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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

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

Bureau of Right-of-Way
June 7, 2022

REQUESTED ACTION

Pursuant to RSA 4:39-c and 228:31, authorize the New Hampshire Department of Transportation (Department) to sell a 2.73 +/- acre parcel, with improvements, located at 86 Remoat Trail in the Town of Conway. The sale will be directly to the New Hampshire Housing Finance Authority (NHHFA), for \$301,100.00, which includes a \$1,100.00 administrative fee, effective upon Governor and Executive Council Approval.

The Department's Bureau of Finance and Contracts has determined that the funding for this parcel is 100% Federal Funds.

Funding is to be credited as follows:

04-096-096-960015-0000-UUU-402156	<u>FY 2023</u>
Administrative Fee	\$1,100.00
04-096-096-963015-3049-405215	<u>FY 2023</u>
Sale of Parcel (Federal Funds Payback)	\$300,000.00
(100% of \$300,000.00)	

EXPLANATION

The subject parcel, improved with a 3,256 square foot single family residence, as well as several outbuildings, was acquired in 1996 for the construction of the Conway 11339B Bypass Project, the project was discontinued in 2020.

After a departmental review, it was determined that the subject property is surplus to the Department's operational needs and available for disposal. This parcel will be sold "As Is, where is" with no additional conditions.

On November 9, 2021, the Long Range Capital Planning and Utilization Committee, approved the Department's request (LRCP 21-035) to enter into a listing agreement with Coldwell Banker Lifestyles, to market and sell the subject property for \$300,000.00, and to assess the \$1,100.00 administrative fee.

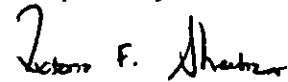
Their approval authorized the Department to compensate Coldwell Banker Lifestyles a 5% commission for their real estate services.

Pursuant to RSA 4:39-c, the Department solicited interest from the Town of Conway (Town). The Town has no interest in this parcel and has provided documentation, provided herewith.

Pursuant to RSA 204-D:2, the Department solicited interest from NHHFA. NHHFA has expressed interest in acquiring this parcel, at the fair market value of \$300,000.00. The Department will also assess an \$1,100.00 administrative fee. NHHFA has signed a Purchase & Sales Agreement, provided herewith.

The Department is respectfully requesting authorization for the sale of land, as noted above.

Respectfully,



Victoria F. Sheehan
Commissioner

VFS/SJN
Attachments

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION**

LRCP 2-1-035

FROM: Stephen G. LaBonte
Administrator

DATE: October 19, 2021

AT: Dept. of Transportation
Bureau of Right-of-Way

SUBJECT: Sale of State Owned Land in Conway
RSA 4:39-c

**Approved by the Long
Range Capital Planning and
Utilization Committee
11/9/2021**

TO: Representative John Graham, Chairman
Long Range Capital Planning and Utilization Committee

REQUESTED ACTION

Pursuant to RSA 4:39-c, the New Hampshire Department of Transportation (Department) requests approval to dispose of a 2.73 +/- acre parcel of state-owned land, with improvements, located at 86 Remoat Trail (formerly Kearsarge Road), in the Town of Conway. The Department will enter into a listing agreement for a term of one year with Coldwell Banker Lifestyles. The listing price for this parcel will be \$300,000.00, with the Department assessing an administrative fee of \$1,100.00, pursuant to RSA 4:40, III-A. The Department will allow negotiations within the Committee's current policy guidelines, subject to the conditions as specified in this request.

EXPLANATION

The Department wishes to dispose of a 2.73 +/- acre parcel of state-owned land located at 86 Remoat Trail in the Town of Conway. This parcel is improved with a 3,100 square foot gambrel style single-family residence, as well as several outbuildings.

This parcel was acquired, from Bjorn and Suzanne Kvammen for the amount of \$203,400.00, for the proposed Conway By-Pass 11339B project. The project was never constructed and has since been dissolved.

