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State of New Hampshire  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
25 Capitol Street - Room 120  
Concord, New Hampshire 03301  
Office@das.nh.gov

Charles M. Arlinghaus  
Commissioner  
(603) 271-3201

Joseph B. Bouchard  
Assistant Commissioner  
(603) 271-3204

Catherine A. Keane  
Deputy Commissioner  
(603) 271-2059

August 28, 2019

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

**REQUESTED ACTION**

Authorize the Department of Administrative Services to amend a current license agreement with Merrimack County Savings Bank (vc# 154038) Concord, NH, to provide access to a Steam Loop Condensate Line, by increasing the contract amount by \$16,500, from \$23,000 to amount not to exceed \$39,500, and extend the term of the license agreement one year beginning on November 15, 2019 and ending on November 14, 2020, effective upon Governor and Council approval. **100% General Funds**

The cost of the contract amendment shall be paid as required contingent upon availability and continued appropriation through various individual Department of Administrative Services budgeted utility line expenditures.

**EXPLANATION**

This amendment for an extension of the completion date is needed due to the project completion date being extended to the fall of 2020. Governor and Council approval of this amendment for an increase from \$23,000 to \$39,500 is being sought in accordance with the amended MOP 150, which took effect July 1, 2018. The original license agreement, approved by the Department of Administrative Services on November 15, 2017 for \$23,000 was under the previous threshold of \$25,000.

The Department of Administrative Services leases underground steam piping to provide steam heat to the State House, State House Annex and State Library. This steam loop has some condensate lines at various locations that drain condensate from the steam line to waste. One of the main condensate lines terminates in the lower level of the Merrimack County Savings Bank. The license agreement allows the State access to the condensate line for any maintenance and or repairs to ensure that the condensate line is working properly. For the right to enter their facility, the State pays

His Excellency, Governor Christopher T. Sununu  
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August 28, 2019  
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Merrimack County Savings Bank \$6,500 per year and reimburses them for the cost of any utilities related to the condensate line and any emergency calls that require their facilities personnel to respond to the facility during non-working hours.

The Department of Administrative Service is working with a contractor to install new permanent steam piping infrastructure that is expected to be completed by the fall of 2020. Once this new steam piping infrastructure is completed, we will no longer require the condensate line and it will be removed from the bank building.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ch Arlinghaus", written in a cursive style.

Charles M. Arlinghaus  
Commissioner

## LICENSE AGREEMENT

THIS AGREEMENT, is made as of the 15 day of November, 2017 (the "Effective Date"), by and between the State of New Hampshire, acting through the Department of Administrative Services, having an office at and mailing address of 25 Capitol Street, Suite #120, Concord, New Hampshire 03301 ("Licensee"); and Merrimack County Savings Bank, a New Hampshire domestic bank, having an office at and mailing address of 89 North Main Street, Concord, New Hampshire 03301 (the "Bank" and the "Licensor").

Whereas, the State leases certain steam pipes and associated improvements now owned by State House Loop, Inc. and previously owned and operated by Concord Steam Corporation (the "Downtown Loop") pursuant to a Lease Agreement dated May 31, 2017 (the "Lease") for the purpose of providing steam heat to the State House and other buildings owned by the State located in downtown Concord on a temporary basis while permanent replacement heating systems are designed and installed; and

Whereas, the Licensee has need to periodically drain the Downtown Loop to maintain the Downtown Loop in good working order; and

Whereas, a low point within the Downtown Loop is located in a manhole adjacent to the Bank and a steam condensate drain line is piped from that manhole into the basement of the Bank (the "License Area") at its premises located at 89 North Main Street, Concord, New Hampshire (the "Premises"); and

Whereas, the Licensee, with permission from the Bank, and subject to the conditions set forth in this Agreement, has installed improvements to the condensate drain line of the Downtown Loop (collectively the "Facility") in the License Area to access and service the Downtown Loop; and

Whereas, the Licensee and the Bank desire to formalize the Licensee's rights to establish the Facility and access to the License Area and set forth the respective responsibilities of the parties with respect to the Facility and the License Area;

Now therefore, the parties agree as follows:

### 1. Scope of License.

The Bank hereby grants to the Licensee a license for the Term (as defined below) for access to, use of, and maintenance of the Facility within the License Area. The Bank makes no warranty as to the condition of the License Area, express or implied, and the Licensee acknowledges that it occupies the License Area at its sole risk and peril. The Licensee stipulates and agrees that in advance of entry hereunder the Licensee shall have inspected the License Area and become fully familiar with the condition thereof. By entry into the License Area, the Licensee shall be deemed to have accepted the License Area and shall be deemed to have released the Bank from any claim or liability arising from any defect therein. The Licensee hereby acknowledges that the Bank is under no obligation to maintain the License Area for the benefit of the Licensee, however the Bank agrees to make reasonable efforts to maintain access to the License Area during the term of this Agreement.

2. **Term.**

- (a) The term of this Agreement shall commence on the Effective Date hereof and shall continue for a period of two (2) years from said date (the "Term").
- (b) This Agreement may be terminated prior to the expiration of the Term at the discretion of the Licensee upon sixty (60) days prior written notice to the Bank. Further, the License shall automatically terminate upon the first to occur of the following events: (a) the sale, conveyance or any other transfer (whether voluntarily or by operation of law) of the Premises or any portion thereof or any interest therein, to any person, entity or association, or (b) an event of default as set forth in Paragraph 10, below. The Bank agrees that it will provide notice to the Licensee at least ninety (90) days in advance of any conveyance or transfer of the property.

3. **Fees.**

- (a) In consideration of the License granted hereby, the Licensee agrees to pay the Bank the following sums:
  - (i) The Licensee shall pay to the Bank a License Fee in the amount of Six Thousand Five Hundred Dollars (\$6,500.00) per year in advance, on the Effective Date hereof and on the first anniversary of this Agreement, without offset or deduction; provided, however, that upon payment of each annual installment, such installment shall be deemed earned and shall not be prorated in the event of early termination of this Agreement for any reason.
  - (ii) The Licensee agrees to reimburse the Bank for utility charges which are related to the presence of the Facility. The reimbursement for these utilities shall be calculated as follows: Prior to the Effective Date of this Agreement, the Bank will provide the Licensee with documentation evidencing a recent 12 consecutive month billing history for all relevant utilities. Based on these bills, the parties will agree to a set baseline anticipated utility charge for each month. Within ten (10) days of receipt of a bill in excess of the anticipated baseline utility charge, the Bank shall submit the bill to the Licensee. Upon verification that the bill is accurate, the Licensee shall pay the difference between the baseline anticipated utility charge and the actual charge to the Bank. In no event shall the Licensee's obligation under this section exceed \$7,500.
  - (iii) The Licensee shall pay to the Bank a lump sum service fee, for each request made pursuant to Section 4 of this Agreement to access the License Area at times other than during the Bank's normal hours of operation, of Two Hundred Fifty Dollars (\$250.00) per request within ten (10) days of receipt of an invoice therefor. In no event shall the Licensee's obligation under this section exceed \$2,500.
  - (iv) To the extent applicable, the Licensee hereby agrees to pay, in addition to the License Fee, all real estate, excise, personal property or other taxes assessed to the Bank with respect to the Licensee's use of the License Area, the Facility, or other property or equipment of the Licensee of any description located upon the Premises, or within the License Area herein granted. The Licensee further asserts that it believes that the license

area and facilities at issue are exempt from taxation.

- (b) Six months after the Date of this Agreement, the parties hereby agree to schedule a meeting to review the Licensee's use of the Facility and frequency of requested access and to discuss the adequacy of the fees set forth in this Section 3 of the Agreement.

4. **Access to Site.**

- (a) The Bank shall designate a responsible person or persons who shall be available 24-hours a day, 7 days a week, to provide access to the License Area and to accompany the Licensee or its representatives on the Premises. Said access shall be provided no later than six (6) hours from request by the Licensee at the contact information set out below.
- (b) The Licensee shall designate a responsible person or persons who shall be available 24-hours a day, 7 days a week, to respond to complaints by the Bank in the event of any release of steam or water from the Facility into the Bank property. The Licensee shall respond to all complaints of the Bank relating to the License Area without charge.

