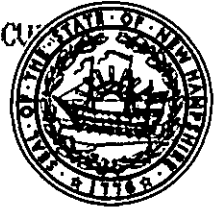




The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



dam
54

November 30, 2020

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 Southeast Land Trust of New Hampshire (hereinafter "SELT"), (VC#155425-B001), in the amount of \$250,000, to acquire a conservation easement on 220 acres of land in Auburn to protect Lake Massabesic, Manchester's drinking water supply, effective upon Governor and Council approval through June 30, 2021. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the following account:

03-44-44-442010-3904-073-500580	<u>FY 2021</u>
Dept Environmental Services, DWGW Trust, Grants Non-Federal	\$250,000

EXPLANATION

The Drinking Water and Groundwater Trust Fund (Trust Fund) was created in 2016, using \$276 million of MtBE trial judgment 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 (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 9, 2019, the Advisory Commission voted to authorize grants for seven drinking water source protection projects. SELT's request for \$250,000 was selected for grant funding from the Trust Fund. SELT will use the grant funds to acquire a conservation easement on approximately 220 acres of land in the Lake Massabesic watershed.

The total project cost for SELT to acquire the conservation easement is \$1,421,790. The DWGTF will provide \$250,000 with \$1,171,790 in other funds provided by SELT. 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 draft conservation easement. The Attorney General's office has approved the attached draft conservation easement 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 water supply source being protected.

We respectfully request your approval.

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner


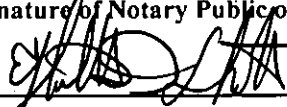
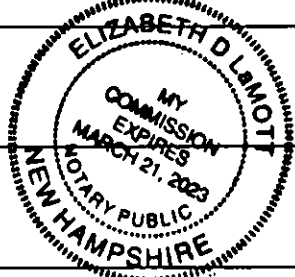
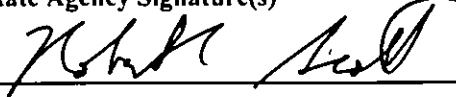
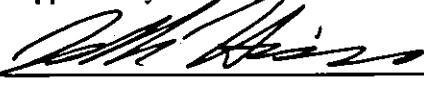
Subject: Grant Agreement for a NH Drinking Water and Groundwater Trust Fund Grant

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: Southeast Land Trust of New Hampshire		1.4 Grantee Address 6 Center Street, Exeter, NH 03833	
1.5 Effective Date Upon G&C approval	1.6 Completion Date 6/30/2021	1.7 Audit Date N/A	1.8 Grant Limitation \$250,000
1.9 Grant Officer for State Agency Sandra Crystall NH Department of Environmental Services		1.10 State Agency Telephone Number (603) 271-2862	
1.11 Grantee Signature 		1.12 Name & Title of Grantee Signor Brian Hart, Executive Director	
1.13 Acknowledgment: State of <u>New Hampshire</u> , County of <u>Rockingham</u> On <u>8/23/2020</u> before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven 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 & Title of Notary Public or Justice of the Peace <u>Elizabeth D. LaMott Notary Public</u>			
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>11/25/2020</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

Southeast Land Trust of New Hampshire

Southeast Land Trust of New Hampshire (SELT) will use the grant to acquire a conservation easement on 220 acres of land, 130 acres of which is in the protection area of the City of Manchester's drinking water source. SELT will hold the conservation easement. The parcel of land, identified on the Auburn tax records as Map 11 Lot 19 and the Candia tax records as Map 413 Lot 10-2 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 \$250,000 shall be made to SELT 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 \$1,171,790 provided by SELT.
7. The finalized conservation easement deed.

Grantee Initials

Date

Qsk
8/28/20

EXHIBIT C

SPECIAL PROVISIONS

1. Subparagraph 1.7 of the General Provisions shall not apply to this Grant Agreement.
2. Section 17.1.2. is amended so that the required comprehensive general liability insurance per occurrence is \$1,000,000 for bodily injury or death in any one incident as no construction or other similar activities will be performed by the grantee. Any subcontractor will remain obligated to carry comprehensive general liability insurance in amounts not less than \$250,000 per claim and \$2,000,000 per occurrence.

Grantee Initials

Date

GA
6/28/20

CERTIFICATE of AUTHORITY

I, Samuel Reid, President of the Southeast Land Trust of New Hampshire, do hereby certify that:

1. I am the duly elected President of the Southeast Land Trust of New Hampshire;
2. The Southeast Land Trust of New Hampshire has agreed to accept the New Hampshire Department of Environmental Service's Aquatic Resource Mitigation grant funds and Drinking Water & Groundwater Trust Fund grant funds and to enter into contracts with the New Hampshire Department of Environmental Services for the Murray Mill Brook and Sanborn projects, respectively, in Auburn & Candia, NH;
3. The Board for the Southeast Land Trust of New Hampshire further authorized the Executive Director 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. Brian Hart has been appointed to and now occupies the office indicated in (3) above:

IN WITNESS WHEREOF, I have hereunto set my hand as the President of the Southeast Land Trust of New Hampshire, on August 27, 2020.

Samuel Reid, President
Samuel Reid, President

STATE OF NEW HAMPSHIRE

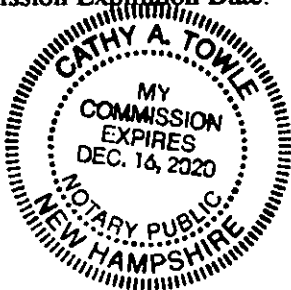
COUNTY OF STRAFFORD

On this the 27th day of August 2020, before me, Cathy A. Towle, the undersigned officer, personally appeared Samuel Reid who acknowledged him 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.