After a departmental review, it was determined that the subject parcel is surplus to the Department's operational needs and available for disposal. This parcel will be sold "as is, where is."

In accordance with New Hampshire Administrative Rules, chapter Tra 1000, "Process for Marketing and Sale of State Owned Property Utilizing Real Estate Professionals," and chapter Tra 1003.03 (Selection Process), all pre-qualified Realtors in Region 1 (Carroll, Coos, and Grafton Counties) were sent a request to submit a market analysis for the subject property, with a real estate commission of 5% of the sale price. Based on this request, the Department received responses from the following three firms:

Coldwell Banker Lifestyles 486 White Mountain Hwy N Conway, NH 03860	\$219,900.00
Badger Realty PO Box 750 N Conway, NH 03860	\$200,000.00



TOWN OF CONWAY

1634 EAST MAIN ST. • CTR. CONWAY, NEW HAMPSHIRE 03813

(603) 447-3811
WWW.CONWAYNH.ORG

November 29, 2021

DEPT. OF TRANSPORTATION
BUREAU OF RIGHT OF WAY

DEC 01 2021

RECEIVED

Stephen G. LaBonte
Bureau Right of Way
JO Morton Building – Room 100
7 Hazen Drive
P.O. Box 83
Concord, NH 03302-0483

Re: Sale of State Owned Land in Conway, DPI-0153(003), 11339B

Mr. LaBonte,

At the November 23, 2021 meeting of the Conway Board of Selectmen, they discussed the potential of purchasing a piece of property from the State located at 86 Remoat Trail. We believe that there was a typographical error in the letter to the Town of Conway as it referred to the property as Map/Lot 215-15. This was identified and we believe the lot in question was Map/Lot 215-51.

The Board of Selectmen voted unanimously against the purchase of 86 Remoat Trail (Map/Lot 215-51).

Respectfully,

Thomas Holmes
Town Manager
Town of Conway



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

January 18, 2022

Dean J. Christon, Executive Director
New Hampshire Housing Finance Authority
PO Box 5087
Manchester, NH 03108

RECEIVED

JAN 21 2022

Executive Division
New Hampshire Housing

Re: Sale of State Owned Land in Conway
Conway, DPI-0153(001), 11339B

Dear Mr. Christon:

The New Hampshire Department of Transportation is proposing to sell 2.73 +/- acres of state-owned land, located at 86 Remoat Trail (formerly Kearsarge Road) in the Town of Conway. This parcel is identified on the Conway Tax Records as Map 215, Lot 15.

The Department is in receipt of the letter, dated December 14, 2021, from the New Hampshire Housing Finance Authority (Authority). In the referenced letter, the Authority has requested an additional 120 days, to determine interest in acquiring this site for affordable housing. The Department is extending the deadline for the Authority to respond by March 15, 2022.

Also requested in the above referenced letter, the Authority asked the Department to provide any documentation used in determining the stated sale price. Enclosed please find the current appraisal. Also enclosed is the market analysis submission, approved by the Long Range Capital Planning and Utilization Committee, from Coldwell Banker Lifestyles.

If you have any questions, please feel free to contact either Sandra Newman, Property Agent for the Department, or myself, at the phone number listed below.

Sincerely,

Stephen G. LaBonte
Administrator
Bureau of Right-of-Way

SGL/SJN/jl
Enclosures

cc: Adam Smith, Assistant Bureau Administrator
Lisa Weir, Chief of Property Management
Andrew Cadorette, Program Manager Homeownership, New Hampshire Housing Finance Authority, PO Box 5087, Manchester NH 03108

Bureau of Right of Way
JO Morton Building - Room 100
7 Hazen Drive PO Box 483
Concord, NH 03302-0483
Tel: (603)271-3222
Fax: (603)271-6915



