

ADDITIONAL INFORMATION

EASEMENT

STATE OF NEW HAMPSHIRE

TO

CITY OF MANCHESTER, SEWER EASEMENT

MANCHESTER

HILLSBOROUGH COUNTY REGISTRY

THOMAS F. ARNOLD, B.S.Q.

557

city solicitor

Doc # 8006054 Feb 8, 2008 11:40 AM
Book 7947 Page 1851 Page 1 of 4
Register of Deeds, Hillsborough County

Judith A. MacDonald

FEES:	22.58
SURCHARGE:	2.00
CASH:	0

KNOW ALL MEN BY THESE PRESENTS

The State of New Hampshire, whose mailing address is the Department of Transportation, 7 Hazen Drive, PO Box 483, Concord, NH 03302-0483, hereinafter referred to as the Grantor, for considerations received, to it in hand before the delivery hereof, well and truly paid by the City of Manchester, a municipal corporation, having a mailing address of 1 City Hall Plaza, Manchester, NH 03101-2097, hereinafter referred to as the Grantee, does hereby grant to said Grantee, an easement for a sewer line through the State-owned Portsmouth Branch railroad corridor, in the City of Manchester, County of Hillsborough, State of New Hampshire and being more particularly shown on Sheet C-6 and C-7- Cohas Brook Interceptor-Phase 2-Contract 2 dated September 12, 2006 or approved Department Revisions and on file in the office of the City of Manchester Department of Highways, Environmental Protection Division, 300 Winston Street, Manchester, New Hampshire. This easement shall include the right of access and the right to use, maintain, repair and reconstruct the sewer line within the easement area and described as follows:

Being a twenty (20) foot wide strip of land on the State-owned Portsmouth Branch railroad corridor as shown on railroad valuation sheet V 28/37, on file in the records of the Department of Transportation's Bureau of Rail & Transit; bounded on the north by a line that is fifteen (15) feet southerly and parallel with the center line of the State-owned Portsmouth Branch railroad corridor; bounded on the west by a line perpendicular to approximate Engineering Station 1923+00 of the State-owned Portsmouth Branch railroad corridor; bounded on the south by the parcels owned by the City of Manchester, Christopher Bobotas, and Adam Steel; and bounded on the east by a line perpendicular to approximate Engineering Station 1909+50 on the State-owned Portsmouth Branch railroad corridor, whereupon the easement twenty feet wide crosses the corridor to be bounded on the north by Garvin Road, then bounded on the west by a line perpendicular to approximate Engineering Station 1909+70 to a point fifteen (15) feet southerly of the center line of said corridor, and containing twenty eight thousand (28,000) square feet, more or less.

Meaning and intending to convey an easement on a portion of that Portsmouth Branch railroad corridor obtained the State of New Hampshire from the Boston & Maine Corporation, and recorded in the Hillsborough County Register of Deeds on January 17, 1989, in Book 5080 Pages 1086-1103.

The above-mentioned easement is subject to and conditioned upon the performance by the Grantee, its successors and assigns, the conditions and restrictions listed below, which are covenants running with the land.

- 1.) The Grantee agrees that all construction, use, maintenance, repair and reconstruction within the easement shall be performed at a time and under conditions acceptable to the Grantor.
- 2.) The Grantee agrees that Cohas Brook Interceptor Phase 2- Contract 2 Updated Plans and Technical Specification for the Railroad Easement Application dated September 12, 2006 are incorporated into this agreement.
- 3.) The Grantee agrees that it shall be responsible for paying the cost of all construction, use, maintenance, repair and reconstruction that when finished the corridor be resurfaced with a good gravel (3/4-) and that any accesses put in for construction be blocked to prevent illegal entry to the corridor.
- 4.) The Grantee agrees that it is liable for the cost of all construction, use, maintenance, repair and reconstruction within the easement. Such liability shall include but not limited to the cost of all on-site inspectors or other representatives of the Grantor.
- 5.) The Grantee agrees to pay for and obtain before construction, maintenance, repair or reconstruction may begin within the easement any and all other permissions, permits and licenses required by Federal, State, county or local governments, their agencies or boards, or any public subdivision thereof.
- 6.) The Grantee shall coordinate any and all work within the right-of-way with the New Hampshire Department of Transportation's Bureau of Rail & Transit by contacting Bureau personnel at (603) 271-2468 to give them advanced notice of the work to be performed within the easement area. The Grantee must contact New Hampshire Department of Resources and Economic Development (Bureau of Trails, 271-3254) prior to beginning any work on the railroad corridor to provide the work schedule and establish locations for any necessary signage.
- 7.) During the term of the easement, the Grantee, at its own expense, shall maintain general liability coverage in the amount of two hundred and seventy five thousand (\$275,000.00) dollars each claimant and nine hundred and twenty five thousand (\$925,000.00) dollars in the aggregate on the easement area. The Grantee shall provide to the Grantor a certificate of insurance demonstrating that the required coverage has been obtained and designating the State of New Hampshire as additional insured.

