

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ENCROACHMENT AGREEMENT

THIS INDENTURE entered into this day between the Town of Carroll, 92 School Street, PO Box 88, Twin Mountain, New Hampshire 03595 herein after called the "Grantee" and the State of New Hampshire, Department of Transportation, PO Box 483, Concord, New Hampshire 03302-0483, herein after called the "State."

WITNESSETH, That the Town of Carroll does hereby covenant and agree to the following stipulations relative to a certain portion of a premises, herein termed an Encroachment, located on Department of Transportation property as shown on a plan Carroll F 035-1(6), P-7437 and F 032-1(4), P-7777 near Station 385+00 and as depicted on a plan "Twin Mountain Chamber of Commerce, Cog Train Engine Display US RT 302 and US RT 3, Proposed Site Plan" developed by Horizons Engineering of Littleton, NH, dated February 2012 and revised March 2012, both on file in the records of the New Hampshire Department of Transportation.

- 1). The Encroachment area shall consist of a portion of the Limited Access Right-of-Way located on the Northwesterly corner of US Route 302 and US Route 3 consisting of an area of 125 feet by 100 feet (12,500 SF) as shown on the plan "Twin Mountain Chamber of Commerce, Cog Train Engine Display US RT 302 and US RT 3, Proposed Site Plan" developed by Horizons Engineering of Littleton, NH, dated February 2012 and revised March 2012.
- 2). The Encroachment allows the Grantee to place and maintain a decommissioned Cog Railway locomotive and passenger train car on railroad tracks for display purposes only and as well as other materials necessary to display this train. The Encroachment will also allow for a gravel access path to be constructed on the Encroachment to access the train as well as the placement of underground electric lines to the train, all as shown on the aforementioned plan. The Grantee also has the right to mow the grass and otherwise maintain the Encroachment.
- 3). The Grantee agrees that any alterations and/or additions for the improvement, maintenance, use, or repair of the property shall be subject to the advance approval of the Department of Transportation, Bureau of Highway Maintenance, District I office located in Lancaster, New Hampshire at telephone number 788-4641
- 4). The Encroachment shall in no way interfere, obstruct, or prevent adequate sight distance for the safe movement of all types of traffic entering or leaving the subject premises, as stipulated by standard highway design requirements.
- 5). The Encroachment shall in no way interfere, obstruct, or prevent any or all highway maintenance activities.
- 6). The Encroachment shall in no way create unsanitary conditions within the surrounding area. It will be the responsibility of the Grantee to ensure the Encroachment area is kept clean and free of litter.
- 7). The Grantee will be responsible for erecting and maintaining "No Parking " signs along US Route 302 and US Route 3 to prevent parking inside the Right-of-Way of the adjacent State highways in connection with the use of the Encroachment. The Grantee shall also coordinate with the Department of Transportation, Bureau of Traffic located in Concord, New Hampshire at telephone number 271-2291 for the placement of the necessary signs.
- 8). If the Encroachment is found to interfere, obstruct, or prevent the safe movement of all types of traffic or the maintenance or repair activities, the obstructions shall be removed promptly by the Grantee at no expense whatsoever to the State. If the Grantee does not promptly remove said obstructions when so notified, the State will eliminate the obstructions as necessary with no liability for damages to any or all items.
- 9). If the Encroachment area is required for highway maintenance, construction, or reconstruction at any future time the State will so inform the Grantee and give adequate time for the removal of any or all items by the Grantee at no expense to the State. If any or all items are not removed at the time this area is required by the State, the State will remove and dispose of any or all of these items as necessary with no liability to the Grantee for reimbursement for the value of said items.
- 10). This Encroachment shall never be used for any other purposes.
- 11). The Grantee does hereby covenant and agree that as a part of this Agreement, (1) no person on the grounds of race, color, disability, sex, or national origin shall be excluded from participation in, denied the benefits of, or be

otherwise subjected to discrimination in use of, said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of service thereon, no person on the grounds of race, color, disability, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the Grantee shall use and allow use of the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle "A", Office of the Secretary, Part 21, Non-Discrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulation may be amended.

- 12.) By signing this Encroachment Agreement, the Grantee hereby agrees to defend, indemnify, and hold harmless the State, its officers, and employees, from and against any and all losses suffered by the Grantee, its officers and employees, and any and all claims, liabilities, or penalties assessed against the Grantee, 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 omission of the Grantee, or any individual or company contracted or hired by the Grantee. Notwithstanding the 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.
- 13.) The Grantee shall, at its own expense, obtain and maintain in force for the benefit of the State of New Hampshire the following insurances: 1) comprehensive general liability insurance against all claims of bodily injury, death, or property damage in the amounts of not less than \$250,000.00 per claim and \$2,000,000.00 per incident. Nothing contained herein shall be construed as a waiver of the State's sovereign immunity.

Executed this 16 day of July, 2012.

TOWN OF CARROLL
BOARD OF SELECTMEN

William Dowling
William Dowling, Chairman

Mark Catalano
Mark Catalano

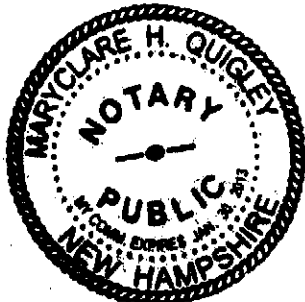
Paul Bussiere
Paul Bussiere

STATE OF NEW HAMPSHIRE

SS

A. D., 2012.

On this 16th day of July, 2012, before me, Maryclare H. Quigley the undersigned officer, personally appeared, William Dowling, Chairman, Mark Catalano, Selectman, Paul Bussiere, Selectman, who acknowledged as being the Board of Selectmen of the Town of Carroll, and that as such Selectmen, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Town as the Board of Selectmen.



Maryclare H. Quigley
Notary Public/~~Justice of the Peace~~
My commission expires: 1/30/2013

Executed this _____ day of _____, 2012.

STATE OF NEW HAMPSHIRE

Witness

By: _____
Commissioner
Department of Transportation

STATE OF NEW HAMPSHIRE,

SS

A. D., 2012

On this _____ day of _____, 2012, before me, _____ the undersigned officer, personally appeared Christopher D. Clement, Sr., who acknowledged as being the Commissioner of The Department of Transportation, and that as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained, by signing the name of the State of New Hampshire as the Commissioner of the Department of Transportation.

IN WITNESS WHEREOF I have hereunto set my hand and seal.

Notary Public/Justice of the Peace
My commission expires _____