5. **Maintenance and Operating Procedures.**

The Licensee shall maintain the Facility in good working order and in compliance with all applicable local, county, state or federal laws, codes, ordinances, rules and regulations of any description, now or hereafter in effect, including, but not limited to: zoning, building, engineering, sanitation, health or any law pertaining to Environmental Materials (as defined below) or relating to the environment and/or health and safety (collectively, "Law"). The Licensee shall conduct monthly inspections of the Facility on the first day of each month and provide a written report of each such inspection to the Bank no later than seven (7) days after the date of inspection. The Licensee shall immediately correct and repair, subject to the provision of the next succeeding sentence, any condition noted in each such inspection report that may have a deleterious effect on the Premises. The Licensee agrees to perform no maintenance, repair, replacement or extension of the Facility, or otherwise enter other portions of the Premises without the Bank's prior written consent and only upon such other terms and conditions as the Bank may specify. The Licensee shall submit to the Bank a list of all contractors and subcontractors that the Licensee engages to maintain, repair, replace or extend the Facility or otherwise have access to the License Area, and the Bank shall have the right to approve or disapprove of any and all such contractors and subcontractors. Further, the Licensee shall require all such contractors and subcontractors having access to the License Area to maintain, repair, replace or extend the Facility to obtain and maintain at all times during any such work the insurance required in Paragraph 8, below.

6. **Removal of Equipment.**

At the termination of this License, the Licensee shall seal off the steam condensate drain line, remove all associated equipment, deliver up use of the License Area and restore the License Area, at Licensee's sole cost and expense, to the same condition as exists on the date hereof. All work shall be done in a good and workmanlike manner.

7. **Responsibility For Claims Against The Bank**

**To the extent permitted by law, and subject to the appropriation of funds for this purpose, the Licensee agrees to be responsible for any and all claims of liability for any injury or damage to**

any person or property to the extent such claim shall be caused in part or in whole by the act, neglect, fault, or omission of any duty with respect to the same, by Licensee, its agents, employees, contractors, or invitees.

8. Insurance.

The Licensee shall have and maintain or cause to be maintained in full force and effect during the Term of this Agreement a Commercial General Liability insurance policy with respect to the Facility and the License Area with coverage of not less than Two Million Dollars (\$2,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) General Aggregate. The Bank shall be listed as an Additional Insured on said policy with form CG 20 26 11 85 or carrier equivalent with "arising out of" wording. The Premises shall be added as a "Designated Premises" insured under the policy. Notice shall be provided for non-renewal or cancellation in compliance with the New Hampshire law – sixty (60) days. The policy shall be primary with the Bank's own coverage being excess. The Licensee shall promptly deliver evidence of the insurance required hereunder to the Bank within ten (10) days of the date the Licensee executes this Agreement and shall replace such policies with new policies and provide evidence thereof no later than thirty (30) days before the expiration of the policies referenced herein.

9. Notices.

All notices, demands, requests, or other communications which are required to be given, served or sent by one party to the other pursuant to this Agreement shall be in writing, and shall be mailed, postage prepaid, by registered or certified mail, or by a reliable overnight courier service with delivery verification, to the following addresses or at such other address as may be designated in writing by either party:

**If to State:**                      **New Hampshire Department of Administrative Services  
25 Capitol Street, Suite #120  
Concord, New Hampshire 03301  
Attn: Michael Connor**

**If to Bank:**                      **Merrimack County Savings Bank  
89 North Main Street  
Concord, New Hampshire 03301  
Attn: Tom Cimikoski**

Notice given by certified or registered mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

10. Default.

Failure by either Party to perform any other of its obligations under this Agreement for thirty (30) days after written notice thereof by the other Party shall constitute a default ("Default") under this Agreement. If the Bank makes any expenditures or incurs any obligations for the payment of money in connection with enforcing any of its rights under this License Agreement, including, but not limited to, attorneys' fees and expenses, the Licensee shall pay such sums after written demand therefor.