NEW HAMPSHIRE
HOUSING

Rob Dapice
Executive Director/CEO
rdapice@nhhfa.org

March 10, 2022

DEPT. OF TRANSPORTATION
BUREAU OF RIGHT OF WAY

MAR 14 2022

RECEIVED

Stephen G. LaBonte, Administrator
State of New Hampshire Department of Transportation
J.O. Morton Building-Room 100
7 Hazen Drive, P.O. Box 483
Concord, NH 03302-0483

RE: Sale of State Owned Land in Conway
Conway, DPI-0153 (001), 11339B

Dear Mr. LaBonte:

Thank you for your November 15, 2021, letter concerning:

- 86 Remoat Trail (formerly Kearsarge Road) in Conway (the Property), also identified on the Conway Tax Record as Map 215, Lot 51. Please note we believe this property was incorrectly stated as Lot 15 in the initial letter to NH Housing. We believe it is actually Lot 51 in the Conway Tax Record.

New Hampshire Housing may be interested in acquiring the Properties pursuant to RSA Chapter 204-D.

To assist New Hampshire Housing in making a final decision, please provide us with the next steps required for NH Housing to take ownership of the Property.

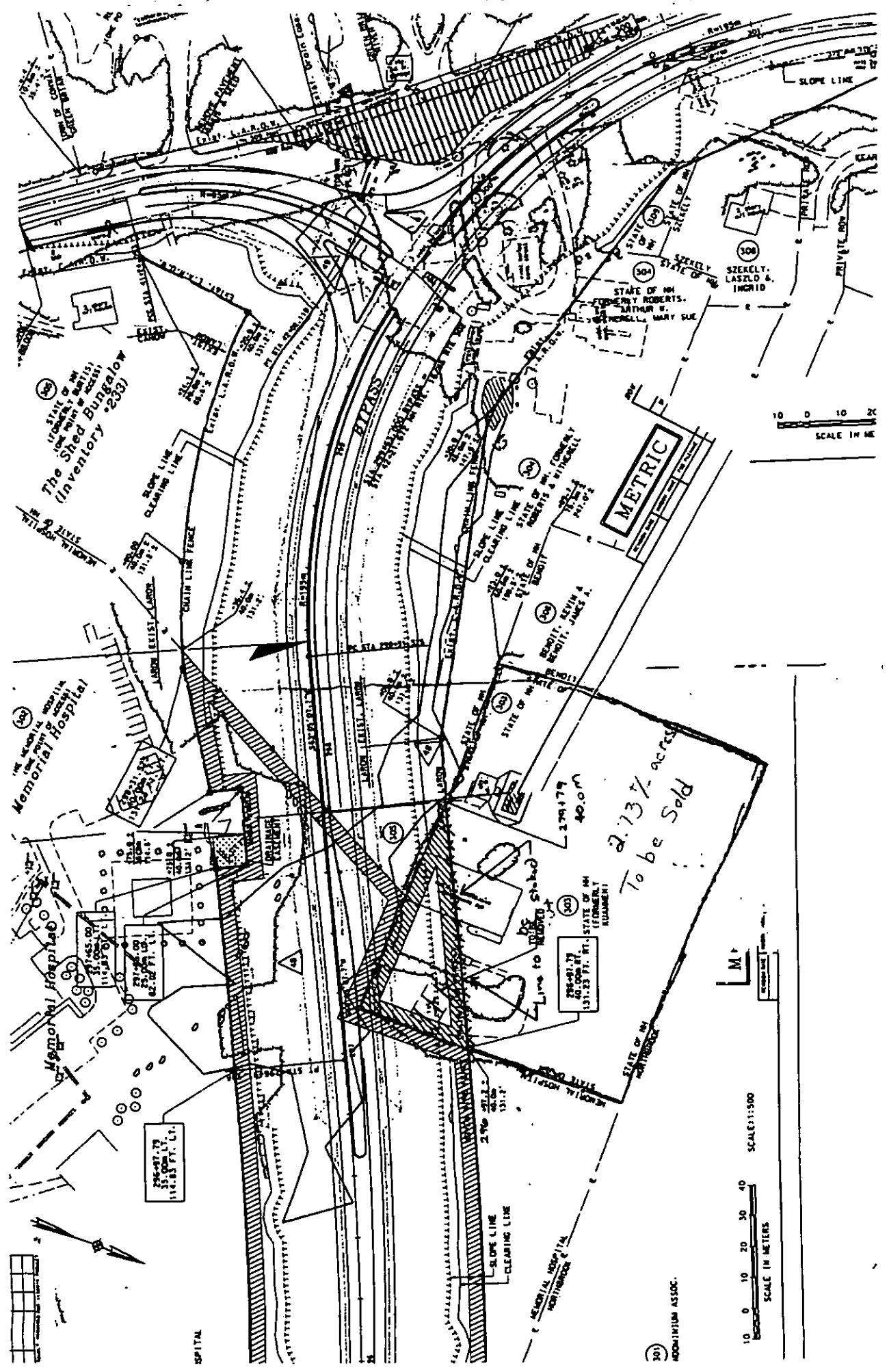
Additionally, and consistent with RSA Chapter 204-D, please provide the following:

- The amount of the "original expenditure" when DOT acquired the Properties, see RSA 204-D:3 I;
- A statement about the source of the funds used to acquire the Properties, especially if Federal funds were used;
- If Federal funds were used to acquire the Properties, any information about the Federal requirements to transfer the Properties to New Hampshire Housing (see RSA 204-D:3, II); and
- Any other information you may have about the potential transfer to New Hampshire Housing, including any information the DOT may have about the Properties' suitability for housing development.

Thank you for giving us the opportunity to review this parcel.

Sincerely,


Robert B. Dapice
Executive Director/CEO



STATE OF NH
USHERY, ARTHUR
The Shed Bungalow
(Inventory #233)

Memorial Hospital

METRIC

2.73 acres
To be Sold

10 0 10 20
SCALE IN METERS

M

10 0 10 20 30 40
SCALE IN METERS

MEMORIAL HOSPITAL ASSOC.

HOSPITAL



PURCHASE AND SALES AGREEMENT

This **PURCHASE AND SALES AGREEMENT** ("Agreement") is made as of the 7th day of JUNE, 2022 by and between the State of New Hampshire, Department of Transportation having a principal place of business at 7 Hazen Drive, Concord, New Hampshire 03301 (referred to as the "Department" or "Seller") and the New Hampshire Housing Finance Authority, or its designee at closing, with a principal place of business at 32 Constitution Drive, Bedford, New Hampshire 03110 (referred to as "Authority" or the "Buyer") (referred to individually as a "Party" and collectively as the "Parties").

RECITALS

This Agreement relates to the sale of real estate located at 86 Remoat Trail, Conway, (the "Property"), more particularly described as:

- Carroll County Registry of Deeds Book 1678, Page 791 dated November 6, 1996.

This Agreement is entered into upon the basis of the following facts and intentions of the Parties:

- I. The Department owns certain real estate located at 86 Remoat Trail, Conway, New Hampshire, consisting of 2.73 +/- acres of land, improved with a 3,256 square foot single family residence, a garden shed and a detached garage, as further described herein.
- II. The Department is divesting of the Property totaling approximately 2.73 +/- acres, as it has been determined that this parcel is surplus to the Department needs.
- III. The Seller is authorized to sell the Property in accordance with RSA 4:39-c.
- IV. The Buyer, subject to the contingencies set forth within this Agreement, desires to acquire the Property from the Department for the purposes of future redevelopment.
- V. This Agreement is a binding contract which shall become effective upon approval of the Governor and Executive Council, pursuant to RSA 4:39-c.
- VI. All Parties signatory to this Agreement are willing to proceed upon the terms and conditions of this Agreement.
- VII. The parties do not intend by this transfer to restrict the purposes for which the property may be used.