Cathy A Towle
Notary Public Signature

Commission Expiration Date:
(Seal)



State of New Hampshire

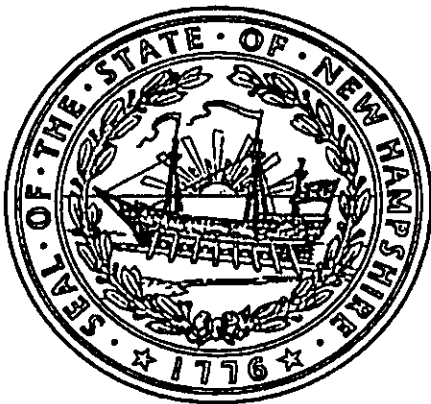
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SOUTHEAST LAND TRUST OF NEW HAMPSHIRE is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on March 21, 1980. 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: 64227

Certificate Number: 0005043200



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 16th day of November A.D., 2020.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State



SOUTLAN-01

AHILL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/26/2020

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: Anna Hill	
	PHONE (A/C, No, Ext): (703) 397-0977	FAX (A/C, No): (703) 397-0995
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Federal Insurance Company	NAIC # 20281
INSURED Southeast Land Trust of New Hampshire PO Box 675 Exeter, NH 03833	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 INSD	SUBR 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 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			35790421	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
							MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ Included
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			(20) 7360-66-93	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$
							AGGREGATE \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	(21) 7170-62-57	1/1/2020	1/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
							E.L. EACH ACCIDENT \$ 500,000
							E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

NH Department of Environmental Services
PO Box 95
Concord, NH 03302

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 within conveyance is a transfer to a New Hampshire municipality and to the State of New Hampshire and is therefore exempt from the New Hampshire Real Estate Transfer Tax pursuant to RSA 78-B:2(I) and exempt from the LCHIP surcharge pursuant to RSA 478:17-g(II)a.

CONSERVATION EASEMENT DEED

I, **ROBERT SANBORN**, having and address of 515 Dearborn Road, Town of Auburn, County of Rockingham, State of New Hampshire, 03032, (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),

for consideration paid, with WARRANTY covenants, grant in perpetuity to

the **SOUTHEAST LAND TRUST OF NEW HAMPSHIRE**, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 6 Center Street, PO Box 675, Town of Exeter, County of Rockingham, State of New Hampshire, 03833, 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),

with an **Executory Interest**, as further defined in Section 9 below, to the **TOWN OF AUBURN**, a duly authorized municipal corporation acting by and through the **AUBURN CONSERVATION COMMISSION**, an official commission of the Town of Auburn, pursuant to New Hampshire RSA 36-A:4, with a principal place of business at 47 Chester Road, Town of Auburn, County of Rockingham, State of New Hampshire, 03032 (sometimes referred to herein as the "**Executory Interest Holder**"),

with a **Third Party Right of Enforcement**, as further defined in Section 10 below, therein granted 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, (individually referred to herein as "**NHDES**" and collectively with the City of Manchester as "**Third Party Holder**"),

with a **Third Party Right of Enforcement**, as further defined in Section 10 below, therein granted to the **CITY OF MANCHESTER**, a duly authorized municipal corporation acting by and through its agent, the **MANCHESTER WATER WORKS**, with a principal place of business at 281 Lincoln Street, City of Manchester, County of Hillsborough, State of New Hampshire, 03103, (individually referred to herein as the "**City of Manchester**" and collectively with NHDES as "**Third Party Holder**"),

the **Conservation Easement** (herein referred to as the "**Easement**") hereinafter described with respect to that certain parcel/area of land (herein referred to as the "**Property**") with any and all buildings, structures, and improvements thereon, consisting of 210 acres, situated off Dearborn Road in the Town of Auburn, County of Rockingham, State of New Hampshire, as shown on a plan entitled "Conservation Easement Boundary Plan, Auburn Tax Map 11 Lot 519, Candia Tax Map 413 Lot 10-2, Prepared for Southeast Land Trust, Located at Dearborn Road & Chester Turnpike, Auburn & Candia, NH", prepared by S&H Land Services, LLC, dated April 21, 2020, Scale: 1" = 300'" and recorded at the Rockingham County Registry of Deeds as Plan D-_____ (hereinafter the "**Easement Plan**"), more particularly bounded and described in Appendix "A" attached hereto and made a part hereof.

The Easement has been conveyed in part with a \$300,000.00 financial assistance award from the New Hampshire Department of Environmental Services Aquatic Resources Mitigation Fund; which award places certain restrictions on the Property as described herein. The Easement hereby granted is pursuant to and consistent with the applicable provisions of NH RSA 477:45-47, and in compliance with the New Hampshire Aquatic Resources Mitigation Fund Final In-lieu Fee Program (U.S. Army Corps of Engineers, New England District, Regulatory Division, File Number NAE-2005-1142).

The Easement has been conveyed in part with a \$250,000 grant from the Drinking Water and Groundwater Trust Fund...

The conservation attributes and present conditions of the Property are further described and set forth in a Baseline Documentation Report with the original on file with the Grantee and a copy provided to the Grantor and with additional copies provided to the Executory Easement Holder and Third Party Holder.

1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation Purposes (herein referred to as the "**Purposes**") for the public benefit:

- A. The protection of the functional values of wetlands, vernal pools, streams, and riparian areas on and under the Property, and of the ecological integrity of said water resources, and of the quality and sustainable yield of ground water and surface water resources as the Property lies within the watershed and Source Water Protection Area for Lake Massabesic and serves as a primary water supply reservoir for the City of Manchester and the Town of Auburn, and the protection of the undeveloped X (X) feet of water frontage along Murray Mill Brook; and

- B. The protection of the natural wildlife habitats on the Property including the wetland, riparian, and upland habitats thereon including approximately XX acres of “Highest Ranked Habitat in the State”, XX acres of “Highest Ranked Habitat in Biological Region” and XX acres of “Supporting Landscape” as determined by the NH Fish & Game Department’s 2015 Wildlife Action Plan; the protection of any state or federally recognized rare, threatened or endangered species on the Property that may exist; and
- C. The conservation and protection of open spaces, particularly the conservation of the productive farm and forest land of which the Property consists and the long-term protection of the Property’s capacity to produce economically valuable agricultural and forestry products through the conservation of approximately XX(X) acres of prime farmland soils, XX(X) acres of statewide important farmland soils, and XX(X) acres of locally important farmland soils and of the approximately XX acres of Group IA important forest soils and XX acres of Group IB important forest soils, all as identified by the Natural Resources Conservation Service; and
- D. The scenic enjoyment of the general public as viewed from the approximately XX(X) feet of undeveloped frontage along Chester Turnpike and the XX(X) feet of undeveloped frontage along Dearborn Road.
- E. The protection of the Property for outdoor recreation by and/or the education of the general public.

