



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



September 18, 2019

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

REQUESTED ACTION

Authorize the Department of Environmental Services to award a grant to the Monadnock Conservancy, (hereinafter "MC"), (VC#166683-B001), Keene, NH in the amount of \$87,000 to purchase 29 acres of land in the Town of Walpole to protect drinking water supply, effective upon Governor & Council approval through December 31, 2019. 100% Drinking Water/Groundwater Trust Fund.

Funds to support this request are anticipated to be available in the following account in FY 2020 upon the availability and continued appropriation of funds in the future operating budget.

03-44-44-442010-3904-073-500580	<u>FY 2020</u>
Dept Environmental Services, DWGW Trust, Grants Non-Federal	\$87,000

EXPLANATION


The Drinking Water and Groundwater Trust Fund was created in 2016, using \$276 million of MtBE trial judgement funds, as authorized by RSA 485-F. The purpose of the Trust Fund is to provide sustainable, long-term funding for the protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund.

On December 1, 2018, the Advisory Commission voted to authorize grants for fifteen drinking water source protection projects. MC's request for \$70,000 was selected for grant funding from the Drinking Water and Groundwater Trust Fund. On April 16, 2019, the Advisory Commission increased the grant to \$87,000 to compensate for the loss of a grant from the USDA Natural Resources Conservation Service Agricultural Land Easement Program. MC will use the grant funds as well as a grant from the State Conservation Committee Moose Plate and funds from MC's Farmland Fund to acquire a conservation easement on 29 acres of land. This land overlies 20 acres of a high yielding stratified drift aquifer and is also in the source water protection area of Cheshire County Home.

The total cost for MC to acquire the conservation easement is \$175,000. The Department will provide \$87,000 with \$88,000 in match provided by the MC. The purchase price of this conservation easement is based on a recent appraisal of fair market value.

Exhibit A describes the scope of the grant. Exhibit B provides the grant amount and payment terms and Exhibit C contains special provisions. Attachment A contains the conservation easement deed. The Attorney General's office has approved the attached draft deed as to form and substance, and will approve the actual deed as to execution. Attachment B contains a map of the land, which shows the land's relationship to the high yielding stratified drift aquifer, a high value potential future water supply source.

We respectfully request your approval.




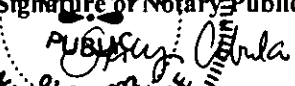
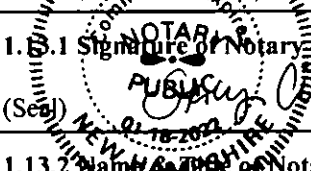
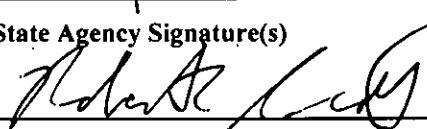
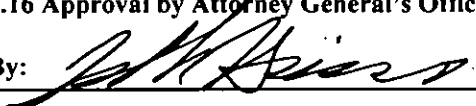
Robert R. Scott
Commissioner

Subject: Grant Agreement for a NH Drinking Water and Groundwater Trust Fund Grant
GRANT AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATIONS

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03302-0095	
1.3 Grantee Name: Monadnock Conservancy		1.4 Grantee Address P.O. Box 337, Keene, NH 03431	
1.5 Effective Date Upon G&C approval	1.6 Completion Date 12/31/2019	1.7 Audit Date N/A	1.8 Grant Limitation \$87,000
1.9 Grant Officer for State Agency Holly Green NH Department of Environmental Services		1.10 State Agency Telephone Number (603) 271-3114	
1.11 Grantee Signature 		1.12 Name & Title of Grantee Signor Ryan Owens, Executive Director	
1.13 Acknowledgment: State of <u>New Hampshire</u> , County of <u>Cheshire</u> On <u>5/15/2019</u> before the undersigned officer, personally appeared the person identified in block 1.12., or satisfiedly given to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  (Seal) 			
1.13.2 Name of Notary Public or Justice of the Peace Stacy Cibula, Notary Public			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) Robert R. Scott, Commissioner	
1.16 Approval by Attorney General's Office (Form, Substance and Execution) By:  Attorney, On: <u>10/8/2019</u>			
1.17 Approval by the Governor and Council By: _____ On: / /			

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the state of New Hampshire.

4. **EFFECTIVE DATE; COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").

5. **GRANT AMOUNT; LIMITATION ON AMOUNT; VOUCHERS; PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.**

In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional,

affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grant officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. **DATA; RETENTION OF DATA; ACCESS.**

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

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. **CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. **EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or

11.1.2 failure to submit any report required hereunder; or

11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

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

11.2.1 give the Grantee a written notice specifying the Event of

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

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

11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

12. TERMINATION.

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. CONFLICT OF INTEREST. No officer, member or employee of the Grantee and no representative, officer of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement, the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, worker's compensation or emoluments provided by the State to its employees.

15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any

person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

17. INSURANCE AND BOND.

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory worker's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice has been received by the State.

18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

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

20. AMENDMENT. This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

EXHIBIT A
SCOPE OF SERVICES

Monadnock Conservancy

The Monadnock Conservancy will use the grant to acquire a conservation easement on approximately 29 acres of land, which lies over a high yielding stratified drift aquifer, a potential future water supply source. Monadnock Conservancy will hold the conservation easement. The land parcels designated on current North Walpole Tax Map 26 as Lots 20 and 21 will be protected in perpetuity, as specified in conservation easement deed (see Attachment A), with water supply protection being one of the purposes of the conservation easement.

EXHIBIT B
GRANT AMOUNT & PAYMENT SCHEDULE

Payment in the amount of \$87,000 shall be made to Monadnock Conservancy upon receipt of the following:

1. Survey of the parcel of land.
2. A copy of the appraisal as specified in Env-Dw 1002.22.
3. Title examination as specified in Env-Dw 1002.23.
4. Acceptable stewardship plan for the property that ensures the permanent protection of the water supply.
5. Completed baseline documentation form, which indicates the current condition of the property.
6. Documentation to support the match of \$88,000 provided by Monadnock Conservancy.
7. The finalized conservation easement deed.

