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New Hampshire Fish and Game Department

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June 5, 2015

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

The New Hampshire Fish and Game Department (NHFG) respectfully requests authorization to enter into a Memorandum of Agreement (MOA) with the Office of Energy and Planning (OEP; vendor code 177931), Concord, NH in the amount of \$70,000 to provide monitoring and stewardship services of the State's interest in privately owned conservation lands held by NHFG, effective from the date of Governor and Council approval to June 30, 2017. **75% Federal, 25% Agency Income Wildlife Habitat Funds**

Funds to support this request are anticipated to be available in the following account in FY 2016 and FY 2017 upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between State Fiscal Years through the Budget Office, if needed and justified.

03 75 75 751520-21550000 - Wildlife Program - Wildlife Habitat Conservation

	<u>FY 2016</u>	<u>FY 2017</u>
20-07500-21550000-049-500294 - Transfers to Other State Agencies	\$35,000	\$35,000

EXPLANATION

The purpose of this MOA (Exhibit A) is to provide funding to the OEP to monitor and provide stewardship services of the State's interest in privately owned conservation lands held by NHFG. Stewardship and monitoring of many of these easements is required under the federal funding that supported the original acquisition of these properties. The Conservation Land Stewardship Program, which is housed within the OEP, monitors and stewards the 83 state-held conservation easements acquired through the former Land Conservation Investment Program. Providing monitoring and stewardship support for other state-held easement interests through the Conservation Land Stewardship Program, minimizes duplication of effort and enables cost-saving efficiencies since many of these additional state-held easements are contiguous with properties that the program is already responsible for. It allows the same stewardship standards for all easement lands, provides staff expertise to appropriately represent the State's interests, and helps to provide a consistent interpretation of easement language.

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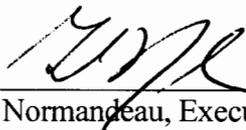
June 5, 2015

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One of the primary goals of the Conservation Land Stewardship Program is to educate and work with landowners to resolve conflicts with easement restrictions that may arise, thereby avoiding costly litigation. A complete background of the Conservation Land Stewardship Program is provided in Exhibit B.

Respectfully submitted,

Concurred,



Glenn Normandeau, Executive Director
Fish and Game Department



Meredith Hatfield, Director
Office of Energy and Planning
Richard L. Minard Jr.
Deputy Director for MAH

MEMORANDUM OF AGREEMENT
Between the
OFFICE OF ENERGY AND PLANNING - Conservation Land Stewardship Program
and the
NEW HAMPSHIRE DEPARTMENT OF FISH AND GAME
for the
Monitoring of Conservation Easement under Biennial Contract

This Memorandum of Agreement (MOA) is entered into by the Office of Energy and Planning, Conservation Land Stewardship Program (OEP-CLS), and New Hampshire Fish and Game Department (NHFG).

WHEREAS, the NHFG holds **50** conservation easements which it wishes to include in this MOA;

WHEREAS, the OEP-CLS has the technical expertise to efficiently carry out easement stewardship, monitoring, and enforcement activities; and

WHEREAS, NHFG and OEP-CLS both wish to have the OEP-CLS carry out the easement monitoring on the **50** conservation easements that NHFG holds; and

WHEREAS, NHFG is committed to transferring funds needed to accomplish the easement monitoring on the said **50** conservation easements;

NOW THEREFORE, all parties agree as follows:

- A. This Agreement applies only to the **50** conservation easements listed in Appendix A over the contract period, and may be expanded in future years as agreed upon by NHFG and OEP-CLS.
- B. Although this Agreement is subject to annual review, it is the intention of both parties to continue the long-term protection of these lands by providing for annual inspection of the properties and communication with landowners through annual renewal of this agreement. The period of this Agreement shall be from the date of Governor and Council approval through **June 30, 2017**
- C. OEP-CLS and NHFG agree to cooperate as follows:

NH Fish and Game Department

NHF&G agrees to:

- 1. Transfer an amount not to exceed **\$35,000** for FY16 and **\$35,000** for FY17 from account 20-07500-21550000-500294 to OEP-CLS upon approval by the Governor and Council, for the purposes of providing conservation easement stewardship support for those properties listed in Appendix A over the contract period; and