The above Purposes are consistent with the clearly delineated open space conservation goals and/or objectives as stated in the 2018 Master Plan of the Town of Auburn, which seeks to:

- “Recognize the important contribution that the Town’s natural resources to the overall character and well-being of the Town. Protect and manage Auburn’s valuable open space resources” (page 6); and
- “Protect Auburn’s valuable water resources including wetlands, upland buffers, water recharge areas, and drinking water supply” (page 6); and
- “Permanently protect Auburn’s natural assets that contribute to public health and safety, economic vitality, and quality of life” (page 6); and
- “Preserve those community features that contribute to Auburn’s current rural character and quality of life” (page 7); and
- “Recognize and appreciate the unique role of the various land use patterns in Auburn and how they contribute to the economic well-being of the town” (page 7); and
- “Protect the quality of Auburn’s groundwater and water supply resources through easement, acquisition and land use regulations” (page 30); and
- “Promote and encourage the gift or purchase of conservation easements and properties” (page 30); and
- “Easements and forest management overlay districts can be effective tools for

protecting productive forest lands. In an effort to save open space for forestry in the future, the Town of Auburn should promote and encourage the gift or purchase of conservation easements for this purpose” (page 30);

And with New Hampshire RSA Chapter 79-A 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.”;

and with NH RSA 482-A:28 which states: “ The New Hampshire Department of Environmental Services ("DES") Aquatic Resource Mitigation ("ARM") Fund has been created as one of several compensatory mitigation options available to applicants for impacts to wetlands and other aquatic resources. This mitigation option is available for use after avoidance and minimization of impacts to these aquatic resources has been achieved. The ARM Fund seeks "no net loss" of aquatic resource acreage and functions using a watershed approach”.

All of these Purposes are consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

The Easement hereby granted with respect to the Property is as follows:

2. USE LIMITATIONS (Subject to the reserved rights specified in Section 3 below)

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, except Agriculture and Forestry, as described below, and provided that the productive capacity of the Property to yield forest and/or agricultural crops and the water quality and quantity shall not be degraded by on-site activities.

i. Description of Agriculture and Forestry

- a. **Agriculture:** 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) all as not detrimental to the Purposes of this Easement.
- b. **Forestry:** For the purposes hereof, “Forestry” shall include the growing, stocking, cutting, and sale of forest trees of any size capable of producing timber or other forest products, all as not detrimental to the Purposes of this Easement. Forestry shall include all forestry and forest management activities performed for

commercial or industrial purposes, including barter transactions, and non-commercial timber stand improvement activities, wildlife habitat improvement, or thinning the forest stand to maintain a view.

- ii. **Requirements for Agriculture:** Agriculture shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Property. Agricultural management activities shall be in accordance with the then-current scientifically based practices recommended by UNH Cooperative Extension, U.S. Natural Resources Conservation Service, or other government or private, nonprofit natural resource conservation and management agencies then active. Such management activities shall not be detrimental to the Purposes of this Easement.
 - a. The following Agricultural riparian buffer zones shall apply for Agricultural activities and operations within and adjacent to wetlands, perennial streams and rivers, hereinafter referred to collectively as “water body or water bodies.” Streams and rivers shall be identified as those shown on 7.5 minute United States Geologic Survey Quadrangle maps. Wetlands shall include any wetlands shown on National Wetland Inventory maps, documents/plans that include wetland delineations with said wetland delineations prepared by a licensed wetlands scientist, Town wetland inventory maps, NH GRANIT land cover maps, or other sources mutually agreed to by the Grantor and Grantee. A map entitled “Water Resources-Buffer Zones Map”, included in the Baseline Documentation Report, designates the approximate locations of the water bodies and riparian buffer zones.
 - i. Agricultural riparian buffers zones shall include one hundred (100) feet from each side of a water body and shall be expanded as necessary to encompass all vegetative communities with slopes greater than 35%, or soils classified as highly erodible that are adjacent to the water body.
 - ii. The distance of the riparian buffer shall be measured from the edge of the normal high water mark of the water body. In areas where there are wetlands contiguous to a stream or river the riparian buffer shall be measured from the upland edge of the wetland.
 - iii. There shall be no Agricultural activities, soil disturbance, planting, vegetation cutting and removal, or application of herbicides or pesticides within the water body and the first twenty-five (25) feet from the normal high water mark or water body edge as defined above. The Grantor may request permission from the Grantee to conduct any of the before stated activities for wildlife habitat improvement purposes, construction of wildlife viewing platforms and maintaining the view from said platforms, or to meet other specific natural resource or ecological goals (e.g., invasive species removal). For wildlife habitat improvements or improvements for natural resource or ecological goals, the Grantor must submit the request to the Grantee as part of the coordinated agricultural management plan or an amendment thereto. For the

construction of wildlife viewing platforms, the Grantor shall submit the request to the Grantee as a written plan with scaled drawings indicating the location, size, materials, vegetation to be impacted by the platform and viewing zone, and access to the viewing platform. The Grantee shall first consult with NHDES and either approve, deny, or approve with conditions the request at their sole discretion.

- iv. Within the remainder of the riparian buffer zone, agricultural methods shall follow best management practices.
- v. No new roads or agricultural ways shall be constructed within riparian buffer zones, except in circumstances where complying with this provision may result in a greater overall negative environmental impact or would preclude reasonable access to areas suitable to Agriculture. Existing roads, as identified by the Baseline Documentation Report, may be retained and maintained. Any roads or trails within a riparian buffer zone shall be designed and maintained to minimize degradation of water quality and aquatic habitat.

iii. Requirements for Forestry:

- a. Forestry shall be carried out in accordance with all applicable local, state, and federal laws and regulations, and, to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property and shall not be detrimental to the Purposes of the Easement. For references on best management practices see:
 - “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” (N.H. Division of Forests and Lands, 2016), or similar successor publications; and
 - “Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire” (New Hampshire Forest Sustainability Standards Work Team, 2010), or similar successor publications.
- b. The following Forestry riparian buffer zones shall apply for Forestry activities and other tree cutting and removal operations within and adjacent to wetlands, perennial streams and rivers, hereinafter referred to collectively as “water body or water bodies.” Streams and rivers shall be identified as those shown on 7.5 minute United States Geologic Survey Quadrangle maps. Wetlands shall include any wetlands shown on current National Wetland Inventory maps, documents/plans that include wetland delineations with said wetland delineations prepared by a licensed wetlands scientist, Town wetland inventory maps, NH GRANIT land cover maps, or other sources mutually agreed to by the Grantor and Grantee. A map entitled “Water Resources-Buffer Zones Map”, included in the Baseline Documentation Report, designates the approximate locations of the water bodies and riparian buffer zones.

