

-JCM

OCT18'22 PM 1:24 RCVD



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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
October 11, 2022

24

REQUESTED ACTION

Pursuant to RSA 4:39-c and 228:31, authorize the New Hampshire Department of Transportation (Department) to sell 4.903 +/- acres of state-owned land, with improvements, on the southerly side of NH Route 16, in the Town of Madison. The sale would be directly to Coleman Rental & Supply, LLC. (Grantee), for \$396,100.00, 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 2021</u>
Administrative Fee	\$1,100.00
04-096-096-963015-3049-405215	<u>FY 2022</u>
Sale of Parcel (Federal Funds Payback)	\$395,000.00
(100% of \$395,000.00)	

EXPLANATION

The Department received a request from the Grantee, to reacquire the 4.903 +/- acres of state-owned land on the southerly side of NH Route 16 in the Town of Madison. This parcel is improved with a single-story commercial structure. The Department acquired this land in 1998 for the proposed Conway Bypass project. The project was never constructed and had been dissolved in 2020.

Pursuant to RSA 4:39-c, this sale has been reviewed by the Department, and determined to be surplus to our operational needs and interests. The sale will include the following conditions:

- The Department will retain a right of way 50' from the centerline of NH Route 16, which extends into the parcel.
- The Department will retain all slope and drainage easements, that extend beyond the NH Route 16, 50' right of way line.


- The Grantee will be required to hire a NH Licensed Land Surveyor, to survey and prepare a Boundary and Right of Way Adjustment plan, to be submitted to the Department for review and approval. Upon approval by the Department, the Grantee is required to record the plan in the Carroll County Registry of Deeds, from which the Department will prepare the conveyance deed.
- The Grantee shall be responsible for all local and state approvals, including but not limited to subdivision approval.
- Monuments shall be placed along the railroad right-of-way, at the most northeastern and southeastern limits of Parcel 5. More specifically, the monuments shall consist of 6" x 6" x 36" concrete bounds with rebar, set at or below grade. Prior to the installation of the bounds, a field inspection will be scheduled with the Department and the licensed land surveyor to verify the location of the concrete bounds to be set.

At the May 23, 2022, meeting of the Long-Range Capital Planning and Utilization Committee, this request (LRCP 22-014) was approved, allowing the Department to sell the 4.903 +/- acres of state-owned land directly to Calvin J. Coleman & Son, Inc. for the market value of \$395,000.00, and to assess a \$1,100.00 administrative fee.

Pursuant to RSA 4:39-c, the Department has solicited interest from the Town of Madison, and they do not have an interest in the property. Pursuant to RSA 204-D:2, the Department also solicited interest from the New Hampshire Housing Finance Authority, and they do not have an interest in the property.

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

Respectfully,



Victoria F. Sheehan
Commissioner

VFS/SJN
Attachments

LRCP 22-014

STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION

FROM: Adam Smith
Assistant Administrator

DATE: April 25, 2022

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

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

Approved by the Long Range
Capital Planning & Utilization
Committee May 23, 2022

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

REQUESTED ACTION

The New Hampshire Department of Transportation (Department), pursuant to RSA 4:39-c, requests authorization to sell 4.903 +/- acres of state-owned land, with improvements, on the southerly side of NH Route 16 (White Mountain Highway) in the Town of Madison. The sale will be directly to Calvin J. Coleman & Son, Inc. (Grantee) for \$396,100.00, which includes an \$1,100.00 administrative fee. The sale will be subject to conditions as specified in this request.

EXPLANATION

The Department has received a request from the Grantee who wishes to reacquire land located on the southerly side of NH Route 16 in the Town of Madison. The subject parcel is improved with a single-story 4,000 +/- sq. ft. commercial structure. The Department acquired this land for the proposed Conway By-pass project. The project has not been constructed and has since been dissolved.

The subject parcel, consisting of 4.903 +/- acres, is a portion of a larger parcel acquired in 1998 for a final settlement amount of \$558,000.00. As listed in the conditions below, the Department will be retaining a 50-foot right of way from centerline, as well as a drainage easement that extend beyond that right of way. There is approximately 28% of the state-owned commercial structure, as well as the drilled well water supply to said building, located on the abutting property that is owned by the Grantee. The following easements were acquired on the Grantee's land in the 1998 taking: 10,032 sq. ft. permanent drainage easement, 37,071 sq. ft. temporary slope easement, 4,779 sq. ft. temporary driveway easement, and 9,558 sq. ft. temporary construction easement. The temporary construction easements expire in December of 2023. If the property is not sold to the Grantee, the NHDOT must remove either all, or a portion of the 4,000± commercial building prior to December 2023, when the temporary construction easement expires. These factors were taken into consideration when coming to the appraised value listed above.