Grantee Initials *Rmo*
Date *5/15/19*

EXHIBIT C

SPECIAL PROVISIONS

1. Subparagraph 1.7 of the General Provisions shall not apply to this Grant Agreement.

Grantee Initials RMD
Date 5/15/19

CERTIFICATE of AUTHORITY

I, Monica O. Lehner, President of the Monadnock Conservancy, do hereby certify that:

1. I am the duly elected President of the Monadnock Conservancy;
2. At the meeting held on May 10, 2019, the Monadnock Conservancy Board of Trustees ("Board") voted to accept funds from the N.H. Drinking Water and Groundwater Trust Fund Grant Program and to enter into a contract with the NH Department of Environmental Services regarding these funds;
3. The Board further authorized the Executive Director and the President, or either of them, to execute any documents which may be necessary for this contract;
4. This authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and
5. The following individuals have been appointed to and now occupy the offices indicated in (3) above:

Ryan Owens
Name

Executive Director
Title

Monica Lehner *Monica Lehner*
Name

President
Title

IN WITNESS WHEREOF, I have hereunto set my hand as the President of the Monadnock Conservancy, on this date May 10, 2019

Monica Lehner
Signature of Certifying Officer

Title President

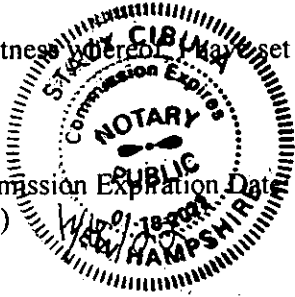
STATE OF NEW HAMPSHIRE

County of Cheshire

On this the 10th day of May, before me *Stacy Cibula*
(Notary Public)

the undersigned officer, personally appeared Monica O. Lehner who acknowledged himself to be the President of the Organization being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal.



Stacy Cibula
(Notary Public Signature)

Commission Expiration Date
(Seal)

State of New Hampshire

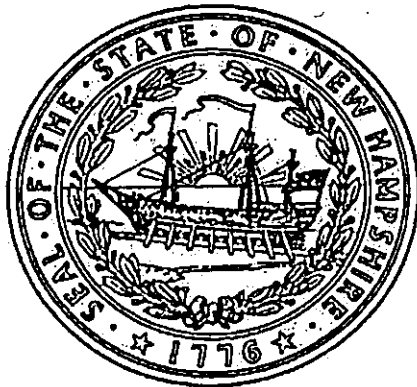
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that THE MONADNOCK CONSERVANCY is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on January 18, 1990. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 147934

Certificate Number : 0004398858



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 31st day of January A.D. 2019.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State



MONACON-01

BAVERHART

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/08/2019

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

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C36861 Chantilly-Alliant Ins Svc Inc. 4530 Walney Rd Ste 200 Chantilly, VA 20151-2285	CONTACT NAME: Balisha Averhart		
	PHONE (A/C, No, Ext): (703) 397-0977	FAX (A/C, No): (703) 397-0995	
E-MAIL ADDRESS:			
INSURED The Monadnock Conservancy PO Box 337 Keene, NH 03431-0000	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Federal Insurance Company		20281
	INSURER B :		
	INSURER C :		
	INSURER D :		
INSURER E :			
INSURER F :			

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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 CERTIFICATE 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.

INSR LTR	TYPE OF INSURANCE	ADDL ISUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	35351922	12/01/2018	12/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ Included
A	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		35351922	12/01/2018	12/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE		79756565	12/01/2018	12/01/2019	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ Aggregate \$ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	71743993	12/01/2018	12/01/2019	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	AD&D Accident Medica		64777216	12/01/2018	12/01/2019	AD&D \$ 150,000
A	Non-Profit Director		81601483	12/01/2017	12/01/2019	Maximum Limit \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Grant or other: New Hampshire Department of Environmental Services Aquatic Resource Mitigation Fund
The Certificate Holder is an additional insured with respect to the General Liability as required by written contract.

CERTIFICATE HOLDER **CANCELLATION**

New Hampshire Department of Environmental Services - Wetlands Bureau PO Box 95 Concord, NH 03302-0095	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

Attachment A

Conservation Easement Deed

THE STATE IS A PARTY TO THIS TRANSFER OF REAL ESTATE AND IS THEREFORE EXEMPT FROM THE LCHIP SURCHARGE PURSUANT TO RSA 478:17-g, II(a).

This **DEED OF CONSERVATION EASEMENT** made and effective as of the last date of execution by the parties hereto,

WITNESSETH:

WHEREAS, **DONALD H. WOOD, JR., INDIVIDUALLY AND AS TRUSTEE OF THE DONALD H. WOOD, JR. (CHIP) REVOCABLE TRUST DATED SEPTEMBER 26, 2013**, unmarried, of 7 Whitney Road, Town of Plainfield, County of Sullivan, State of New Hampshire 03781 (hereinafter referred to as the "**Grantor**", which word, where the context requires, includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors, and assigns) is the owner in fee simple of certain real property, a portion of which is the subject of this grant and is hereinafter called the "**Property**"; and

WHEREAS, the Property is situated along New Hampshire Route 12, New Hampshire Route 123, and Cold River Road in the Town of Walpole, Cheshire County, New Hampshire, consisting of approximately twenty-seven and eight-tenths (27.8) acres, and is more particularly described in Appendix A attached hereto and made a part hereof; and

WHEREAS, **THE MONADNOCK CONSERVANCY** is a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal mailing address of P.O. Box 337, City of Keene, County of Cheshire, State of New Hampshire 03431, having been determined by the Internal Revenue Service to be an income tax-exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code (hereinafter referred to as the "**Grantee**", which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns), whose mission is to work with communities and landowners to conserve the natural resources, wild and working lands, rural character and scenic beauty of the Monadnock Region; and to care for its conservation lands, and engage people in ways that strengthen their communities and their connections to the land; and

WHEREAS, the specific conservation values of the Property are documented in an inventory of relevant features of the Property, acknowledged by the signatures of Grantor and Grantee, and to be filed at the offices of Grantee, said inventory consisting of a report, maps, photographs, and other documentation (hereinafter referred to as "Baseline Documentation"); by reference herein is incorporated and made a part hereof, which the parties agree provide an accurate representation of the Property at the time of this conveyance and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement; and

WHEREAS, the Property exists in an undeveloped state and possesses significant natural resources and scenic qualities which are of great importance to the Grantor, Grantee, the State of New Hampshire, and the people of Walpole; and

WHEREAS, the Property is working farmland, with approximately 27.8 acres of open fields producing crops, helping to sustain the agricultural viability of the Property, town, and region; and

WHEREAS, the Property has undeveloped, scenic frontage along three roads, including approximately 978 feet along New Hampshire Route 12—a state highway that is part of the Connecticut River Scenic Byway, approximately 576 feet along New Hampshire Route 123, and approximately 1,216 feet along Cold River Road—a town-maintained public road; and

WHEREAS, approximately 19.5 acres of the Property overlie a high-yield stratified drift aquifer; and

WHEREAS, the entire Property is designated as a "Hydrologic Area of Concern" by the New Hampshire Department of Environmental Services; and

WHEREAS, the Property protects approximately 3,012 feet along the Cold River, recognized as an important cold water fishery for at least 13 resident fish species including native brook trout and Atlantic salmon, and classified as a Designated River by the State of New Hampshire's Rivers Management and Protection Program for its significant natural, cultural, scenic, and scientific resources; and