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NOW, THEREFORE, the Parties hereby agree as follows:

1. DESCRIPTION OF PROPERTY AND REAL ESTATE TRANSACTION:

- 1.1. **General:** Pending the results of the Buyer's due diligence and the other conditions in this Agreement, the Department intends to sell to the Buyer, and the Buyer intends to acquire from the Department, the Property, consisting of approximately 2.73 +/- acres of land, improved with a 3,256 square foot single family residence, a garden shed and a detached garage.
- 1.2. **Purchase Price:** The Buyer shall acquire the Property for the sum of THREE HUNDRED ONE THOUSAND ONE HUNDRED (\$301,100.00) due at closing. The amount due at closing includes the \$1,100.00 administrative fee for the processing of this request.
- 1.3. **Payment of Purchase Price:** The Purchase Price shall be paid in full by the Buyer by certified check or bank check, to the Department at Closing and conveyance of the Property to the Buyer.
- 1.4. **Conditions of sale:** The subject property at 86 Remoat Trail is being sold "as is where is" and was approved by the Long Range Capitol Planning and Utilization Committee, LRCP 21-035 on November 9, 2021.
- 1.5. **Access to Property:** The Department hereby grants authorization to the Buyer, its employees, representatives, consultants, and agents to enter the Property for the purpose of completing due diligence and for all other purposes necessary to carry out the terms of this Agreement. All times and dates for such access shall require the prior approval by the Department and such approval will not be unreasonably withheld.

The Department and the Buyer shall coordinate all access to the Property by third parties working on behalf of the Buyer as part of the Buyer's due diligence.

The Buyer shall indemnify, defend, and hold harmless the Department from and against all claims, actions, damages, or losses arising out the Buyer's activities pursuant to this paragraph during its inspection and subsequent tasks related thereto which are caused solely by the Buyer's negligence. The Buyer shall require all contractors who are retained for the purpose of completing due diligence or for any other purpose necessary to carry out the terms of this Agreement, and who will need to access the Property, to obtain a certificate of insurance in the amount of \$2 million aggregate, \$1 million per occurrence naming the Department as an additional insured. The Buyer shall also require any such contractors to execute a standard indemnification form naming both the Buyer and the Department as indemnified parties. The standard indemnification form

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shall be as follows, unless written approval of a requested change is granted by both the Department and Buyer:

"The contractor agrees to indemnify, defend and save harmless the New Hampshire Housing Finance Authority and State of New Hampshire Department of Transportation, their officials, officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the contractor in the performance of this contract. This indemnification shall survive the expiration or early termination of this contract."

- 1.6. **Closing**: The Parties agree that Closing shall occur within **ninety (90) days** after final approval of the sale by the Governor and Executive Council, unless otherwise mutually agreed by the Parties.
- 1.7. **Title and Deed Restrictions**: In addition to the terms and conditions set forth within this Agreement, the conveyance of the Property by the Department to the Buyer shall be of good and marketable title thereto by Quitclaim Deed and insurable, upon application by the Buyer, for the benefit of the Buyer, by a title insurer licensed in the State of New Hampshire and acceptable to the Buyer pursuant to an ALTA standard form title insurance policy in an amount equal to the Purchase Price, insuring that the Buyer holds marketable fee simple title to the Property subject to:
 - a) Easements, liens, restrictions, and/or encumbrances of record or any other matters of record in existence at the time of the Closing accepted and approved by the Buyer; and
 - b) Provisions of building and zoning laws in effect at the time of the Closing.
- 1.8. **Seller's Affidavits and Certificates**: If requested to do so by the Buyer, the Department, at the Closing, shall deliver such affidavits (in customary form) as may be required by the Buyer or the Buyer's title insurance company with respect to: (1) parties in possession of the Property, (2) rights of third parties and title claims in or to the Property, and (3) mechanic's and materialmen's liens affecting the Property.