After a departmental review, it was determined that the subject parcel is surplus to the Department's operational needs, and it is available for disposal. This parcel will be conveyed with the following conditions:

- The Department will retain a right of way 50' from the centerline of NH Route 16, which extends into the parcel.
- The Department will retain all slope and drainage easements, that extend beyond the 50' right of way line.

- The Grantee will be required to hire a NH Licensed Land Surveyor, to survey and prepare a Boundary and Right of Way Adjustment plan, to be submitted to the Department for review and approval. Upon approval by the Department, the Grantee is required to record the plan in the Carroll County Registry of Deeds, from which the Department will prepare the conveyance deed.
- The Grantee shall be responsible for all local and state approvals, including but not limited to subdivision approval.
- Prior to the sale of the property, and to prevent encroachments along the Conway Branch Railroad Line corridor right of way (Railroad), the Grantee will be required to install a fence or barrier along the property line abutting the Railroad right of way. Design and installation of said fence or barrier shall be authorized by the Department's District 3 Engineer, and the Department's Bureau of Rail and Transit. Access to the property will be granted once the design is reviewed and approved.

A Staff Appraiser from the Department evaluated the subject property and concluded it does have an independent highest and best use. They then prepared a market value appraisal using the sales comparison approach, that adheres to the requirements of the Right of Way Manual and the Uniform Standards of Professional Appraisal Practice. The subject property's contributory value as of July 29, 2021, was concluded to be \$395,000.00.

Pursuant to RSA 4:39-c, the Department will solicit interest from the Town of Madison. Pursuant to RSA 204-D:2, the Department will also solicit interest from the New Hampshire Housing Finance Authority.

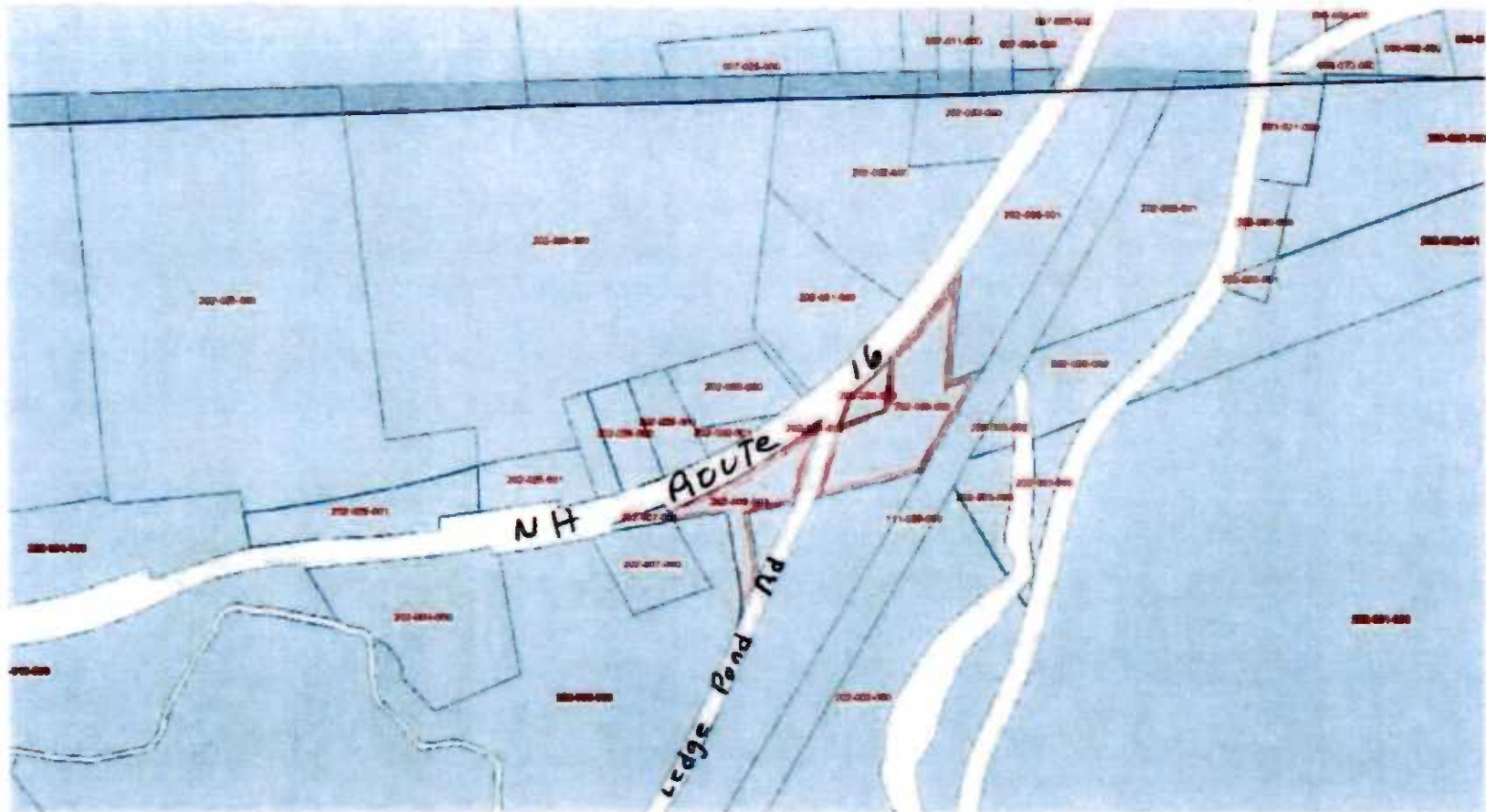
The Department respectfully requests authorization to sell the subject parcel as outlined within this request.