WHEREAS, the entire Property consists of prime agricultural soils, as determined by the U.S. Natural Resources Conservation Service; and

WHEREAS, the protection of this Property enhances the magnitude and effect of previously protected lands in Walpole, including the 8.95-acre Lund easement, held by the Monadnock Conservancy and located directly across the Cold River from this Property, as well as the 51.9 acre Ballam Farm easement which is held by the Town of Walpole; and

WHEREAS, the above Purposes are consistent with the clearly delineated open space conservation goals and/or objectives as stated in the 2006 Conservation Plan of the Town of Walpole, which recommends the Town support efforts to “conserve areas categorized as having prime agricultural soils and active farms”; and

WHEREAS, the Property is zoned commercial by the Town of Walpole and is located within one mile of a commercial corridor in which farmland has recently been lost to development; and

WHEREAS the Property has been accepted as “open space land” through the Current Use Taxation Program of the State of New Hampshire and as such the Purposes of this Easement are consistent with New Hampshire RSA Chapter 79-A:1 “Declaration of Public Interest,” which states:

“It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state’s citizens, maintaining the character of the state’s landscape, and conserving the land, water, forest, agricultural, and wildlife resources. It is further declared to be in the public interest to prevent the loss of open space due to property taxation at values incompatible with open space usage. Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens. The means for encouraging preservation of open space authorized by this chapter is the assessment of land value for property taxation on the basis of current use.”

WHEREAS, the Property is located within the New Hampshire/Vermont Lower Connecticut River Important Bird Area, which recognizes the “critical importance of the Connecticut River as a migratory pathway and breeding habitat for a variety of waterfowl and songbirds” such designation as determined by New Hampshire Audubon, the New Hampshire Fish and Game Department, and the University of New Hampshire Cooperative Extension; and

WHEREAS, the protection of the Property is consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

NOW, THEREFORE, the Grantor, for and in consideration of the facts above recited, and of the mutual covenants, terms, conditions and restrictions herein contained, does hereby give, grant, bargain, sell and convey with **WARRANTY covenants** unto the Grantee a **Conservation Easement** (hereinafter referred to as the “Easement”) in perpetuity over the Property of the nature and character and to the extent herein set forth;

and also grants **Third Party Rights of Enforcement** to the **STATE OF NEW HAMPSHIRE** acting through its **DEPARTMENT OF ENVIRONMENTAL SERVICES**, an administrative agency duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 29 Hazen Drive, City of Concord, County of Merrimack, State

of New Hampshire, 03302, (the "Third Party Holder"), as more fully described in Section 15, Third Party Rights of Enforcement.

1. PURPOSES

The Easement is hereby granted pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes (hereinafter referred to as the "Purposes of this Easement"):

A. To prevent any uses of the Property that will significantly impair or interfere with the above described Conservation Values; and

B. To protect the Property's agricultural productivity, including its capacity to produce economically valuable agricultural products; and

C. To protect the Property's prime agricultural soils; and

D. To maintain or improve the quality and sustainable yield of surface and groundwater resources on the Property; and

E. To provide for the scenic enjoyment of the Property by the general public as viewed from public roads and waterways, including New Hampshire Route 12, New Hampshire Route 123, the Cold River Road, and the Cold River; and

F. To provide for pedestrian, outdoor recreational and/or educational use by the general public on the Property; and

G. To protect undeveloped land in close proximity to other permanently conserved land, helping to promote connectivity of habitat.

2. USE LIMITATIONS

Any activity on or use of the Property inconsistent with the Purposes of this Easement is prohibited, subject to the reserved rights specified in Section 3. The Property shall be maintained in perpetuity as open space subject to the following use limitations:

A. There shall not be conducted on the Property any industrial or commercial activities, Agriculture and Forestry as described below, and provided that the productive capacity of the Property to produce forest and/or agricultural crops shall not be degraded by on-site activities.

1. For the purposes hereof, "Agriculture" shall include animal husbandry, floriculture, and horticulture activities; the production of plant and animal products for domestic or commercial purposes; the growing, stocking, cutting, and sale of Christmas trees; and the processing and sale of products produced on the Property (such as pick-your-own fruits and

vegetables and maple syrup), in accordance with sound agricultural practices, which are defined as those that are legal, necessary, and are not detrimental to the Purposes of this Easement.

2. For the purposes hereof, "Forestry" shall refer to the science of silviculture and the practice and art of managing and using for human benefit forestlands and the natural resources that occur in association with forestlands, including trees, other plants, animals, soil, water, and related air and climate; as defined by NH RSA 310-A:99, and as subsequently revised or replaced; and all as not detrimental to the Purposes of this Easement. For the purposes hereof, all Forestry on the Property shall be classified under one of two types, "Commercial Forestry" and "Non-commercial Forestry," as defined hereinafter. Forestry shall be performed using silvicultural practices that enhance or maintain the value of timber while recognizing that the ecological, aesthetic, wildlife, or other non-timber values are important components of the forest. All Forestry shall be carried out in accordance with all applicable local, state, and federal laws and regulations, and in accordance with then current, generally-accepted best management practices for the sites, soils, and terrain of the Property. For references, see Appendix B.

3. For the purposes hereof, "Commercial Forestry" shall include all Forestry and forest management activities performed for commercial or industrial purposes, including barter transactions, excepting, however, that certain types of harvesting of forest products for use by the Grantor, such as lumber and raw material for wood crafts, shall be included in the definition of "Non-Commercial Forestry" in Section 5.A.4. below.

a. Any and all Commercial Forestry shall be performed in accordance with a written "Forest Management Plan". Said plan shall have been prepared not more than ten (10) years prior to the date any Commercial Forestry is expected to commence. Said plan shall be prepared by a licensed professional forester or other qualified person approved in advance and in writing by the Grantee. A copy of said Forest Management Plan shall be provided to the Grantee not less than sixty (60) days prior to the commencement of any Commercial Forestry.

b. If an existing Forest Management Plan is more than ten (10) years old on the date that Commercial Forestry is expected to commence, then the plan shall have been reviewed and updated as necessary by a licensed professional forester or other approved qualified person at least sixty (60) days prior to the date of commencement thereof.

c. A Forest Management Plan and any subsequent updates shall include the required elements set forth in Appendix B, including a statement of the Grantor's objectives, and shall specifically address compliance with the Purposes of this Easement.

d. After the submission of a Forest Management Plan, and at least thirty (30) days prior to commencement of any Commercial Forestry, the Grantor shall provide the Grantee with a written certification, signed by a licensed professional forester or other approved qualified person, stating that the Commercial Forestry will be conducted in a manner consistent with the approved Forest Management Plan and will be supervised by a licensed professional forester or other approved qualified person. All such Commercial Forestry shall then

be so conducted and supervised. Both Grantor and Grantee acknowledge that the Forest Management Plan's purpose is to guide forest management activities in compliance with this Easement, and that the actual activities will determine compliance therewith.