11. Assignment.

Neither party may assign, transfer, or otherwise encumber its interest in this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

12. Miscellaneous.

- (a) This Agreement shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by the Bank and the Licensee. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Agreement.
- (b) This Agreement embodies the entire agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.
- (c) This Agreement may be executed in counterpart copies, each of which shall be deemed an original instrument, but all of which taken together shall constitute one and the same agreement.
- (d) All section headings and captions used herein are for reference purposes only and shall not be considered a substantive part of the Agreement.
- (e) This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire, without regard to New Hampshire conflict of laws principles.
- (f) This Agreement creates a license only and each party acknowledges that the Licensee does not and shall not claim at any time, any real property interest or estate of any kind or extent whatsoever in the property of the Bank by virtue of this Agreement or Licensee's use of the Facility pursuant hereto, and the Bank does not and shall not claim at any time, any property interest or estate of any kind or extent whatsoever in the Facility by virtue of this Agreement. Nothing herein contained shall be construed as constituting a partnership, joint venture or agency between the parties.
- (g) Neither this Agreement nor any memorandum hereof shall be recorded in the land records of any county or city or otherwise unless signed by both parties and with their consent.

*[The balance of this page is intentionally left blank; signatures follow.]*

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

**State of New Hampshire,  
Department of Administrative Services**

By: Ch. M. Andrews

Name:

Title:

Being duly authorized

**Merrimack County Savings Bank**

By: Philip B. Emma

Name: Philip B. Emma

Title: President

Being duly authorized



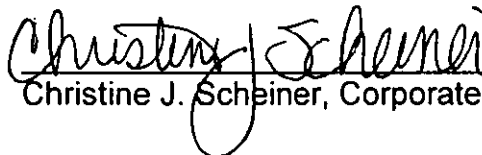
**MERRIMACK COUNTY SAVINGS BANK  
CORPORATE RESOLUTION**

THE BOARD VOTED to elect:

Philip B. Emma, President of Merrimack County Savings Bank

Granting him the authority to act for and sign checks, drafts and other documents on behalf of the Bank and other actions to address his responsibilities, consistent with Bank policy.

I, Christine J. Scheiner, Corporate Secretary, Merrimack County Savings Bank, hereby certify that the foregoing is a true copy of a resolution duly adopted by the Board of Directors of said corporation at a meeting duly held on December 15, 2015, at which a quorum was present and voting throughout, and that the same has not been repealed or amended, and remains in full force and effect and does not conflict with the by-laws of said corporation.

  
Christine J. Scheiner, Corporate Secretary

11/15/17  
Date



License Agreement Amendment  
Downtown Steam Loop Condensate Line


It is hereby agreed that the license agreement effective November 15, 2017 between the State of New Hampshire, Department of Administrative Services (Licensee) and the Merrimack County Savings Bank (the "Bank" and the "Licensor") for the use of a condensate line from the downtown steam loop that provides steam heat to the State House, State House Annex and State Library, is amended as follows:

1. Delete in its entirety Paragraph 2. (a) Term and substitute therefore the following:
  - (a) The term of this Agreement shall commence on the Effective Date hereof and shall continue for a period of three (3) years from said date (the "Term").
  
2. Delete in its entirety Paragraph 3. (a), (i) and (ii) Fees and substitute therefore the following:
  - (i) The Licensee shall pay to the Bank a License Fee in the amount of Six Thousand Five Hundred Dollars (\$6,500.00) per year in advance, on the Effective Date hereof and on the first and second anniversary of this Agreement, without offset or deduction; provided, however, that upon payment of each annual installment such installment shall be deemed earned and shall not be prorated in the event of early termination of this Agreement for any reason.
  
  - (ii) The Licensee agrees to reimburse the Bank for utility charges which are related to the presence of the Facility. The reimbursement for these utilities shall be calculated as follows: Prior to the Effective Date of this agreement the Bank will provide the Licensee with documentation evidencing a recent 12 consecutive month billing history for all relevant utilities. Based on these bills, the parties will agree to a set baseline anticipated utility charge for each month. Within ten (10) days of receipt of a bill in excess of the anticipated baseline utility charge, The Bank shall submit the bill to the Licensee. Upon verification that the bill is accurate, the Licensee shall pay the difference between the baseline anticipated utility charge and the actual charge to the Bank. In no event shall the Licensee's obligation under this section exceed \$17,500.