SGL/SJN/
Attachments

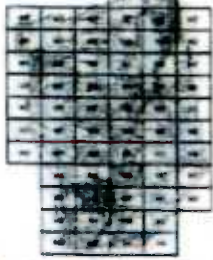


Building

- / Easement
- / Drainage Easement
- / Construction Easement
- / area of complete take



MAP 202

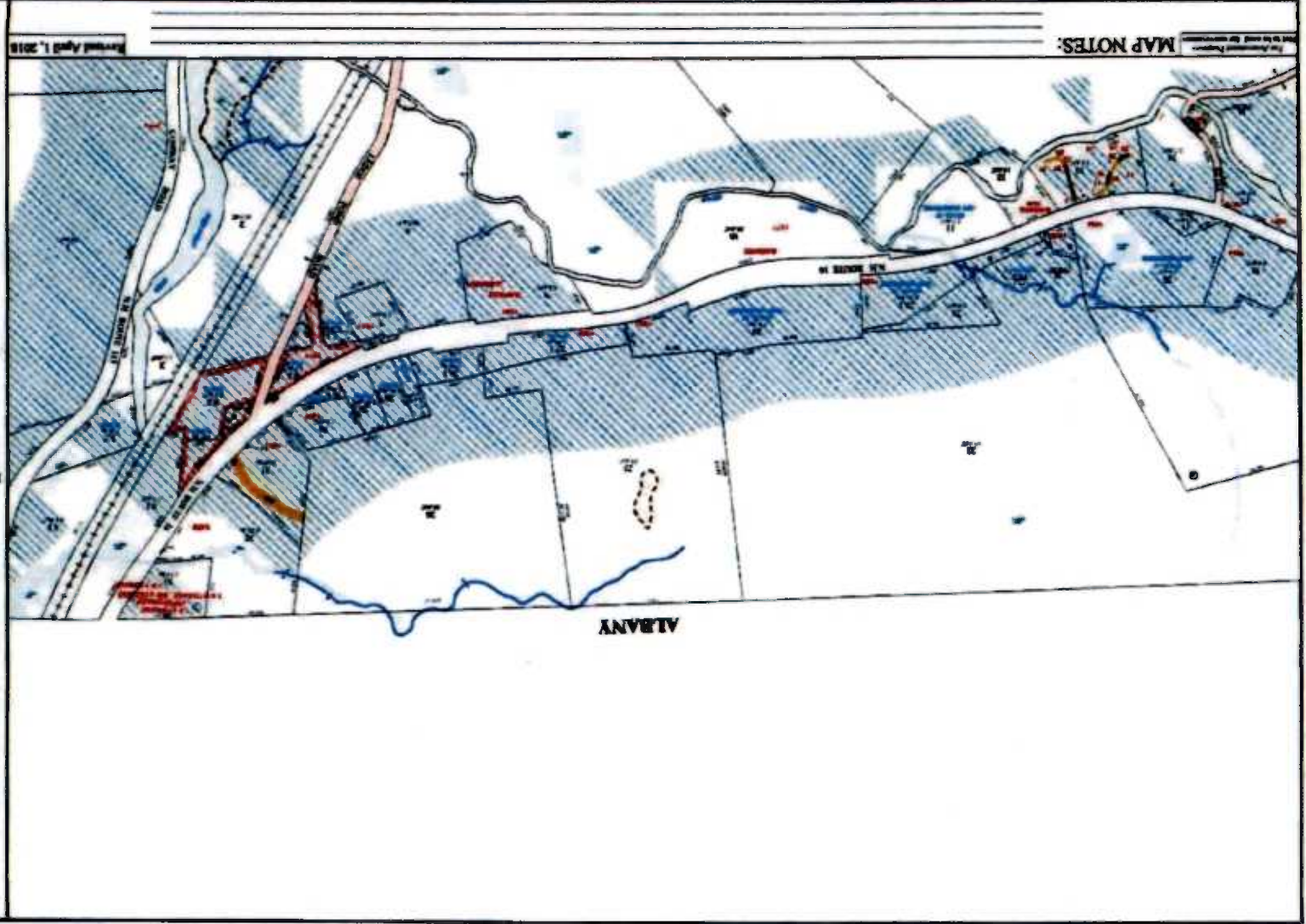


SCALE

- Buildings
- Wetlands
- Power Lines
- Roads
- Water
- Labels and Points
- Frontage (Foot)
- Front Average
- Front Number

LEGEND

Town of
MADISON
Carroll County
New Hampshire



MAP NOTES:

Revised April 1, 2018

Newman, Sandra

From: Weir, Lisa
Sent: Friday, June 17, 2022 9:46 AM
To: Linda - Town of Madison
Cc: Newman, Sandra
Subject: RE: STP-OAW-NHS-DPI-T-X-0153(001), 11339B

Linda,

Thank you for your response.

Lisa

From: Linda - Town of Madison <linda@madison-nh.org>
Sent: Wednesday, June 15, 2022 3:12 PM
To: Weir, Lisa <lisa.weir@dot.nh.gov>
Subject: STP-OAW-NHS-DPI-T-X-0153(001), 11339B

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good Afternoon Lisa,

The Madison Board of Selectmen took under review your letter dated May 26, 2022 regarding STP-OAW-NHS-DPI-T-X-0153(001), 11339B. The Board has no interest or concerns regarding the purchase of this state-owned property by Coleman & Sons, Inc for the listed value.

Sincerely,

Linda Shackford