Should the Grantee be allowed to make alteration or improvements to the premises, the Grantee shall have its Contractor obtain and keep in force a policy or policies of

insurance covering the work, designating the State of New Hampshire as additional insured.

- A. Contractors' Public and Property Damage Liability:
\$1,000,000.00 each occurrence / \$2,000,000.00 in the aggregate
- B. Contractors' Protective Public and Property Damage Liability:
\$1,000,000.00 each occurrence / \$2,000,000.00 in the aggregate

Procurement and delivery to the State of a certificate indicating such insurance acceptable to the State is a condition precedent to the effectiveness of this easement. Nothing contained herein shall be construed as a waiver of sovereign immunity.

- 8.) The Grantee agrees to protect existing drainage facilities located on the Grantor's property and agrees to repair or replace as necessary any drainage as a result of the easement herein conveyed. The Grantee also agrees that unpaved areas disturbed by the construction, use, maintenance, repair or reconstruction within the easement shall be reshaped to drain freely to the Grantor's satisfaction and, in addition, areas within the easement area but outside the paved area of the road shall be loamed and seeded in accordance with acceptable erosion control practices. The Grantor shall be the sole determining entity in regards to the grading and reshaping areas.
- 9.) Notwithstanding this easement, the Grantor retains all ownership rights, including the right-of-way, and such track or right-of-way as may hereinafter be constructed, operated or utilized by the Grantor or by its lessees or assigns. In the event of the restoration of rail service, an appropriate modification to aforesaid facility or another facility shall be constructed and maintained within the easement area by the Grantee to allow the use and maintenance of the above-mentioned easement.
- 10.) The Grantee shall be considered in default of this easement if the Grantee fails to perform any covenant of this agreement. Upon the occurrence of default, the Grantor shall give the Grantee written notice specifying the Event of Default and a reasonable time frame when the Grantee must remedy the Event of Default. In the absence of any specification of time, thirty (30) days from the date of notice shall be the time period. If the Event of Default is not timely remedied, the Grantee agrees to reimburse the Grantor any costs that are incurred to remedy the Grantee's acts or omissions which have resulted in the Event of Default. In addition, the Grantor may terminate the agreement and/or treat the agreement as breached and pursue any of its remedies at law or in equity or both.

TO HAVE AND TO HOLD said premises to the Grantee, its successors and assigns forever the use and purposes herein before described.

IN WITNESS WHEREOF, The State of New Hampshire has caused its name to be set and its seal to be hereunto affixed by the Commissioner of the New Hampshire Department of Transportation, duly authorized and executed this 21 day of November, 2007.

Signed, Sealed and Delivered in the presence of

GRANTOR: STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

Diene L. Hartford

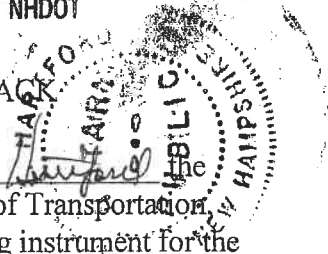
[Signature]
Commissioner

Jack W. Ferns, Director
Aeronautics, Rail, and Transit
NHDOT

THE STATE OF NEW HAMPSHIRE

COUNTY OF MERRIMACK

On this 21 day of November, 2007, before me, Diene L. Hartford the undersigned officer, personally appeared the Commissioner of the Department of Transportation and that as such Commissioner, being authorized so to do, executed the forgoing instrument for the purposes therein contained, by signing the name of the State of New Hampshire as the Commissioner of the Department of Transportation.



IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Diene L. Hartford
NOTARY PUBLIC

In the presence of:

[Signature]

GRANTEE: Frank C. Quinta

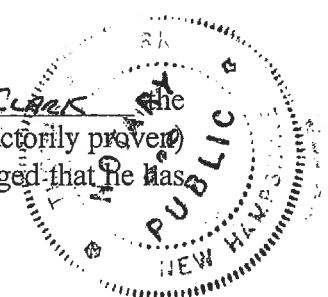
FRANK C GUINTA, MAYOR

(name & title)

THE STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH

On this 12th day of OCTOBER, 2007, before me, THOMAS R CLARK the undersigned officer, personally appeared FRANK C GUINTA known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.



IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
NOTARY PUBLIC
COMMISSION EXPIRES 10/20/07
THOMAS R CLARK

Approved by New Hampshire Council on Resources and Development on November 3, 2005.

Approved by Long Range Capital Planning and Utilization Committee on June 22, 2006.

Approved by Governor and Executive Council on

DEC 11 2007

DEPUTY SECRETARY OF STATE

The foregoing Agreement, having been reviewed by this office, is approved as to form and execution on

Nov. 27, 2007

By [Signature] OFFICE OF THE ATTORNEY GENERAL