Without limiting the generality of the foregoing, the Grantor and Grantee understand and agree that in order to salvage the market value of timber damaged by fire, flood, wind, ice, infestation, or other acts of nature, it may be necessary for timber harvest activities to deviate from the Forest Management Plan and notification requirements of this Easement. In such circumstances, the Grantor shall notify the Grantee of its proposed salvage activities at least two (2) days prior to commencement thereof.

4. For the purposes hereof, "Non-commercial Forestry" shall include non-commercial or incidentally commercial timber stand improvement activities and the cutting or harvesting of wood products for the domestic use of or sale by the Grantor, such as clearing trees to maintain the edge of a field, thinning the forest stand to maintain a view, cutting fuel wood for domestic consumption, or harvesting wood products in connection with wood crafts or the construction of permitted structures or improvements. In lieu of preparing a Forest Management Plan, all Non-commercial Forestry shall be documented in and conducted in accordance with a "Forest Management Summary" (template in Appendix C) which shall be consistent with the Purposes of this Easement, and which shall be prepared annually by the Grantor or the Grantor's designee and submitted to the Grantee and updated as necessary (for example, upon a change in the Grantor's management objectives or transfer of the Property to a new owner).

B. For the purposes hereof, the Riparian Buffer ("Buffer") is defined as the area within ten (10) feet of the Cold River, as measured landward from the top of the bank, in addition to the embankment sloping from the top of the bank to the low water mark of the river, as it may migrate naturally from time to time.

1. Within the Buffer, there shall be no disturbance of vegetation except as may be necessary for the purposes: bank stabilization, erosion control, control of invasive or non-native species, cutting or removal of diseased vegetation, wildlife habitat management, or low-impact, non-motorized recreation, subject to review and approval by the Grantee, as set forth in Section 6.B.

2. Perform other activities, provided that such uses are not detrimental to the Purposes of the Easement, subject to review and approval by the Grantee, as set forth in Section 6.B.

C. The Property shall not be subdivided into separate parcels, and none of the component tracts which may comprise the Property shall be conveyed separately from one another. Notwithstanding the foregoing, the following shall not be considered violations of this Easement: the granting of mortgages, life estates, or partial ownership interests among multiple persons or entities, so long as all such transactions relate to the entire Property and not to component portions thereof, and so long as no action is taken which violates the Purposes of this Easement. A lease of all or a portion of the Property for a use permitted hereby shall not be considered a violation of this Easement.

D. No structure or improvement, including, but not limited to, a dwelling, a cabin, an office, driveway, tennis court, golf course, athletic field, swimming pool, dock, aircraft landing strip, tower, or mobile home, shall be constructed, placed, or introduced onto the Property. However, ancillary structures and improvements including, but not limited to, a barn, shed, maple sugar house, permeable roads and trails, dam, fence, bridge, or culvert may be constructed, placed, or introduced onto the Property and then maintained and repaired, but only as necessary in the accomplishment of the on-site agricultural, forestry, conservation, habitat management, or non-commercial outdoor recreational uses of the Property, and provided that they are not detrimental to the Purposes of this Easement. Any such construction of an ancillary structure or improvement on the Property that exceeds one hundred (100) square feet in ground area shall be subject to the notification requirements set forth in Section 6.B.

E. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface, or sub-surface water systems, wetlands, or natural habitat shall be allowed unless such activities:

1. are commonly necessary in the accomplishment of the agricultural, forestry, conservation, habitat management, or non-commercial outdoor recreational uses of the Property; and

2. do not harm state or federally recognized rare, threatened, or endangered species or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and/or natural communities; and

3. are not detrimental to the Purposes of this Easement.

F. No signs of any kind shall be erected or displayed on the Property except those that are desirable or necessary in the accomplishment of the water supply, agricultural, forestry, conservation, or non-commercial outdoor recreational uses of the Property; or are desirable or necessary for public safety; provided, however, that the Grantor may erect and maintain boundary markers, directional signs, memorial plaques, temporary signs indicating that the Property is for sale or lease, signs informing the public that agricultural or timber products are for sale or are being grown on the Property, and signs indicating the name of the Property.

G. No mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials shall be allowed on the Property, except as reasonably necessary to carry out any improvements made pursuant to and consistent with the provisions of Sections 2.A, B, C, D, or E, above and provided that such activities on the Property shall have a limited and localized impact on the Property, as determined at the sole discretion of the Grantee, and shall not be irretrievably destructive of or detrimental to the Purposes of this Easement. The Property shall be restored to its original state within a reasonable time after cessation of use

permitted by this Section 2.F. In no case shall any rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Property. There shall also be no drilling, pumping or mining of subsurface oil, gas, or other minerals permitted on the Property. This right to disturb the earth's surface is subject to the notification and approval requirements set forth in Section 6.B below.

H. There shall be no dumping, injection, burning, storage, or burial of man-made materials, wastes generated off the Property or materials then known to be environmentally hazardous. Further, no such materials shall be stored or applied on the Property except in conjunction with any of the water supply, agricultural, forestry, conservation, noncommercial outdoor recreation, or educational uses of the Property, and provided such uses are not detrimental to the Purposes of this Easement.

I. The Property shall in no way be used to satisfy the density requirements of any applicable zoning ordinance or subdivision regulation with respect to the development of any other property.

J. No defacement, movement, removal, or alteration of any stone walls or other monuments or markers that serve as legal boundaries shall be allowed, as per New Hampshire RSA 472:6, or as the legal boundary of this Easement as described in Appendix A.

K. No posting shall be allowed to prohibit the public from accessing and using the Property for pedestrian, outdoor recreational and educational purposes including, but not limited to walking, hiking, snowshoeing, cross-country skiing and nature observation, except as provided for in Section 3.A below. The Grantee shall be under no duty to supervise said access, use or purpose.

L. No rights of way or easements of ingress or egress in favor of any third party shall be created or developed into, on, over, or across the Property without the prior written approval of the Grantee, except those of record as of the execution of this Easement.

3. RESERVED RIGHTS OF THE GRANTOR

All uses of the Property not expressly prohibited herein and not inconsistent with the Purposes of this Easement are expressly reserved to the Grantor, subject to the notification requirements, if applicable, set forth in Section 6.B. These uses include, without limitation, the following:

A. Posting

1. To post the Property against public access which shall be based upon, but not be limited to, considerations such as sensitivity of natural areas, whether prior use of areas has led to degradation of the conservation features, whether areas are prone to vandalism or disposal of trash or debris, and whether areas pose a threat to public safety.