Town Administrator

Town of Madison
PO Box 248
Madison, NH 03849-0248
Mon-Thurs 8am - 4pm
603-367-4332 x300



**NEW HAMPSHIRE
HOUSING**

Rob Dapice
Executive Director/CEO
rdapice@nhhfa.org

DEPT. OF TRANSPORTATION
BUREAU OF RIGHT OF WAY

JUL 19 2022

RECEIVED

June 30, 2022

Adam Smith, Assistant Administrator
Bureau of Right of Way
New Hampshire Department of Transportation
JO Morton Building, Room 100
7 Hazen Drive
P.O. Box 483
Concord, NH 03302-0483

RE: Madison property

Dear Mr. Smith:

New Hampshire Housing Finance Authority is not interested in purchasing the property located in Madison, described in your letter of May 26, 2022.

We would like to thank you for giving us the opportunity to review this parcel.

Sincerely,

Robert B. Dapice
Executive Director/CEO

Enclosures

PURCHASE AND SALES AGREEMENT

This **PURCHASE AND SALES AGREEMENT** ("Agreement") is made as of the 7 day of ~~Oct~~ 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") and Coleman Rental & Supply, LLC, or its designee at closing, with a principal place of business at 9 NH Route 113, Conway, New Hampshire 03818 (referred to as the "Buyer") (referred to individually as a "Party" and collectively as the "Parties").