- i. Forestry riparian buffers zones shall include one hundred (100) feet from each side of a water body and shall be expanded as necessary to encompass all vegetative communities with slopes greater than 35%, or soils classified as highly erodible that are adjacent to the water body.
 - ii. The distance of the riparian buffer shall be measured from the edge of the normal high water mark of the water body. In areas where there are wetlands contiguous to a stream or river the riparian buffer shall be measured from the upland edge of the wetland.
 - iii. There shall be no Forestry activities, soil disturbance, tree or vegetation cutting and removal, or application of herbicides or pesticides within the water body and the first twenty-five (25) feet from the normal high water mark or water body edge as defined above. The Grantor may request permission from the Grantee to conduct any of the before stated activities for wildlife habitat improvement purposes, construction of wildlife viewing platforms and maintaining the view from said platforms, or to meet other specific natural resource or ecological goals (e.g., invasive species removal). For wildlife habitat improvements or improvements for natural resource or ecological goals, the Grantor must submit the request to the Grantee as part of the Forest Management Plan or an amendment thereto. For the construction of wildlife viewing platforms, the Grantor shall submit the request to the Grantee as a written plan with scaled drawings indicating the location, size, materials, vegetation to be impacted by the platform and viewing zone, and access to the viewing platform. The Grantee shall first consult with NHDES and either approve, deny, or approve with conditions the request at their sole discretion.
 - iv. Within the remainder of the riparian buffer zone, tree harvest methods shall be limited to single tree or small group selection cuts, leaving a well-distributed, uneven-aged stand of trees.
 - v. No new roads or log landings shall be constructed within riparian buffer zones, except in circumstances where complying with this provision may result in a greater overall negative environmental impact or would preclude reasonable access to areas suitable to Forestry. Existing roads, as identified by the Baseline Documentation Report, may be retained and maintained. Skid trails and log landings shall be kept to the minimum reasonably necessary for tree removal. Any roads, skid trails, and log landings within a riparian buffer zone shall be designed and maintained to minimize degradation of water quality and aquatic habitat.
- c. 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. To the extent reasonably practicable, forestry shall meet the following goals:
- maintenance of soil productivity;

- protection of water quality, wetlands, vernal pools and riparian zones;
 - maintenance or improvement of the overall quality of forest products;
 - conservation of scenic quality and recreational access and trails;
 - protection of significant or fragile natural areas, exemplary natural communities, and rare, threatened and endangered species, including their habitats;
 - protection of significant historic and cultural features; and
 - conservation or enhancement of native plant and animal species.
- d. Any Forestry shall be performed in accordance with a written Forest Management Plan consistent with this Easement, prepared by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee.
- e. Said Forest Management Plan shall have been prepared not more than ten (10) years prior to the date any harvesting is expected to commence. Or, if more than ten (10) years old, the plan shall have been reviewed and updated as required by such a licensed forester or other qualified person at least thirty (30) days prior to the date of harvest.
- f. Said Forest Management Plan shall include a statement of landowner objectives, and shall specifically address:
- the accomplishment of those Purposes for which this Easement is granted,
 - the goals in Section 2.A.iii.c. above, and
 - water bodies as defined herein, riparian buffer zones and their delineation on a map(s) in the plan and how water bodies and vernal pools will be protected in association with forest management activities including but not limited to road construction and maintenance and implementation of stand prescriptions.
- g. At least thirty (30) days prior to any Forestry activities, the Grantee shall have received from the Grantor a written certification, signed by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee, that the Forest Management Plan, as defined in 2.A.iii. a-d, above, has been prepared in compliance with the terms of this Easement. The Grantee may request the Grantor to submit the Plan itself to the Grantee within ten (10) days of such request, but acknowledges that the plan's purpose is to guide forest management activities in compliance with this Easement, and that the actual activities will determine compliance therewith.
- h. Forestry activities shall be conducted in accordance with said Plan and be supervised by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee.
- i. Prior to conducting Forestry activities, in those areas proposed for the forest activities, the riparian buffers shall be clearly marked by a licensed professional

forester or other qualified person approved in advance and in writing by the Grantee.

B. The Property shall not be subdivided, except that the lease of any portion of the Property for any use permitted by this Easement shall not violate this provision.

C. The following provisions shall apply to structures or improvements on the Property:

- i. No structure or improvement shall be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, above, or below the Property, except for structures and improvements which:
 - a. Assist in the accomplishment of agriculture, forestry, conservation, habitat management, or noncommercial outdoor educational or recreational uses on the Property, which may include but shall not be limited to: permeable roads, dams, fences, bridges, culverts, barns, maple sugar houses, farm stands, trails, boardwalks or sheds; and
 - b. Do not cause the total impervious surface coverage of the Property to exceed one percent (1%) of the Property's overall size, or X [square feet/acres]; for the purposes of this restriction, impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property. Impervious surfaces include, but are not limited to buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. Notwithstanding the foregoing, impervious surfaces shall specifically exclude bridges; boardwalks; culverts; impervious surfaces not in place year-round such as row covers for agricultural crops, tents and awnings; and roadways, or other improvements established on the Property by third parties exercising lawful rights obtained prior to the date of this Easement; and
 - c. Are not detrimental to the Purposes of this Easement.
- ii. Prior to the Grantor's construction, placement, introduction, enlargement, or relocation of any structure with a footprint exceeding two hundred and fifty (250) square feet, the Grantor must obtain written approval of the same from the Grantee. The footprint of any roofed structure shall include the area within the dripline. For an enlargement of a structure, the square footage calculation under this provision shall only be the enlargement and shall not include the original structure.
 - a. At least forty-five (45) days prior to the commencement of any such construction, placement, introduction, enlargement, relocation, or on-site preparation therefor including but not limited to land clearing, the Grantor shall provide the Grantee with written notice with details of said structure including but not limited to scope, size, and location, and method and timing of said construction/installation. Within thirty (30) days after Grantee's receipt of such notice, the Grantee shall inform the Grantor in writing of its approval, approval with conditions, or disapproval of the proposed structure, such approval not to be unreasonably

withheld. Any disapproval shall specify the reasons therefor.