- 1.9. **Deed Preparation: Recording Fees:** The Department shall convey the Property by Quitclaim Deed. The Department shall prepare all deeds (including all other applicable recording instruments, if any) at its expense.
 - 1.10. **Transfer Taxes and Recording Fees:** In accordance with New Hampshire State Law RSA 78-B:2, both the Department and the Buyer are exempt from the Real Estate Transfer Tax.
 - 1.11. **Discharge of Liens:** The Department shall, at its expense, pay or discharge all legitimate liens, mechanics liens, encumbrances, and attachments, if any, which may exist on the Property through the date of closing or filed after recording of the deed transferring the Property to the Buyer due to an action by the Department prior to recording of the transfer deed. To enable the Department to make conveyance as herein provided, the Department may, at the time of delivery of the deed, use the Purchase Price or any portion thereof to clear the title or any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed. The Department shall also be entitled to use the proceeds to pay off any mortgagee, pursuant to standard customary practices for real estate transactions and conveyances and receive therefrom a discharge(s) to be recorded in the ordinary course of business.
 - 1.12. **Title Insurance:** If applicable, the Department shall execute all customary documents required by the Buyer's Title Insurance Company.
 - 1.13. **Department's Disclosures:** The Department makes no warranties or representations regarding environmental contamination or sub-surface conditions at the Property.
 - 1.14. **Casualty and Condemnation:** In the event that the Property, prior to closing, are damaged by fire, flood, collapse, or other casualty, the Department or the Buyer, at any time after the occurrence of such damage or casualty, may elect to terminate this Agreement by written notice, in which event all other obligations of the Parties hereunder shall cease and this Agreement shall thereupon be void and of no further force or effect. In the event of casualty, the Department and the Buyer agree to hold each other harmless from any claim for any costs, damages, liabilities, or financial losses it may incur.
2. **Buyer's Contingencies:** The Buyer's obligation to Close on acquisition of the Property shall be subject to the following contingencies, the failure to satisfy any one of which shall give the Buyer any of the options set forth below and, in addition, the right to withdraw from this Agreement, after which the Buyer shall have no further obligation to the Department.

2.1. **Title: Time being of the essence**, upon execution of this Agreement by the Parties, the Buyer may perform a title examination of the Property within thirty (30) days, to be reasonably satisfied that title to the Property is marketable and insurable. If upon examination of the title it is found not marketable or insurable or renders the Property unsuitable for Buyer's purposes, then Buyer shall provide written notice to the Department. The Department shall have a reasonable opportunity to cure any defects. If the Department is unwilling or unable to cure the defects then this agreement may be rescinded at the option of the Buyer or Department and all deposits shall be refunded to the Buyer, provided that written notice is delivered within said time frame, **time being of the essence**. If no notice is given within said time frame, then any objections to title are waived.

2.2. **Environmental**: Prior to Closing, Buyer, at its sole expense, shall cause a Phase 1 environmental survey to be performed on the Property. If the results of the survey are unsatisfactory to Buyer in its sole judgement, then it may terminate this Agreement by written notice to the Seller to be provided within ten (10) days of receipt of the survey. Upon termination, all deposits shall be refunded to Buyer and the parties shall have no further obligations hereunder. In the event written notice is not delivered to the Seller, then objections under this paragraph are waived.

3. **Representations and Warranties of the Buyer**. The Buyer hereby represents and warrants that:

3.3.1. The execution and delivery of this Agreement and the performance of the Buyer's obligations hereunder have been duly authorized by such action as necessary, and this Agreement constitutes the legal, valid, and binding agreement of the Buyer, enforceable against the Buyer in accordance with its terms subject only to the conditions set out in this Agreement.

3.3.2. Subject to the conditions set out in this Agreement, neither the execution or delivery by the Buyer of this Agreement, the performance by the Buyer of its obligations in connection with the transactions contemplated hereby, nor the fulfillment by the Buyer of the terms or conditions hereof conflicts with, violates or results in a breach of any constitution, law, charter, ordinance or governmental regulation applicable to the Buyer, or conflicts with, violates or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Buyer is a party or by which the Buyer or any of its properties or assets are bound, or constitutes a default there under.