RECITALS

This Agreement relates to the sale of real estate located on NH Route 16, Madison, (the "Property"), more particularly described as:

- Carroll County Registry of Deeds Book 2748, Page 486 dated November 6, 2008.

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 on NH Route 16, Madison, New Hampshire, consisting of approximately 4.903 +/- acres of land, improved with a single-story commercial structure, as further described herein.
- II. The Department is divesting of a portion the property totaling approximately 4.903 +/- acres, as it has been determined that this parcel is surplus to the Department's needs.
- III. The Buyer is afforded the ability to acquire 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.
- V. This Agreement is a binding contract which shall become effective upon approval of the Long-Range Capital Planning and Utilization Committee and the Governor and Executive Council.
- VI. All Parties signatory to this Agreement are willing to proceed upon the terms and conditions of this Agreement.

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 4.903 +/- acres of land, with single-story commercial structure, as shown on the Tax & Zoning Map of Subject Area, *Exhibit 1* as well as the Aerial View Map, *Exhibit 2*.
- 1.2. **Purchase Price:** The Buyer shall acquire the Property for the sum of **THREE HUNDRED NINETY-SIX THOUSAND ONE HUNDRED DOLLARS** (\$396,100.00) due at Closing. The amount due at Closing includes the Administrative Fee of One Thousand One Hundred Dollars (\$1,100.00).
- 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 on NH Route 16 is being sold "as is where is" with the following sale conditions, which must be satisfied prior to closing:
 - 1.4.1 The Department will retain a right of way 50' from the centerline of NH Route 16, which extends into the parcel.
 - 1.4.2 The Department will retain all slope and drainage easements, that extend beyond the 50' right of way line as noted above.
 - 1.4.3 The Buyer will be required to solicit a NH Licensed Land Surveyor, to survey and prepare recordable Right of Way Adjustment Plan describing the area to be conveyed at their expense, and submit to this office for review and approval, within ninety (90) days of signing this agreement. Such survey(s) must be completed at least thirty (30) days prior to the Closing date and will be used by the Department to prepare the conveyance deed.
 - 1.4.4 The Buyer shall be responsible for all local and state approvals, including but not limited to subdivision approval.
 - 1.4.5 Monuments shall be placed along the railroad right-of-way, at the most northeastern and southeastern limits of Parcel 5. More specifically, the monuments shall consist of 6" x 6" x 36" concrete bounds with rebar, set at or below grade. Prior to the installation of the bounds, a field inspection will be scheduled with the Department and the licensed land surveyor to verify the location of the concrete bounds to be set.

- 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 the Buyer's standard indemnification form naming both the Buyer and the Department as indemnified parties. The standard indemnification form 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 Buyer 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. **Department'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, the Department is 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, after identifying to the Department in writing any apparent title defects and providing the Department reasonable opportunity to cure them, 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.

REPRESENTATIONS AND WARRANTIES

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

- 2.2.1. 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.

- 2.2.2. 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.
- 2.2.3. 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 Buyer, except such as have been duly obtained or made or disclosed in this Agreement.
- 2.2.4. 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.

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

- 2.3.1. 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.
- 2.3.2. 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 Department are a party or by which the Department or any of its properties or assets are bound, or constitutes a default there under.

- 2.3.3. 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.
- 2.3.4. 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 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.

3. GENERAL PROVISIONS

- 3.1. **Cooperation:** The Buyer and the Department agree to cooperate with each other than 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.
- 3.2. **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.

- 3.3. **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.
- 3.4. **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.
- 3.5. **Exhibits.** All exhibits referred to in this Agreement are hereby incorporated by reference and expressly made a part hereof.
- 3.6. **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.
- 3.7. **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.
- 3.8. **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.
- 3.9. **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.
- 3.10. **Survival of Agreement.** The agreements, covenants, indemnities, representations, and warranties contained herein shall survive the execution and delivery of this Agreement.
- 3.11. **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.

- 3.12. **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.
- 3.13. **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 have for the collection of real property taxes under law, unless expressly set forth herein.
- 3.14. **Time of the Essence.** The Parties agree that time is of the essence in performance of their respective obligations under this Agreement.
- 3.15. **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.
- 3.16. **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 Department being required and/or authorized to convey the property to the Buyer.
- 3.17. **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.

- 3.18. **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.