- iii. Notwithstanding the above provisions of this Section 2.C., there shall not be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, under, or above the Property any of the following structures or improvements, including any portion thereof: dwelling, mobile home, cabin, residential driveway, any portion of a septic system, underground petroleum/gas storage tank, tower, tennis court, swimming pool, athletic field, golf course, indoor riding arena, aircraft landing area, dock, mooring, anchored raft or other surface structure(s) affixed to the bottom of the waterbody or to the Property, whether in direct contact with the Property or otherwise permitted by virtue of ownership of the Property.
- D. There shall be no removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:
- i. are commonly necessary in the accomplishment of the agriculture, forestry, conservation, habitat management, or noncommercial outdoor educational or recreational uses of the Property; and
 - ii. 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 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
 - iii. are not detrimental to the Purposes of this Easement.
- Prior to commencement of any such activities, all necessary federal, state, local, and other governmental permits and approvals shall be secured.
- E. No outdoor advertising structures shall be displayed on the Property except as desirable or necessary in the accomplishment of the agriculture, forestry, conservation, habitat management, or noncommercial outdoor educational or recreational uses of the Property, and provided such structures are not detrimental to the Purposes of this Easement. No sign on the Property shall exceed 16 square feet in size, and no sign shall be artificially illuminated.
- F. There shall be no mining, quarrying, excavation, or removal (hereinafter referred to as "Extractive Activities") of surface or subsurface non-vegetation materials including but not limited to hydrocarbons, rocks, minerals, gravel, sand, topsoil, or other similar materials (hereinafter referred to as "Extractive Materials") on, under, or from the Property, unless Extractive Activities will have a limited and localized impact on the Property and shall not be irretrievably destructive of or detrimental to the Purposes of this Easement, and all of the following conditions are met:

- i. Said Extractive Activities shall be undertaken in furtherance of improvements made pursuant to and consistent with the provisions of Sections 2.A., C., D., and/or E., above, and in accordance with relevant Best Management Practices;
- ii. No Extractive Materials shall be removed from the Property, except with advance written approval of the Grantee after the Grantee has determined, in its sole discretion, that said removal is not detrimental to the Purposes of this Easement;
- iii. Said Extractive Activities shall be limited to the "[insert name of zone(s)]" as shown on the ["Survey Plan" or "map entitled " in the Baseline Documentation Report"], (collectively the "Extractive Zones") with opportunity for said zone(s) to be relocated from time to time by mutual agreement of the Grantor and the Grantee, but only after a finding by the Grantee in its sole discretion that the proposed new location and configuration of said zone(s) are no more detrimental to the Purposes of this Easement than the established zone(s) proposed to be relocated; and, further, only if said relocation does not convey impermissible private benefit;
- iv. The maximum cumulative footprint of the Extractive Zones with exposed soil at any one time shall not exceed [] square feet;
- v. Said Extractive Activities shall not significantly diminish the Property's productive capacity, including soil productivity, to yield forest and/or agricultural products, nor the Property's potential future uses for forestry or agriculture, or other permitted uses;
- vi. Said Extractive Activities shall 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 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;
- vii. Following the cessation of Extractive Activities at any given extractive zone on the Property, the Grantor shall restore such zone(s) to a natural vegetated condition and appearance in conformance with all governmental laws, ordinances, rules, and regulations, including but not limited to the requirements of U.S. Treasury Regulations at 1.170A-14(g)(4)(i), as may be amended from time to time;
- viii. At least forty-five (45) days prior to the initial commencement or site preparation for Extractive Activities in any Extractive Zone the Grantor shall give the Grantee written notice of the commencement of said activities. Said notice shall include a detailed description of the proposed activities (hereinafter the "Extraction Plan") including but not limited to the type(s) and volume(s) of said Extractive Materials to be mined, quarried, excavated, and/or removed from the Property; the proposed uses of said materials; the source and location of said Extractive Materials within the Property; the timing, duration, and frequency of said Extractive Activities; and a plan for restoring the Extraction Zone following the cessation of Extractive Activities.

The Grantee shall have thirty (30) days from receipt of the Grantor's Extraction Plan to evaluate said plan and approve, approve with conditions, or disapprove same, at the Grantee's sole discretion. Said approval or disapproval shall be based on whether the proposed Extraction Plan meets all of the above conditions of this Section 2.F., and said approval shall not to be unreasonably withheld. Any disapproval shall specify the reasons therefor. Once an Extraction Plan is approved by the Grantee, the Grantor does not need to notify the Grantee of individual instances of Extraction Activities within said zone so long as the said activities are within the parameters of the Extraction Plan.

- G. No substances or materials then known to be environmentally hazardous waste if discarded or abandoned shall be disposed of, dumped, injected, burned, or buried on the Property, and no such substances shall be stored or applied on the property except in conjunction with any agriculture, forestry, conservation, habitat management, or noncommercial outdoor educational or recreational uses that are allowed by this Easement. No wastes generated off the property shall be disposed of, stored, or discharged on the property.
- H. 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 and those specifically permitted in the provisions of this Easement.
- I. The Grantor shall not operate or grant permission to operate motorized vehicles on the Property, except as allowed in Section 3.B., below.
- J. The Property shall in no way be used to satisfy the density, frontage, or setback requirements of any applicable zoning ordinance or land use regulation with respect to the development of any other property.
- K. The Property shall not be posted against, and the Grantor shall keep access to and use of the Property open to the public for non-motorized, non-commercial, outdoor recreational and outdoor educational purposes, such as but not limited to hiking, wildlife observation, cross-country skiing, horseback riding, and mountain biking. However, the Grantee shall be under no duty to supervise said access, use, or purpose.

