = N63°28'47"E, 436.92 feet) to an HEB disk on rebar to be set in the westerly sideline of Silk Farm Road.

CONDITIONS: The rights of access, light, air, and view to, from, and over Interstate 89 and the right-of-ways to, from, and over the West End Farm Trail Bicycle Path reserved by DOT herein shall be preserved in perpetuity by an easement to be reserved by the State of New Hampshire in the event of a future sale or disposal of the Premises.

PURPOSE: The purpose of this Interagency Transfer of Management Responsibility for real property is to denote the transfer of sole management responsibility for the Premises from DOT to NHDES. Because the premises are reported to have been purchased with federal and highway funds, the interagency transfer memorialized hereby coincides with a corresponding proportionate reimbursement of the federal and highway funds in a total aggregate amount estimated to be equivalent to the current market value of the Premises. This interagency transfer is thereby treated as being analogous to a disposal of surplus highway funded real property pursuant to RSA 4:39-c for purposes of federal and highway fund reimbursement, in order to allow NHDES to redevelop and use the Premises for government purposes not directly related to highways, turnpikes, or their safety. As a result, any future disposal or leasing of any portion of the Premises as surplus real property will be subject to RSA 4:40 and not RSA 4:39-c.

Because DOT and NHDES are both part of the same government entity that holds title to the Premises and will continue to do so, this interagency transfer is not and cannot be construed as a sale,

grant, or disposal of real property or any other transfer of title or any interest in the Premises. This Transfer of Management Responsibility for Real Property shall nonetheless be recorded in the Merrimack County Registry of Deeds, so that in the event of any future conveyance of the Premises by the State of New Hampshire to another party this instrument shall appear on record in the chain of title to confirm that no further federal or highway fund reimbursement shall be required upon any future disposal of the Premises.

[signatures on next page]

DRAFT

Executed this _____ day of _____ 2019.

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

By: _____
Victoria F. Sheehan, Commissioner

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK, SS

On this _____ day of _____ 2019, personally appeared Victoria F. Sheehan, Commissioner of the Department of Transportation of the State of New Hampshire, known to me, or satisfactorily proven to be, the person whose name is subscribed to the foregoing instrument, and acknowledged that she was duly authorized to execute the foregoing instrument for the purposes therein contained.

Notary Public/Justice of the Peace
My commission expires:

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES

By: _____
Robert R. Scott, Commissioner

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK, SS

On this _____ day of _____ 2019, personally appeared Robert R. Scott, Commissioner of the Department of Environmental Services of the State of New Hampshire, known to me, or satisfactorily proven to be, the person whose name is subscribed to the foregoing instrument, and acknowledged that she was duly authorized to execute the foregoing instrument for the purposes therein contained.

Notary Public/Justice of the Peace
My commission expires:

DRAFT