2. continue to provide all technical services and monitoring related to management of wildlife habitat, forestry, and agriculture, and keep OEP-CLS informed of said activities; and
3. meet with OEP-CLS as required to review progress of the program and to assist with monitoring if necessary (as requested); and
4. provide technical support to OEP-CLS regarding the prevention, or enforcement of violations or diminution of the terms of any conservation easement deed which is part of this agreement. NHFG shall have final determination of the disposition of enforcement of the terms of any easement; and
5. review and approve/disapprove actions of the Grantor as required by any conservation easement deed which is part of this Agreement;
6. assign responsible staff to serve as the contact person with OEP-CLS regarding any provision of the Agreement; and
7. provide on an as available basis and as appropriate, a high clearance vehicle and/or an all-terrain vehicle if needed only for NHFG parcels with difficult access.

NH Office of Energy & Planning

OEP- CLS, agrees to:

1. accept the funds transferred by NHFG in an amount not to exceed **\$35,000** for FY16 and **\$35,000** for FY17 for the purpose of conducting conservation easement stewardship support for those properties listed in Appendix A over the contract period, which generally will include:
 - a. conducting easement monitoring annually (every 12-14 months) on each parcel listed in the attached Appendix. This shall include, where practical, a personal contact/visit with the landowner or their representative to discuss the easement and any proposed or undertaken activities related to it; and
 - b. maintaining hard and electronic copies of all correspondence, monitoring reports and information regarding changes of address, changes in land management that may affect wildlife habitat, other land management issues, etc. for each parcel; and
 - c. developing and maintaining a database to track parcels, landowners, status, etc.; and
 - d. coordinating with NHFG to explore methods of low-cost aerial monitoring and photography as practicable, necessary, or able to document the condition of the lands under conservation easement.
2. provide NHFG with copies of all monitoring reports and correspondence for each parcel; and
3. meet with NHFG as necessary to review the status of parcels and to resolve any problems

which may arise; and

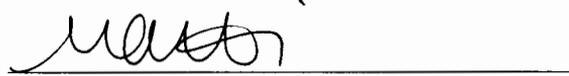
4. work with landowners, perform additional site visits as necessary, and document efforts to resolve problems, interpretation, or enforcement issues that may arise; and
5. serve as the point of contact for requests by the Grantor of activities requiring prior Grantee approval and coordinate with NHFG as necessary to insure that review and approval/disapproval is conducted as required by any conservation easement deed that is part of this Agreement; and
6. assign the OEP-CLS Program Director, or other OEP-CLS staff as necessary, to oversee and ensure that easement monitoring is conducted at levels consistent with OEP-CLS protocols.

WITNESS WHEREOF, the respective parties have hereunto set their hands on the dates indicated.

Approved By:


Glenn Normandeau, Executive Director
NH Fish and Game Department

6/8/15
Date


Meredith Hatfield, Director
NH Office of Energy and Planning

6/1/15
Date

Approved by the ATTORNEY GENERAL this 15th day of June, 2015.