3. RESERVED RIGHTS

- A. The Grantor reserves the right to post the Property against public access to agricultural cropland during the planting and growing season, to lands while being grazed by livestock, and to forestland during harvesting or other forest management activities. Further, the Grantor reserves the right to post against hunting and/or fishing. This provision is an exception to Section 2.K., above.
- B. The Grantor reserves the right to operate motorized vehicles, and permit others to operate said vehicles, for the purposes of maintaining and managing the Property, including but not limited to emergency rescue operations, agriculture, forestry, conservation, habitat

management, or noncommercial outdoor education.

4. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

- A. The Grantor agrees to notify the Grantee in writing or via email within ten (10) days of offering the Property for sale. In addition, the Grantor agrees to notify the Grantee in writing or via email at least ten (10) days before the transfer of title to the Property.
- B. The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.

5. BENEFITS AND BURDENS

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, agrees to and is capable of protecting the conservation purposes of this Easement, and has the resources to enforce the restrictions of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

6. AFFIRMATIVE RIGHTS OF GRANTEE

- A. The Grantee, Executory Interest Holder, and Third Party Holder shall have reasonable access to the Property and all of its parts 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.
- B. Grantee shall have the right to place, maintain, and replace signs on the Property as follows:
 - i. Signs to facilitate inspection of the Property and to identify the Property as conservation land protected by the Grantee, said signs located along the Property's boundaries with each sign not exceeding thirty (30) square inches in size.
 - ii. Signs along the Property's maintained public road frontage] to identify to the public that the Property is conserved land and to recognize entities who contributed funding toward the conservation of the Property, as required. Said signs shall be located at a visible location on the Property, said location to be mutually agreed upon by the Grantor and Grantee. The Grantee shall be responsible for ensuring that said sign(s) conform with applicable local, state, and federal regulations and shall bear the cost of installation.

- iii. Up to two (2) informational kiosks that are no more than eight (8) feet wide by eight (8) feet high within which the Grantee can display information related to its mission, the Property, the effort to conserve the Property and the conservation context of the Property. The Grantor and Grantee shall work together on a mutually agreeable location for said kiosk(s).

7. RESOLUTION OF DISAGREEMENTS

- A. The Grantor and the Grantee desire that issues arising from time to time concerning uses or activities in light of the provisions of the 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 or activity (which together for the purposes of this Section, "Resolution of Disagreements," shall be referred to as the "Activity") complies with the provisions of this Easement, wherever reasonably possible the concerned party shall notify the other party of the perceived or potential problem, and the parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.
- B. If informal dialogue does not resolve a disagreement regarding the Activity, and the Grantor agrees not to proceed or to continue with the Activity pending resolution of the disagreement concerning the Activity, either party may refer the disagreement 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 Exeter, New Hampshire, or such other location as the parties shall agree. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.
- C. If the parties agree to bypass mediation, if the disagreement concerning the Activity has not been resolved by mediation within sixty (60) days after delivery of the notice of mediation, or if the parties are unable to agree on a mediator within ten (10) days after delivery of the notice of mediation, the disagreement may be submitted to binding arbitration in accordance with New Hampshire RSA 542. The parties shall have ten (10) days to accept or refuse binding arbitration. The Grantor and the Grantee shall each choose an arbitrator within twenty (20) days of the delivery of written notice from either party referring the matter to arbitration. The arbitrators so chosen shall in turn choose a third arbitrator within twenty (20) days of the selection of the second arbitrator. The arbitrators so chosen shall forthwith set as early a hearing date as is practicable, which they may postpone only for good cause shown. The arbitration hearing shall be conducted in Exeter, New Hampshire, or such other location as the parties shall agree. A decision by two of the three arbitrators, made as soon as practicable after submission of the matter, shall be binding upon the parties and shall be enforceable as part of this Easement.
- D. If the parties do not agree to resolve the dispute by arbitration, or if the parties are unable to agree on the selection of an arbitrator, then either party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Easement, to

enjoin the violation by permanent injunction, to require the restoration of the Property to its condition prior to the breach, and to recover such damages as appropriate.

- E. Notwithstanding the availability of mediation and arbitration to address disagreements concerning the compliance of any Activity with the provisions of this Easement, if the Grantee believes that some action or inaction of the Grantor or a third party is causing irreparable harm or damage to the Property, the Grantee may seek a temporary restraining order, preliminary injunction or other form of equitable relief from any court of competent jurisdiction to cause the cessation of any such damage or harm, to enforce the terms of this Easement, to enjoin any violation by permanent injunction, and to require the restoration of the Property to its condition prior to any breach.
- F. In the event of a dispute involving the Third Party Holder, the provisions of paragraphs B and C of this Section 7 shall not apply.

8. BREACH OF EASEMENT – GRANTEE’S REMEDIES

- 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 demand corrective action to cure the breach and, where the breach involves injury to the Property, to restore the portion of the Property so injured to its prior condition.
- B. The Grantor shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach, 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 the immediately preceding paragraph B. above, or fails to continue diligently to cure any breach until finally cured, the Grantee may undertake any actions that are reasonably necessary to repair any damage in the Grantor’s name or to cure 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, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- D. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation features of the Property, the Grantee may pursue 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 violation of the provisions of this Easement or injury to any conservation features 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 therefore, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

- F. The Grantee's rights under this Section, "Breach of Easement...", apply equally in the event of either actual or threatened breach of this Easement, and are in addition to the provisions of the preceding Section, "Resolution of Disagreements," which section shall also apply to any disagreement that may arise with respect to activities undertaken in response to a notice of breach and the exercise of the Grantee's rights hereunder.
- G. The Grantor and the Grantee acknowledge and agree that should the Grantee determine, in its sole discretion, that the conservation features protected by this Easement are in immediate danger of irreparable harm, the Grantee may seek the injunctive relief described in the third paragraph of this Section, "Breach of Easement...", both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this Section, "Breach of Easement...", shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- H. 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 attorneys' fees and costs and expenses of suit, and any costs of restoration necessitated by the Grantor's breach of this Easement 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 own costs. Notwithstanding the foregoing, if the Grantee initiates litigation against the Grantor to enforce this Conservation 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 costs and reasonable attorney's fees in defending the action.
- I. Forbearance by the Grantee or Third Party Holder to exercise its rights under this Easement in the event of any breach of any term thereof by the Grantor shall not be deemed or construed to be a waiver by the Grantee or Third Party Holder of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Grantee's or Third Party Holder's rights hereunder. No delay or omission by the Grantee or Third Party Holder in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver. The Grantor hereby waives any defense of laches or estoppel.
- J. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury 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 injury 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.