2. To post areas of the Property against public access and use for purposes other than those permitted by Section 2.K., including, but not limited to camping, hunting or the use of motorized recreational vehicles; as well as against public access and use of agricultural cropland and lands actively used by livestock; and of forestland during harvesting or other active forest management operations such as planting and thinning of trees and construction or maintenance of woods roads.

3. To post the Property against access and use by the public within 300 feet of any buildings located in the "Exclusion Area" shown on a certain plan entitled, "Plan Showing Conservation Easement Property of Donald H. Wood, Jr.", by DiBernardo Associates, recorded at a near or even date with this Easement.

B. Utilities

Subject to the notification and approval requirements set forth in Section 6B, Grantor may maintain, utilize, repair, improve, replace and relocate the utilities existing on the Property at the time of the execution of this Easement, such utilities being documented in the Baseline Documentation.

C. Septic System

Subject to the notification and approval requirements set forth in Section 6.B, Grantor may construct, maintain, relocate, improve, and use a state-approved septic system in whole or in part on the Property for the sole purpose of serving the residential use of the Grantor's exclusion area, as shown on the plan described in Appendix A, and only to the extent that there are physical or legal constraints which do not allow a septic system to be constructed and maintained within the exclusion area, such constraints to be determined by a licensed septic designer, retained at the Grantor's sole cost and expense.

D. Community Water Supply

The Grantor reserves the right to withdraw groundwater on a sustainable yield basis and to remove said groundwater from the Property only for the purpose of providing a public water system, as defined by NH RSA 485:1-a, XV, as it may be amended from time to time. "Sustainable yield" shall mean a rate of annual water withdrawal that does not cause adverse impacts to water resources or users. Withdrawal or removal of groundwater for private commercial purposes not served by a public water system is expressly prohibited.

1. **Test Wells.** Prior to drilling test wells on the Property, the Grantor shall submit a Test Well Site Plan to the Grantee for review and approval. Said plan shall identify the proposed locations and access for the test wells and identify the steps to be taken to minimize damage to the Property and Purposes of this Easement. The Grantor shall include in the Test Well Site Plan a restoration plan that addresses remediation of the impacts associated with the test wells and associated improvements.

a. The Grantee shall limit its review of the Test Well Site Plan to the proposed access and restoration plan components and either approve, approve with conditions, or deny those components of the Test Well Site Plan within thirty (30) days of receipt of the request. The Grantee shall not unreasonably withhold such approval.

b. The Grantor is encouraged to communicate regularly and openly with the Grantee as it develops its Test Well Site Plan.

c. In the event that if after two (2) years from the date of installation of the test wells, the Grantor has not submitted a Construction Proposal per administrative rules Env-Dw 404.02, as may be amended, to the State of New Hampshire, then the Grantor shall initiate the restoration plan at his expense and complete it within six (6) months. The Grantor may request extensions from the Grantee for implementing and completing the restoration plan which the Grantee may grant at its discretion.

2. Facilities and Improvements. For the purposes hereof, permitted activities in conjunction with a groundwater withdrawal development project shall consist of the installation, maintenance, monitoring, and replacement of test wells, long-term water production wells, monitoring wells, monitoring stations, pumping stations, and ancillary improvements such as, but not limited to, permeable-surface roads, signs, electric utilities necessary to power the pumps and related equipment, pipes, conduits, and security facilities, but only if they are required to be located on the Property. To the extent that said facilities and improvements must be located on the Property, those facilities and improvements shall, to the maximum extent possible, be located so as to minimize the impact to and disturbance of the Property and the Purposes of this Easement, and are subject to the prior written approval of the Grantee, as outlined below. Other major facilities including, but not limited to, storage tanks, shipping facilities, non-permeable pavement, and office and laboratory facilities for employees shall not be located within the Property.

a. Prior to submitting a Construction Proposal per administrative rules Env-Dw 404.02, as may be amended, for approval by the appropriate State of New Hampshire agency, the Grantor shall submit to the Grantee for approval the following information and plans (hereinafter, collectively referred to as "Site Plans") in appropriate format (e.g., documents, maps, plans, specifications, and designs) sufficient to identify the location and design of any proposed facilities or improvements on the Property, including but not limited to temporary or permanent well sites, pumping stations, and ancillary improvements such as but not limited to access ways/roads, signs, electric utilities, pipes, conduits, and security facilities and the provisions to minimize disturbance and impacts to the Property and Purposes of this Easement during and after installation and operation of the ground water withdrawal development project for the public water system.

b. The Grantee shall approve, approve with conditions, or deny the proposed Site Plans in writing within sixty (60) days of its receipt and base its decision on the impacts to the Property and the Purposes of this Easement. The Grantee shall not unreasonably withhold such approval.

c. The Construction Proposal submitted to the State of New Hampshire shall accurately reflect the Site Plans approved by the Grantee.

d. Upon completion of the ground water withdrawal development project, the Grantor shall submit an "as built" Site Plan to the Grantee.

e. Any proposal to expand, enlarge or relocate facilities and improvements related to groundwater withdrawal shall require the approval of the Grantee in accordance with process and procedure in Section 3.D.2. a-d above. This provision does not apply to increases in water withdrawal rates or amounts or to maintenance or repair of said facilities and improvements.

f. If the groundwater wells and associated facilities and improvements are no longer used and there is no feasible plan for their eventual reuse, the Grantor shall undertake the restoration of the site in consultation with the Grantee.

3. **Compliance with Law.** Activities taken by the Grantor in execution of the groundwater withdrawal right herein shall comply with all applicable federal, state and local requirements, including but not limited to requirements associated with public water supply, water withdrawals, and water discharges, and the Grantor shall obtain any associated and requisite approvals from said agencies and abide by the conditions of said approvals.

4. The Grantor shall provide to the Grantee a copy of any application for renewal, and any subsequent approval by the State, of the groundwater withdrawal permit.

E. Motorized vehicles

The Grantor shall not use motor vehicles or grant permission for motorized vehicle use on the Property except for as necessary in the accomplishment of water supply, forestry, habitat management, law enforcement and public safety, and other uses of the Property, insofar that such uses are not detrimental

1. Only on snow and ice outside the sanitary protective area of public water supply well(s);

2. More than two hundred (250) feet from a surface water body being used as a public water supply;

3. More than one hundred (100) feet from tributaries contributing to such water bodies; except when crossing such tributaries; and

4. Only on designated snowmobile trails depicted on a plan approved by the Grantee and the State of New Hampshire Department of Environmental Services in accordance with administrative rules Env-Dw 1002.25.