Assistant Attorney General 
Christopher G. Aslin

Exhibit A

TOWN	Original GRANTOR	Ac.	Current LAND OWNERS	Date Acquired
Bartlett	LBO (Attitash / Bear Peak)	17	Attitash/Bear Peak	8/21/1995
Bow	Town of Bow (4 tracts)	382	Bow CC	3/15/1999
Canterbury	NH Int. Speedway, Inc.	10.2	NHMS	6/13/2000
Clarksville	Rudolph & Joan Shatney Trusts	4	Kathleen & John Domanico	7/5/2000
Durham	Evelyn Brown & Marion Beckwith	23	UNH	2/13/1995
Durham	Evelyn Brown & Marion Beckwith	67	McPhee	2/13/1995
Durham	Evelyn Brown & Marion Beckwith	28	Graf	2/13/1995
Durham	Minichiello (Dame Road) TNC/GB	95	SPNHF	12/24/2003
Durham	Winecellar Farm-TNC/GB	209.8	Winecellar Farm - Krist LLC	3/31/2006
Durham/Newmarket	Pearson-TNC/GB	75	Pearson	9/5/2003
Durham/Newmarket	Popov II - TNC/GB	62.36	Christopher Popov	11/3/2008
Durham/Newmarket	Popov IV (Medding House)	27.94	Peter Popov	12/8/2010
Effingham	TNC- Wilkinson Brook	201.6	TNC	5/9/2005
Enfield	Controlled Environment Corp. (Enfield WMA)	25.46	Eastman Community Assoc.	12/26/1974
Enfield/Grantham	Controlled Environment Corp. (Enfield WMA)	200	Eastman Community Assoc.	12/27/1989
Enfield/Grantham	Edmond & Dorothy Goodwin (Enfield WMA)	218.8	Shagoury-Butternut Pond	12/27/1989
Exeter	Morgan Ryan Realty Trust	88.8	Town of Exeter	9/2/2010
Farmington	Town of Farmington-Mad R I./French	61.3	Town of Farmington	1/16/2001
Farmington	Town of Farmington-Mad R II./Dubois	197	Town of Farmington	9/15/2006
Hampton	Martin & Kathleen Battock	4.5	Town of Hampton	9/11/1973
Hampton	Martin & Kathleen Battock	1.13	Town of Hampton	9/11/1973
Hampton	Martin & Kathleen Battock	6	Town of Hampton	6/1/1978
Hancock	Harris Center (Powerdermill Pond WMA)	37	Dillon	3/25/1997
Hancock	Prospect Hill (Carpenters Marsh WMA)	193	Town of Hancock	10/19/2007
Hanover	Lyme Timber	31.8	Kennedy	6/11/1996
Hanover	John T.B. Mudge	8.14	Mudge	12/3/2004
Hanover	Virginia Moister	27.3	Steve and Allegra Lubrano	1/20/1999
Litchfield	Pleasant View Country Club	19.5	Town of Litchfield	8/29/1995
Loudon	NH Int. Speedway, Inc.	25.85	NHMS	9/28/1998
Loudon/Canterbury	NH Int. Speedway, Inc. (4 tracts)	181.51	NHMS	7/23/2004
Lyndeborough/Mont Vernon	SPNHF (Piscataquog WMA)	78.8	Cassidy	4/24/1990
Merrimack	Joseph E. Faltin	40.6	51 landowners in common	6/11/1982
New Durham	BB III LLC	296	Beaver Brook Forest LLC	6/30/1999
New London	Ausbon Sargent LPT	98.8	New London CC	12/19/1994
Newmarket	TNC/Schneer III	15.3	Cecil Jack Schneer Trust	8/3/2008
Newmarket	Popov IV (Love-Barberry Coast)	63.36	Peter Popov & Lela Love	12/8/2010
Newmarket	Sewall I (TNC-GB)	14.74	Daniel & Kathleen Sewell	1/5/2007
Newmarket	Charles E. Dearborn Jr.	38.09	Dearborn	4/10/2000
Newmarket	MacIntosh	65.97	The Long Meadow Trust of 2009	12/8/2010
Newmarket	Town of Newmarket (Falzone/GB)	168.2	Town of Newmarket	9/5/2003
Ossipee	Rosalie & Orthel Werdin	15	Estes	5/15/1990
Ossipee	Rosalie & Orthel Werdin	15	Waldrip	5/15/1990
Randolph/Gorham	Robert Potter / Roberta Arbee II	143.6	Potter/Arbee	4/10/2006
Randolph/Gorham	Robert Potter / Roberta Arbee I	101.1	Potter/Arbee	8/13/2004
Stewartstown	Coats (MOU w/ USDA & F&G)	313	Coats/USDA	6/9/1997 MOU
Stratford	Richard M & Nancy J Havrda	65.17	Havrda Irrevocable Trust	10/5/1990
Stratford	Robert & Lorraine Soule	121.23	Mason	10/12/1990
Stratham	Glengerry Realty Trust	20	Turnburry HO Assoc	5/24/1989
Walpole	Hubbard Farms, Inc.	8.2	Peter and Brenda Graves	1/6/1989
Wilmot	John H. & Julie B. Morse	304	Bog Mountain Timber Reserve	8/25/1988
TOTAL ACRES		4516.15		

Exhibit B

Background on the Office of Energy and Planning – Conservation Land Stewardship Program

In 1994, the State of New Hampshire established a stewardship program to protect, in perpetuity, the conservation values and investments acquired through the former Land Conservation Investment Program. This stewardship program, now known as the Conservation Land Stewardship Program (CLS), is housed within the Office of Energy and Planning.