9. EXECUTORY INTEREST

- 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 Executory Interest Holder, a qualified organization as specified in the Section "Benefits and Burdens" above, requesting such enforcement delivered in hand or by certified mail, return receipt requested, then the Executory Interest Holder shall have the right to enforce this Easement. All reasonable costs of such enforcement shall be paid by the Grantee. In such circumstance, or in the event the Grantee acquires the underlying fee interest in the Property, the Executory Interest Holder shall then also have the right to terminate the Easement interest of the Grantee in the Property by recording a notice to that effect in the Registry of Deeds referring hereto and shall thereupon assume and thereafter have all interests, rights, responsibilities and duties granted to and incumbent upon the Grantee in this Easement.
- B. The interests held by the Executory Interest Holder are assignable or transferable to any party qualified to become the Grantee's assignee or transferee as specified in the Section "Benefits and Burdens" above. Any holder of an interest in this Easement desiring to transfer or assign its interest shall send written notice describing said intention to all other holders of any interest in this Easement at least thirty (30) days prior to such transfer or assignment taking effect.

10. THIRD PARTY RIGHT 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 a Third Party Holder requesting such, then the notifying Third Party Holder shall have all the rights heretofore granted to the Grantee to enforce this Easement and be entitled to recover the costs of such enforcement from the Grantor or Grantee or both.
- B. The interests held by the City of Manchester are assignable or transferable to any party qualified to become the Grantee's or Third Party Holder's assignee or transferee as specified in Section § "Benefits and Burdens" above. The interests held by the NHDES are assignable or transferable 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. Any holder of an interest in this Easement desiring to transfer or assign its interest shall send written notice describing said intention to all other holders of any interest in this Easement at least thirty (30) days prior to such transfer or assignment taking effect.

11. NOTICES

All notices, requests and other communications, required to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent

by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Grantor or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

12. 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, by confirmation of an arbitration award or otherwise, 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.

13. EXTINGUISHMENT & CONDEMNATION

- A. Extinguishment. If circumstances arise in the future such as render the Purposes of this Easement impossible or impracticable to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such judicial termination or extinguishment, shall be determined in accordance with Section 13.C below and said proceeds shall be used in a manner consistent with the Conservation Purposes of this Conservation Easement. In making this grant of Easement, Grantor has considered and acknowledges the possibility that uses prohibited by the terms of this Easement may become more economically viable than the uses specifically reserved by Grantor pursuant to this Easement. It is the intent of both Grantor and Grantee that any such change in economic conditions shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to this Section.
- B. Condemnation. If all or any part of the Property is taken, in whole or in part, by exercise of the power of eminent domain or is acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their interests in the Property subject to the taking or in lieu purchase and to recover all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. The amount of the proceeds to which the Grantee shall be entitled, after payment of any expenses, shall be determined in accordance with Section 13.C below and said proceeds shall be used in a manner consistent with the Conservation Purposes of this Conservation Easement.
- C. Valuation. This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of Sections 13.A and 13.B above, shall have a fair market value which shall be determined by multiplying (1) the fair market value of the Property without deduction for the value of this Easement as of the time of said extinguishment or condemnation, by (2) the ratio of the value of the Easement at the time

of this grant to the value of the Property at the time of this grant without deduction for the value of this Easement, those values being those used to calculate the deduction for federal income or estate tax purposes allowable by reason of this grant, pursuant to the IRS Code Section 170(h) or 2055(f), determined by an appraisal report which shall be prepared by a qualified appraiser on behalf of the Grantor and which the Grantor shall submit to the Grantee. For the purposes of this Section 13, the ratio of the value of the Easement to the value of the Property unencumbered by this Easement shall remain constant.

The balance of the amount recovered, after payment of any expenses, shall be divided between the Grantor and the Grantee in proportion to the fair market value, as determined by the appraisal, of their respective interests in that part of the Property extinguished or condemned. The Grantee, Executory Interest Holder, and the Third Party Holder agree the portion of damages recovered that are attributed to the Easement shall be divided as follows: the Grantee's interest shall be forty eight and seven-tenths percent (48.7%), the Executory Interest Holder's interest shall be five and seven-tenths percent (5.7%) and the State of New Hampshire acting through the New Hampshire Department of Environmental Services (Third Party Holder) interest shall be forty one and eight-tenths percent (41.8%) and the City of Manchester (Third Party Holder) interest shall be three and eight-tenths percent (3.8%). The Third Party Holder value represents the proportion it contributed (\$550,000 NHDES and \$50,000 City of Manchester) toward the fair market value of the Easement (\$1,315,000).

- D. As required by NH RSA 486-A:13, any release of the Property, or portion thereof, from the public trust in order to be converted to a use not permitted under the terms of this Easement or due to termination of the Easement shall be subject to the provisions of NH RSA 486-A:13 and Section 13 of this Easement and shall be undertaken according to the requirements of NH RSA 486-A:13. When the requirements of NH RSA 486-A:13 and Section 13 conflict, the requirements of NH RSA 486-A:13 shall apply.