4. AFFIRMATIVE RIGHTS OF THE GRANTEE

A. The Grantee shall preserve and protect the conservation values of the Property.

B. The Grantee shall have reasonable access to all portions of the Property for such inspection as is necessary to determine compliance with and to enforce this Easement and exercise

the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement; however, the Grantee shall have no obligation to provide for supervision or maintenance of the Property, including, without limitation, trails, bridges, railings, walkways or other improvements thereon; or any liability resulting from such supervision or maintenance or the lack thereof; and the Grantee shall have no obligation to pay any taxes, assessments, fees, charges, or expenses in connection with the Property.

C. The Grantee shall have the right to place signs on the Property boundaries for the purpose of identifying it as conservation easement land protected by the Grantee.

5. GRANTEE OBLIGATIONS

This Easement has been acquired in part with funds from the New Hampshire Drinking Water and Groundwater Trust Fund. Accordingly, the Grantee shall henceforth provide annual stewardship reports to the Third Party Holder meeting the requirements set forth in N.H. Administrative Rule Env-Dw 1002.26.”

6. NOTIFICATION OF TRANSFER AND OTHER ACTIVITIES

A. The Grantor agrees to notify the Grantee in writing at least thirty (30) days before the transfer of title to the Property, or any interest therein, and shall provide the Grantee with a copy of the proposed deed thereof.

B. Unless otherwise specifically provided in this Easement, at least thirty (30) days before commencement of any construction or other activities related to the Grantor's Reserved Rights with respect to the Property, or before commencement of any construction of qualified ancillary structures or improvements as described in Section 2.D, or before any disturbing of the earth's surface as described in Section 2.G, the Grantee shall have received from the Grantor a written plan, describing or showing, as appropriate, the nature and location of the proposed physical changes, improvements, or activities to or on the Property in conjunction therewith, copies of any necessary state or local permits or approvals, and the overall scope of the proposal in relation to the Purposes of this Easement. Within thirty (30) days after the Grantee's receipt of such information and any supplemental information reasonably requested by the Grantee, the Grantee shall approve or disapprove the plan and so inform the Grantor in writing. Approval shall not be unreasonably withheld, and any disapproval shall specify in detail the Grantee's objections and the reasons therefor. Notwithstanding the foregoing requirements this provision shall not apply to plans for routine maintenance or repairs of existing or approved structures or improvements.

7. BENEFITS, BURDENS

A. The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which

organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of protecting the Purposes of this Easement and has the resources to enforce the provisions of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

B. The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof, and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the Purposes of this Easement.

8. SEVERABILITY

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

9. EXTINGUISHMENT AND CONDEMNATION

A. **Termination or Extinguishment.** If circumstances arise in the future that render the Purposes of this Easement impossible to accomplish through the exercise of the parties' best reasonable efforts, this Easement may only be terminated or extinguished, whether with respect to all or part of the Property, by judicial proceedings in a New Hampshire court of competent jurisdiction. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Property (or any other property received in connection with an exchange or involuntary conversion of the Property) after such termination or extinguishment, and net of any costs or expenses associated with such sale, Grantor and Grantee shall divide the proceeds from such sale in accordance with their respective percentage interests in the fair market value of the Property, as such percentage interests are determined under the provisions of Section 9.C herein, adjusted, if necessary, to reflect a partial-termination or extinguishment of this Easement. All such proceeds received by Grantee shall be used by Grantee in a manner consistent with the conservation Purposes of this Easement.

B. **Condemnation.** If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Easement conveyed hereby, or if all or any part of the Property is otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of the interests in the Property subject to the taking and all incidental or direct damages resulting from the taking. All expenses reasonably incurred by the parties to this Easement in connection with such taking shall be paid out of the recovered proceeds. Grantor and Grantee shall be respectively entitled to compensation from the balance of the recovered proceeds in conformity with the provisions of Sections 9.A and 9.C (with respect to the allocation of proceeds). The respective rights of Grantor and Grantee set forth in this Section 9.B shall be in addition to, and not in limitation of, any rights they may have at common law. All such proceeds received by Grantee shall be used by Grantee in a manner consistent with the conservation Purposes of this Easement.

C. Percentage Interests. This Easement constitutes a real property interest immediately vested in the Grantee that entitles the Grantee to compensation upon the extinguishment or condemnation of any portion of the Easement. For purposes of this Section 9.C, the parties hereto stipulate that as of the grant of this Easement, the Easement and the restricted fee interest in the Property each represent a percentage interest in the fair market value of the Property. Said percentage interests shall be determined as follows:

1. If the Grantor claims a deduction for federal income tax purposes allowable by reason of the grant of this Easement, the aforementioned percentage interests of the parties shall be determined by the ratio of the fair market value of the Easement on the date of this grant to the fair market value of the Property as a whole, without deduction for the value of the Easement, on the date of this grant. For purposes of this paragraph, the aforementioned ratio and the parties' corresponding percentage interests shall remain constant.

2. If the Grantor does not claim a deduction for federal income tax purposes allowable by reason of the grant of this Easement, in the event of an extinguishment, termination, or condemnation of this Easement pursuant to this Section 9, the aforementioned percentage interests of the parties in the fair market value of the Property shall be determined as of the date of said extinguishment, termination, or condemnation by an appraisal prepared by a qualified appraiser and obtained by the Grantor at his or her expense, which shall be submitted to and approved by the Grantee prior to division of the proceeds.

3. The New Hampshire Drinking Water and Groundwater Trust Fund shall be entitled to 64.4% of the net proceeds received by the Grantee, which is based on the proportionate value of the funder contributed to the purchase price.

10. ADDITIONAL EASEMENT

A. Should the Grantor determine that the expressed Purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Grantor may execute an additional instrument to that effect, provided that the Purposes of this Easement are not diminished thereby and that a public agency or qualified organization described in Section 7 accepts and records the additional easement.

B. Prior to conveyance of any such additional easement, the Grantor shall give the Grantee at least thirty (30) days written notice thereof, including therein a copy of the proposed easement document. Within thirty (30) days after the Grantee's receipt of such notice, and any supplemental information reasonably requested by the Grantee, the Grantee shall approve or disapprove the proposed additional easement, and so inform the Grantor in writing. Any disapproval shall specify in detail the Grantee's objections and the reasons therefor.

11. RESOLUTION OF DISPUTES

A. The Grantor and the Grantee desire and agree that disputes arising from time to time concerning the provisions of this Easement will first be addressed through candid and open

communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantor and the Grantee agree that if either party becomes concerned whether any use, action, or inaction complies with the provisions of this Easement, the concerned party shall notify the other party of the problem, and the parties shall attempt to reach an agreeable resolution by informal dialogue.