The former Land Conservation Investment Program¹ was established in 1987 as Senate Bill 1. From 1987 until 1993 in cooperation with its private partner, the Trust for New Hampshire Lands, the program permanently protected over 379 individual conservation parcels totaling over 100,000 acres of land. This significant land protection effort is considered to be one of the most successful and wide reaching public-private conservation partnerships in the State's history.

At the end of the program's acquisition phase in 1993, authority for the Land Conservation Investment Program was transferred to the Council on Resources and Development (CORD) in accordance with the former RSA 221-A (now RSA 162-C). In transferring authority to CORD, the general court reaffirmed the conservation purposes of the Land Conservation Investment Program. It recognized the need to respect investments in the conservation of natural resource lands in the state for the perpetual use of the people of New Hampshire. The general court also recognized that the Land Conservation Investment Program was undertaken in part with significant donations of cash and land value by citizens of the state who intended that the conservation values of these lands be protected in perpetuity. In addition, lands and interests in lands acquired through the Land Conservation Investment Program are held in "public trust" and, per RSA 162-C:10, there can be no deviation in the uses to uses not consistent with this section. The sale, transfer, conveyance, or release of any such land from the public trust is prohibited.

Since 1994, the CLS Program has been responsible for two key functions intended to ensure that the State is meeting its responsibilities under RSA 162-C to protect its conservation resources in perpetuity. First, it monitors and stewards the 86 state-held conservation easements acquired through the Land Conservation Investment Program. It works with landowners and others to resolve potential violations or other issues and helps landowners understand the conservation values and restrictions on their land. Secondly, the CLS Program oversees the 240 municipally held interests acquired through the Land Conservation Investment Program and provides technical assistance to those 78 participating municipalities.

These stewardship and monitoring responsibilities are becoming increasingly important as easements age and land ownership changes to new owners who may not understand the legal significance of the restrictions or the unique protected conservation values of the property. One of the primary goals of the CLS Program is to educate and work with landowners to resolve

¹ Although in many ways the Land Conservation Investment Program was a predecessor to the current Land and Community Heritage Investment Program, known as "LCHIP," the former Land Conservation Investment Program should not be confused with this newer historic property and land protection program.

conflicts with easement restrictions that may arise, thereby avoiding costly litigation. The CLS Program's approach of avoiding problems through direct landowner contact, pro-active discussions relating to potential uses of the land, and regular monitoring continues to be the most cost-effective method for long-term protection of the State's conservation land interests.

Since 2000, the CLS Program has provided similar annual monitoring and stewardship services for Department of Resources and Economic Development's (DRED) non-Land Conservation Investment Program easement lands (through G&C approved Memoranda of Agreements). In 2004, CLS began providing monitoring and stewardship services to the NH Fish and Game Department for its other conservation easement lands as well. Today the CLS Program monitors 89 conservation easements (totaling approximately 38,000 acres) for these two agencies in addition to the original 86 easements acquired through the Land Conservation Investment Program.

Providing easement monitoring and stewardship support through the Conservation Land Stewardship Program for multiple state agencies minimizes duplication of effort and enables cost-saving efficiencies since many of these additional conservation easements are contiguous with conservation easements for which CLS is already responsible. It allows the same stewardship standards for all easement lands and approach to problem resolution, provides staff expertise to appropriately represent the State's interests, and helps to provide a consistent interpretation of easement language.

In addition, stewardship and annual monitoring of many of these additional DRED and NHF&G easements is required under the federal funding that supported the original acquisition. This arrangement helps to ensure that these agencies are complying with federal requirements. It also helps to ensure that the State is effectively and consistently meeting its legal and ethical obligation to protect the natural resources it has invested in.