14. AMENDMENT

If, owing to unforeseen or changed circumstances, Grantor and Grantee agree that an amendment to, or modification of, this Easement would be appropriate and desirable, Grantor and Grantee may jointly amend this Easement pursuant to: the provisions and limitations of this section; the then-current amendment policies of the Grantee; notification is given to the New Hampshire Attorney General's Office at least thirty (30) days prior to the adoption of the amendment; 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 Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, and NH RSA 477:45-47 as may be amended from time to time, 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 Rockingham County Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

15. ADDITIONAL EASEMENT

Should the Grantor determine that the expressed Purposes of this Easement could better be effectuated by the conveyance of an additional easement, with the prior approval of the Grantee, Executory Interest Holder and Third Party Holder, the Grantor may execute an additional instrument to that effect, provided that the conservation purposes of this Easement are not diminished thereby and that a public agency or qualified organization described in the Section "Benefits and Burdens," above, accepts and records the additional easement.

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 5 above, this provision "Sovereign Immunity" shall not apply to the assignee or transferee.

17. GENERAL DISCLAIMER

The State of New Hampshire, acting through the Third Party Holder, and its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or Grantor's breach of any representation, warranty, covenant, or agreements contained in this Easement, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the State of New Hampshire acting through the Third Party Holder may be subject or incur relating to the Property.

18. NO MERGER

The Grantor, Grantee, Executory Interest Holder, and Third Party Holder explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Easement set forth herein are to last in perpetuity and that, to that end, no purchase or transfer of the underlying fee interest in the Property by or to the Grantee, Executory Interest Holder or Third Party Holder shall be deemed to eliminate these Easement terms, or any portion thereof, pursuant to the doctrine of "merger" or any other legal doctrine.

19. ENVIRONMENTAL WARRANTY

Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations

or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law. Moreover, Grantor hereby promises to hold harmless and indemnify the Third Party Holder against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor's indemnification obligation will not be affected by any authorizations or approvals provided by Third Party Holder to Grantor with respect to the Property. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

[INCLUDE THIS WHEN THE CE IS CONVEYED BY A TRUST]

Trustees' Certificate

I, _____ as Trustee of the _____ [name of trust] _____ Trust, being the Grantor under the foregoing Conservation Easement Deed, hereby certify that (a) _____ [name of trust] _____ Trust exists and remains in full force and effect, (b) I am the sole and current Trustee of the _____ [name of trust] _____ Trust, (c) under the _____ [name of trust] _____ Trust the Trustee has full and absolute power to convey any interest in real estate and improvements thereon held in the said Trust, and (d) no purchaser or third party shall be bound to inquire whether as the Trustee has said power or is properly exercising such power or to see to the application of any Trust asset paid to it as Trustee for a conveyance thereof. This Certificate is given pursuant to New Hampshire R.S.A. 564-A:7(ii).

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 conservation purposes for which this Easement is delivered.

IN WITNESS WHEREOF, I (We) have hereunto set my (our) hand(s) this _____ day of _____, 2020.

Robert Sanborn

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM, ss.

On this _____ day of _____, 2020, before me personally appeared **Robert Sanborn**, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

Notary Public/Justice of the Peace
My commission expires:

ACCEPTED: SOUTHEAST LAND TRUST OF NEW HAMPSHIRE

By: _____

Title: _____
Duly Authorized

Date: _____

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM, ss.

On this _____ day of _____, 2020, before me personally appeared **Brian Hart**, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed for the purposes therein contained.

Notary Public/Justice of the Peace
My commission expires:

EXECUTORY INTEREST HOLDER ACCEPTED: TOWN OF AUBURN

Jeffrey Porter, Conservation Commission Chair
Town of Auburn, Duly Authorized

Keith N. Leclair, Board of Selectmen Chair
Town of Auburn, Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM, ss.

On this _____ day of _____, 2020, before me personally appeared **Jeffrey Porter** and **Keith N. Leclair**, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same as their free act and deed for the purposes therein contained.

Notary Public/Justice of the Peace
My commission expires:

THIRD PARTY HOLDER ACCEPTED: STATE OF NEW HAMPSHIRE

Robert R. Scott, Commissioner
New Hampshire Department of Environmental Services

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK, ss.

On this ____ day of _____, 2020, before me personally appeared **Robert R. Scott**, Commissioner of the New Hampshire Department of Environmental Services, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same as his free act and deed for the purposes therein contained.

THIRD PARTY HOLDER ACCEPTED: CITY OF MANCHESTER

Joyce Craig, Mayor
City of Manchester, Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH, ss.

On this ____ day of _____, 2020, before me personally appeared **Joyce Craig**, Mayor of the City of Manchester, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same as his free act and deed for the purposes therein contained.

APPENDIX A

The "Property" subject to this Easement is that tract of land with any and all structures and improvements thereon situated on Road, so-called, in the Town of , County of , State of New Hampshire, consisting of approximately acres, shown on a plan entitled " , " by , last revised , recorded at at the County Registry of Deeds (hereafter "Plan"), and more particularly bounded and described as follows:

EXCEPTING AND RESERVING THEREFROM

SUBJECT TO

TOGETHER WITH an appurtenant Grant of Access for the Grantee and Executory Interest Holder to pass and repass on foot or by vehicle, all as more particularly described in Section 6.A, of the Conservation Easement, from and to Bunker Hill Road through and across a fifty (50) foot wide right-of-way, and more particularly bounded and described as follows:

[Legal Description]

Said Grant of Access containing approximately X square feet or X acres with all bearings of this description turned from grid north based on the New Hampshire State Plane Coordinate System and all distances based on the current survey and subject to all matters shown on said plan.

MEANING AND INTENDING to describe all and the same/a portion of the premises conveyed by Deed from , to , dated , recorded at said Registry at Book, Page .

Not homestead property of the Grantor.

Attachment B - Map

Sanborn - Lake Massabesic

Sanborn Proposed Conservation Lands

Conservation Lands

Wellhead Protection Areas

Hydrologic Areas of Concern

Public Water Supply Wells

Hydrography

Town Boundaries

Roads

0 500 1,000 2,000
Feet

Total Acres= 219.5 Ac.
Eligible Acres= 129.6 Ac.

The coverages presented are under constant revision as new sites or facilities are added. They may not contain all of the potential or existing sites or facilities. NHDES is not responsible for the use or interpretation of this information. Not intended for legal purposes.

11/4/2019