B. If informal dialogue does not resolve the dispute, either party may refer the dispute to mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the parties shall agree on a single impartial mediator. Mediation shall be conducted in Keene or Peterborough, New Hampshire, or such other location as the parties shall agree. Each party shall pay its own legal fees and other costs, and the costs of mediation shall be split equally between the parties.

C. If the parties agree to bypass mediation, or if they subsequently agree that mediation will not successfully resolve the dispute, the parties may agree to submit the dispute to binding arbitration in accordance with New Hampshire RSA 542. Within twenty (20) days of the agreement to arbitrate, the parties shall agree to one single arbitrator. If unable to agree on one single arbitrator, each party shall choose one arbitrator. The two arbitrators so chosen shall in turn choose a third arbitrator within twenty (20) days of the selection of the second arbitrator. The arbitrator or arbitrators, as the case may be, shall forthwith set as early a hearing date as is practicable. The arbitration hearing shall be conducted in Keene or Peterborough, New Hampshire, or such other location as the parties shall agree. A decision by the single arbitrator or by two of the three arbitrators, as the case may be, may include an award of legal fees and other costs and shall be binding upon the parties. Either party may obtain judicial enforcement of the decision in a court of competent jurisdiction.

D. Notwithstanding the availability of mediation and arbitration to address disputes, if either party refuses mediation or arbitration, then either party may bring an action at law or in equity in any court of competent jurisdiction to address the dispute. Such action may include seeking a temporary or permanent injunction, recovering damages, or obtaining other relief as appropriate.

E. Notwithstanding any of the foregoing, if the Grantee believes at any time that any action or inaction of the Grantor or a third party is causing or is threatening to cause irreparable damage to the Property in breach of the Easement, the Grantee may pursue its remedies under Section 12, "Breach of Easement."

12. BREACH OF EASEMENT

A. If the Grantee determines that a breach of this Easement has occurred or is threatened, the Grantee shall notify the Grantor in writing of such breach and the action that the Grantee requires the Grantor to take in response, which may include a demand to cure or prevent the breach and, where the breach involves damage to the Property, to restore the damaged Property.

B. The Grantor shall, within thirty (30) days after receipt of such notice, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken hereunder.

C. If the Grantor fails to perform its obligations under paragraph 11.B, the Grantee may undertake any actions that are reasonably necessary to repair any damage or to cure or prevent such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by temporary or permanent injunction, and to restore the damaged Property.

D. Notwithstanding the availability of any and all other legal remedies, if the Grantee determines that the conservation values protected by this Easement are in immediate danger of irreparable damage, the Grantee may pursue any and all of its remedies under this Section, "Breach of Easement," without prior notice to the Grantor or without waiting for the period provided for cure to expire.

E. The Grantee shall be entitled to recover damages from the party directly or primarily responsible for a breach of this Easement or damage to any conservation values protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, or environmental attributes of the Property. Without limiting the Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

F. Provided that the Grantor is directly or primarily responsible for the breach, all reasonable costs incurred by the Grantee in enforcing the terms of this Easement against the Grantor, including, without limitation, staff and consultant costs, reasonable legal fees, and any costs of restoring the damaged Property, shall be borne by the Grantor; and provided further, however, that if the Grantor ultimately prevails in a judicial enforcement action, each party shall bear its legal fees and other costs. Notwithstanding the foregoing, if the Grantee initiates litigation against the Grantor to enforce this Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Grantee to reimburse the Grantor's reasonable legal costs and other costs in defending the action.

G. Forbearance by the Grantee in exercising its rights under this Section, "Breach of Easement," or recourse by the Grantee to the remedies available under Section 11, "Resolution of Disputes," shall not be construed to be a waiver of the Grantee's rights hereunder. No delay or omission by the Grantee in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. The Grantor hereby waives any defense of laches or estoppel.

H. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any damage to or change in the Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, disease, infestation and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant damage to the Property resulting from such causes. The Grantee and the Grantor reserve

the right, separately or collectively, to pursue all legal and/or equitable remedies, as set forth in this Section, "Breach of Easement," against any third party responsible for any actions inconsistent with the provisions of this Easement.

13. AMENDMENT

If the Grantor and Grantee agree that an amendment to or modification of this Easement would be appropriate and desirable to take account of unforeseen or changed circumstances, the Grantor and Grantee may amend this Easement in accordance with the then current amendment policies of the Grantee, and applicable state and federal law. Any amendment shall be consistent with the Purposes of this Easement, and shall not impair the conservation attributes of the Property protected by this Easement. No amendment shall affect the qualification of this Easement or the status of the Grantee under any applicable laws, including Section 170(h) or Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or NH RSA 477:45-47, nor shall any amendment affect the perpetual duration of this Easement. Any amendment shall be executed by the Grantor and the Grantee, and shall be recorded in the Cheshire County Registry of Deeds.

14. NO EXTINGUISHMENT THROUGH MERGER

Grantor and Grantee herein agree that should The Monadnock Conservancy (or any successor in interest to The Monadnock Conservancy) come to own all or a portion of the fee interest subject to this Easement, (i) said owner shall observe and be bound by the obligations and the restrictions imposed upon the Property by this Easement, (ii) this Easement shall not be extinguished through the doctrine of merger in whole or in part in view of the public interest in its enforcement, and (iii) said owner as promptly as practicable shall assign the Grantee interest in this Easement of record to another holder in conformity with the requirements of Section 7 hereof. The instrument of assignment shall refer to the provisions of this Section 14, and shall contain confirmatory language suitable to reimpose this Easement to the extent, if any, necessary to continue it in force.

15. THIRD PARTY RIGHTS OF ENFORCEMENT

A. If the Grantee ceases to enforce the Easement conveyed hereby or fails to enforce it within thirty (30) days after receipt of written notice from the Third Party Holder requesting such, then the notifying Third Party Holder shall have all the rights heretofore granted to the Easement Holder to enforce this Easement and be entitled to recover the costs of such enforcement from the Landowner or Grantee or both. In exercising its rights of enforcement, the Third Party Holder shall be exempt from the provisions of Section 11.

B. The interests held by the Third Party Holder are assignable or transferable to any party qualified to become the Grantee or Third Party Holder's assignee or transferee as specified in Section 7 above. Any such assignee or transferee shall have like power of assignment or transfer.

16. SOVEREIGN IMMUNITY

Nothing herein shall be construed as a waiver of sovereign immunity by the State of New Hampshire, such immunity being hereby specifically reserved. If the interests held by the State of New Hampshire herein are assigned or transferred to a qualified party other than the State of New Hampshire or agency thereof, as allowed by Section 15 above, this Section 16 ("Sovereign Immunity") shall not apply to the assignee or transferee.

17. LIBERAL CONSTRUCTION

Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed so as to effectuate the Purposes of this Easement and the policy and purposes of NH RSA 477:45-47. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes of this Easement that would render the provision valid and reasonable shall be favored over any interpretation that would render it invalid or unreasonable.