All other provisions of that certain License Agreement, Effective November 15, 2017 shall remain in full force and effect.

MERRIMACK COUNTY SAVINGS BANK

BY

  
\_\_\_\_\_

(Print Name)

Title:

President

STATE OF NEW HAMPSHIRE

BY

  
\_\_\_\_\_

(Print Name)

Title:

Commissioner

Date: August 22, 2019

Date: 9-4-2019

NOTARY PUBLIC/JUSTICE OF THE PEACE OFFICE OF THE ATTORNEY GENERAL

On the 22 day of August, 2019, there appeared before me, in the State and county foresaid a person who satisfactorily identified ~~himself as~~ herself

Linda Larden, and she

acknowledged that ~~he~~ executed this document indicated above.

In witness thereof, I hereunto set my hand and official seal.

[Signature]  
Notary Public/Justice of the Peace

My Commission Expires:  
05-01-2024  
(Date)

BY: [Signature]  
Takhmina Rakhmatova  
(Print Name)

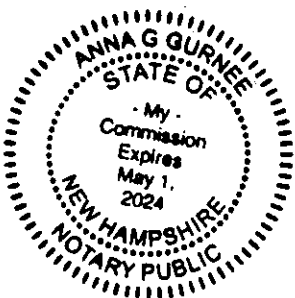
Title: Attorney

Date: 9/4/2019

The foregoing contract amendment was approved by Governor and Council of New Hampshire on:

Signed: \_\_\_\_\_

(Print Name)  
Title: \_\_\_\_\_



**Merrimack County Savings Bank  
Corporate Resolution**


The Board of Merrimack County Savings Bank voted:

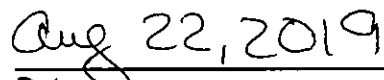
To the extent permitted by the laws of the State of New Hampshire, and except as otherwise prescribed by the Bylaws:

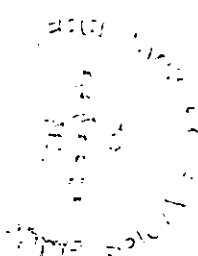
- Linda J. Lorden, MCSB President

Shall be authorized to execute contract, deeds, leases and all other documents except that discharges and assignments of mortgages may be executed by any officer. Notwithstanding the foregoing, the Board of Directors or the Investment Committee of Merrimack County Savings Bank (the "Bank") may by special vote authorize any officer, employee or agent of the Bank to enter into any contract or execute and deliver any instrument in the name and on behalf of the Bank. Such authority may be general or confined to specific instances.

I, Christine J. Scheiner, Corporate Secretary, Merrimack County Savings Bank, hereby certify that the foregoing is a true copy of a resolution duly adopted by the Board of Directors of said corporation at a meeting duly held on July 19, 2019, at which a quorum was present and voting throughout, and that the same has not been repealed or amended, and remains in full force and effect and does not conflict with the bylaws of said corporation.

  
\_\_\_\_\_  
Christine J. Scheiner, Corporate Secretary

  
\_\_\_\_\_  
Date



# State of New Hampshire

## Department of State

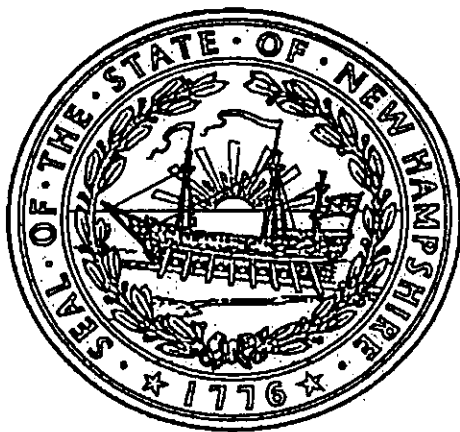
### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that documents regarding MERRIMACK COUNTY SAVINGS BANK, were filed in this office on June 01, 2006.

INFORMATION REGARDING ANNUAL REPORTS AND/OR FEES MUST BE OBTAINED FROM THE NEW HAMPSHIRE BANKING DEPARTMENT.

Business ID: 558353

Certificate Number : 0004573065



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 28th day of August A.D. 2019.

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

William M. Gardner  
Secretary of State