3.3.3. Except as set forth in this Agreement, no approval, authorization, order, or consent of, or declaration, registration or filing with, any

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Governmental Authority is required for the valid execution and delivery of this Agreement by the Buyer, except such as have been duly obtained or made or disclosed in this Agreement.

- 3.3.4. There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or Governmental Authority, pending or threatened against the Buyer, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Buyer of its obligations hereunder or the performance by the Buyer of its obligations under the transactions contemplated hereby, or which, in any way, questions or may adversely materially affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Buyer in connection with the transactions contemplated hereby.

3.4. Representations and Warranties of the Department. The Department hereby represents and warrants to the best of its knowledge and belief that:

- 3.4.1. The Department has the power and authority to execute, deliver and carry out the terms and provisions of this Agreement and all necessary action has been taken to authorize the execution, delivery, and performance by it of this Agreement subject to the Department seeking and obtaining final approval by Governor and Executive Council pursuant to RSA 4:39-c. This Agreement will, upon execution and delivery thereof by the Department and upon approval by Governor and Executive Council, constitute valid, legal and binding obligations of the Department enforceable against the Department in accordance with the respective terms thereof.
- 3.4.2. Neither the execution or delivery by the Department of this Agreement, the performance by the Department of their obligations in connection with the transactions contemplated hereby, nor the fulfillment by the Department of the terms or conditions hereof conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Department, or conflicts with, violates or result in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Seller are a party or by which the Department or any of its properties or assets are bound, or constitutes a default there under.
- 3.4.3. Except as set forth in this Agreement, no approval, authorization, order, or consent of, or declaration, registration or filing with, any Governmental Authority is required for the valid execution and delivery of this Agreement by the Department, except such as have been duly obtained or made.

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- 3.4.4. There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or Governmental Authority, pending or threatened against the Department, its principal(s), affiliate(s), or entities controlled by its principal(s), wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Department of their obligations hereunder or the performance by the Department of its obligations under the transactions contemplated hereby, or which, in any way, questions or may adversely materially affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by the Department in connection with the transactions contemplated hereby.

4. GENERAL PROVISIONS

- 4.3. **Cooperation:** The Buyer and the Department agree to cooperate with each other to achieve the purposes of this Agreement and, in connection therewith, to take such further actions and to execute such further documents as may reasonably be requested by the Department, the Buyer, or their representatives, agents, and consultants.
- 4.4. **Entire Agreement; Amendments:** This Agreement embodies the entire agreement and understanding between the Parties hereto relating to the subject matter herein and supersedes all prior agreements and understandings between the Parties. This Agreement may not be changed, modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by each of the Parties hereto or by the Party against which enforcement is sought. Any change, modification, or amendment, which requires the consent or approval of a Governmental Authority, shall be effective only upon receipt of such approval.
- 4.5. **Binding Effect; Successors and Assignors.** The terms and provisions of this Agreement and the respective rights and obligations of the Parties hereunder shall be binding upon, and inure to the benefit of, their respective heirs, successors, assigns, and nominees.
- 4.6. **Headings.** The headings to the sections and subsections of this Agreement have been inserted for convenience of reference only and shall not modify, define, limit, or expand the express provisions of this Agreement.
- 4.7. **Exhibits.** All exhibits referred to in this Agreement are hereby incorporated by reference and expressly made a part hereof.