LIST OF EXHIBITS

- Exhibit 1 Tax & Zoning Map of Subject Area.
Exhibit 2 Aerial View Map.

[The remainder of this page left blank intentionally]

Executed as a sealed instrument this 4 day of October, 2022.

BUYER:

By: [Signature] Date: 10/4/22
Printed: Curtis Coleman
Coleman Rental & Supply, LLC
Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF CARROLL

In Concord NH, on the 4th day of October, 2022, before me, personally appeared Curtis Coleman, 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 executed said instrument for the purposes therein contained as his free and voluntary act and deed.

[Signature]
Justice of the Peace/Notary Public

Ariella Neville
Notary Public, State of New Hampshire
My Commission Expires 8/18/2026

Department:

STATE OF NEW HAMPSHIRE

By: [Signature] Date: 10/4/22
Printed: William J. Oldenburg
Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

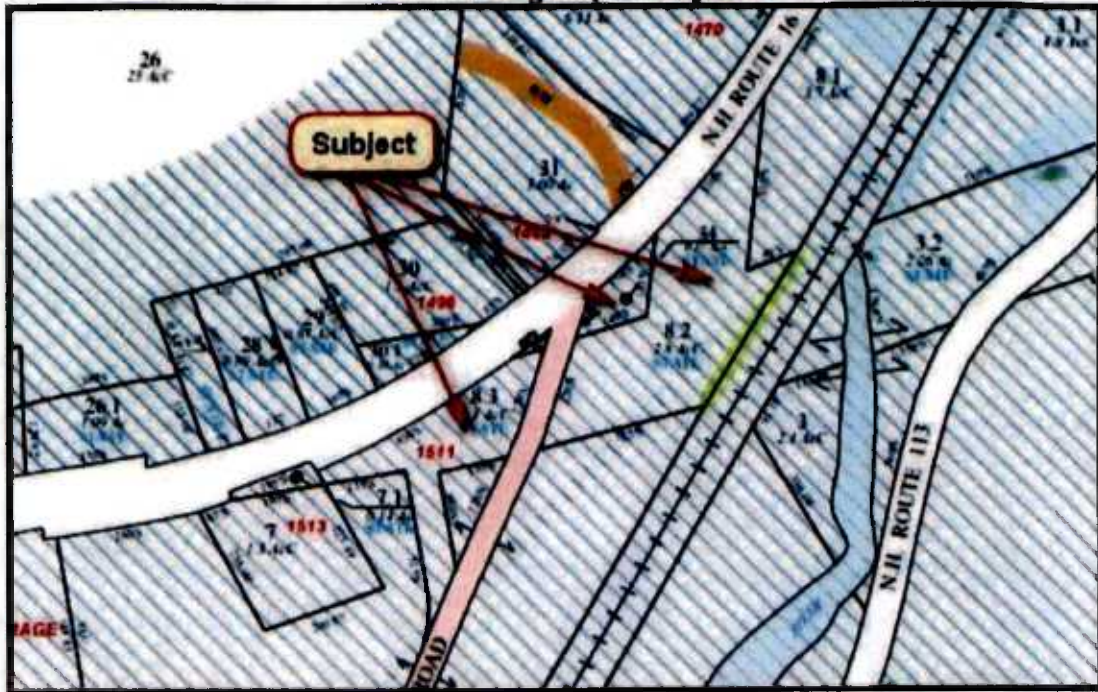
In Concord NH, on the 4th day of October, 2022, before me, personally appeared, William Oldenburg, Assistant Director of Project Development for the New Hampshire Department of Transportation, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he executed said instrument for the purposes therein contained as his free and voluntary act and deed.

Jennifer D Lane
Notary Public, State of New Hampshire
My Commission Expires Sept. 5, 2023

[Signature]
Justice of the Peace/Notary Public

EXHIBIT 1

Tax & Zoning Map of Subject



Town of
MADISON
Carroll County
New Hampshire

LEGEND

Parcel Number (PID)	12
Parcel Acreage	2 Ac.
Frontage (feet)	200'
Lakes and Ponds	
Rivers	
Wetlands	
Power Lines	
Railroad	
Buildings 911 Number	
R196 Private RD Class A Tract	
Class VI Undeveloped RD	
Commercial Zone	
Village Zone	
Estabment Zone	

EXHIBIT 2

Parcel Mosaic Viewer