18. CERTIFICATION

The undersigned Individual and Trustee of the **DONALD H. WOOD, JR. (CHIP) REVOCABLE TRUST** dated September 26, 2013 (the "Trust"), hereby certifies that the Trust remains in full force and effect; that he is the sole Trustee of the Trust; that he has full and absolute power under the Trust to convey any interest in real estate and improvements thereon held in the Trust; and that no purchaser or third party shall be bound to inquire whether the Trustee has said power or is properly exercising said power, that the terms and conditions of the Trust have been complied with in connection with the foregoing conveyance, or to see to the application of any asset or other consideration paid to the Trustee for conveyance thereof.

The Grantor hereby waive his rights of homestead as to the interests conveyed in the Property.

IN WITNESS WHEREOF, the parties have executed this deed on the dates so indicated.

Donald H. Wood, Jr., Individually and as Trustee
of the Donald H. Wood, Jr. (Chip) Revocable Trust
dated September 23, 2013.

date

STATE OF NEW HAMPSHIRE
COUNTY OF CHESHIRE

The foregoing instrument was acknowledged before me this ____ day of _____,
2019 by Donald H. Wood, Trustee of the Donald H. Wood (Chip) Revocable Trust dated
September 26, 2013.

Notary Public/Justice of the Peace

Print name

My commission expires:

(Notary Seal)

ACCEPTED: The Monadnock Conservancy

By:

Monica O. Lehner

date

Duly Authorized President of The Monadnock Conservancy, on its behalf.

STATE OF NEW HAMPSHIRE
COUNTY OF CHESHIRE

The foregoing instrument was acknowledged before me this ___ day of _____, 2019
by Monica O. Lehner.

Notary Public/Justice of the Peace

Print name

My commission expires:

(Notary Seal)

ACCEPTED BY THIRD PARTY HOLDER:

The New Hampshire Department of Environmental Services

By: _____

Date: _____

Name (print) _____

Title: _____

Duly Authorized _____ of the New Hampshire Department of Environmental Services, on its behalf.

STATE OF NEW HAMPSHIRE
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____,
2019 by _____.

Notary Public/Justice of the Peace

Print name
My commission expires:

(Notary Seal)

APPENDIX A
Property Description

The "Property" is that certain area of land located in the Town of Walpole, County of Cheshire, State of New Hampshire; on the easterly side of New Hampshire Route 12, the southerly, westerly, and easterly sides of New Hampshire Route 123, and the southerly side of the Cold River Road; consisting of 27.8 acres, and being shown as "Tax Map 26, Lot 20" and a portion of "Tax Map 26, Lot 21" on the plan (the "Plan") entitled, "PLAN SHOWING CONSERVATION EASEMENT PROPERTY OF DONALD H. WOOD, JR., 7 WHITNEY ROAD, PLAINFIELD, NH 03781, TAX MAP 26 LOTS 20/21", prepared by DiBernardo Associates, LLC, the Plan being recorded at near or even date as this Easement at the Cheshire County Registry of Deeds (the "Registry") as follows:

Meaning and intend to convey a conservation easement on a portion of the premises conveyed to Grantor by quitclaim deed of Donald H. Wood, Trustee of the Donald H. Wood, Jr. (Chip) Revocable Trust dated September 26, 2013, said deed recorded at the Registry at Book 2950, Page 1004 on July 6, 2016.

The conservation easement is conveyed subject to the following:

1. Lien for current use taxation under RSA 79-A, recorded in the Registry, Volume 1254, Page 743.
2. Easement to New England Power Company recorded in the Registry, Volume 428, Page 311.
3. Easement to New England Telephone and Telegraph Company recorded in the Volume 632, Pages 319-320.

APPENDIX B
Required Forest Management Plan Elements and Examples of References

I. FOREST MANAGEMENT PLAN ELEMENTS

The Forest Management Plan shall include, at a minimum, the following elements:

- A. The Property's current owner(s), including their then current mailing address and telephone number(s),
- B. The Property tax assessor's map number and lot/parcel number, the Property's total acreage, and acreage subject to this, or any other, restriction or easement;
- C. The Property's fee deed book and page from the Cheshire County Registry of Deeds;
- D. A history of the Property and its management, including forestry or agricultural activities engaged in during the previous ten (10) years;
- E. A description of the owner's management objectives and practices over the next ten (10) year period;
- F. An inventory of forest resources, including species, quality, age class distributions, growth rates, potential harvest volumes and values;
- G. A forest stand map: an appropriately scaled and accurate map, which shall delineate the Property's boundaries, forest types, estimated locations of any threatened or endangered animal and plant species, unique (geological, hydrological, historical, and cultural) features, existing roads and other means of access to the Property, soil types, topography, and aspect;
- H. A description of the specific practices and actions to be followed, including those taken during timber harvests, to address all applicable Purposes outlined in Section 1 of the easement deed, including without limitation site-specific practices such as locations of stream crossings, buffers for sensitive areas, and proposed roads;

2. REFERENCES

Examples of references to be used in forestry practices include:

- * "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire" (J.B. Cullen, 1996 or as subsequently revised and updated).
- * "Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire" (The Good Forestry in the Granite State Steering Committee, 2010 or as subsequently revised and updated).
- * "Best Management Practices for Forestry: Protecting New Hampshire's Water Quality" (J.B. Cullen, et. al., 2005 or as subsequently revised and updated).
- * "A Guide to Logging Aesthetics: Practical Tips for Loggers, Foresters, and Landowners" (Geoffrey Jones, 1993).
- * "Guide to New Hampshire Timber Harvesting Laws" (UNH Cooperative Extension, August 2004 or as subsequently revised and updated).
- * "Ensuring Sustainable Forestry Through Working Forest Conservation Easements in the Northeast: A Forest Guild Perspective" (Robert T. Perschel, Forest Guild, June 2006).
- * "Natural Communities of New Hampshire" (Daniel D. Sperduto and William F. Nichols, New Hampshire Natural Heritage Bureau and The Nature Conservancy, 2004).
- * "Crop Tree Management in Eastern Hardwoods" (USDA, Northeastern Area State and Private Forestry, Pub. NA-TP-19-93).
- * "New England Wildlife: Habitat, Natural History, and Distribution" (Richard M. DeGraaf and Mariko Yamasaki, 2000).
- * "Landowner's Guide to Wildlife Habitat – Forest Management for the New England Region" (DeGraaf, R.M., M. Yamasaki, W.B. Leak and A.M. Lester, 2005).
- * "Introduction to Forest Ecology and Silviculture" (Thom J. McEvoy, Extension Forester, University of Vermont, October 1995).

Attachment B

Map of MC-Wood Project (North Walpole)