- 4.8. **Governing Law.** This Agreement shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire.
- 4.9. **Enforceability.** Any provision of this Agreement that is determined to be illegal or unenforceable by a court of competent jurisdiction, shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- 4.10. **Consent to Jurisdiction and Venue.** The Department and the Buyer submit to the jurisdiction of the courts of the State of New Hampshire and the courts from which an appeal from such trial venue may be taken or other relief may be sought for purposes of any action or proceeding arising out of this Agreement or any related agreement. All legal actions taken by the Parties shall be commenced in Merrimack County Superior Court. Both Parties hereby waive their right to a jury trial.
- 4.11. **Independent Parties.** The Department and the Buyer are independent parties under this Agreement, and nothing in this Agreement shall be deemed or construed for any purpose to establish between any of them or among them a relationship of principal and agent, employment, partnership, joint venture, or any other relationship other than independent parties.
- 4.12. **Survival of Agreement.** The agreements, covenants, indemnities, representations, and warranties contained herein shall survive the execution and delivery of this Agreement.
- 4.13. **Waivers.** Failure on the part of any Party to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall not be deemed to be a waiver of any such Party's rights hereunder. No waiver at any time of any provision hereof by any Party shall be construed as a waiver of any other provision hereof or a waiver at any subsequent time of the same provision.
- 4.14. **No Rights Conferred Upon Others.** Except as expressly set out herein, nothing in this Agreement shall be construed as giving any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government, other than the Parties hereto, their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.
- 4.15. **Preservation of Rights.** Nothing herein or in any related Agreement shall limit or be construed to limit in any way rights or remedies the Buyer may

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have for the collection of real property taxes under law, unless expressly set forth herein.

- 4.16. **Time of the Essence.** The Parties agree that time is of the essence in performance of their respective obligations under this Agreement.
- 4.17. **Good Faith and Fair Dealing.** Unless expressly stated otherwise in this Agreement, whenever a party's consent or approval is required under this Agreement, or whenever a party shall have the right to give an instruction or request another party to act or to refrain from acting under this Agreement, or whenever a party must act or perform before another party may act or perform under this Agreement, such consent, approval, or instruction, request, act or performance shall be reasonably made or done, or shall not be unreasonably withheld, delayed, or conditioned, as the case may be.
- 4.18. **Municipal Approvals.** The execution of this Agreement does not preempt or supersede the review process or powers of any Buyer or other governmental Board, Committee, Commission, or Department, or excuse the parties from the requirement to apply for and receive all necessary permits and approvals from all applicable Buyer or other governmental Boards, Committees, Commissions, or Departments, including but not limited to the requirement that the agreement be approved by the Governor and Executive Council pursuant to RSA 4:39-c prior to the Seller being required and/or authorized to convey the property to the Buyer.
- 4.19. **Warranties and Representations.** The Department and the Buyer each acknowledge that they have not been influenced to enter this transaction or relied upon any warranties or representations not specifically set forth or incorporated into this Agreement.
- 4.20. **Saving Clause.** In the event that any of the terms or provisions of this Agreement are declared invalid or unenforceable by any Court of competent jurisdiction or any Federal or State Government Agency having jurisdiction over the subject matter of this Agreement, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.

[The remainder of this page left blank intentionally]

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Executed as a sealed instrument this 7th day of June, 2022.

BUYER:

NEW HAMPSHIRE HOUSING FINANCE AUTHORITY

By: [Signature] Date: 6/6/2022
Printed: ROBERT DAPICE
Duly Authorized

**STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOUROUGH**

In Bedford, NH, on the 6th day of June, 2022, before me, personally appeared Robert B. Dapice, known to me or proved to be the person named in and who executed the foregoing instrument on behalf of the New Hampshire Housing Finance Authority, and being first duly sworn, such person acknowledged that he executed said instrument for the purposes therein contained as his free and voluntary act and deed.

[Signature]
Justice of the Peace / Notary Public
NOTARY PUBLIC
State of New Hampshire
My Commission Expires
May 4, 2027

SELLER:

STATE OF NEW HAMPSHIRE

By: [Signature] Date: 6/7/22
Printed: Stephen G. LaBonte
Duly Authorized

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

In Concord, NH, on the 7th day of June, 2022, before me, personally appeared, Stephen G. LaBonte, Administrator for the Bureau of Right-of-Way, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he

Initial: RD

executed said instrument for the purposes therein contained as his free and voluntary act and deed.


Justice of the Peace/Notary Public

SANDRA J. NEWMAN, Notary Public
State of New Hampshire
My Commission Expires Nov. 25, 2024

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