

## **AGENDA NOTES**

Gorham Town Council Regular Meeting

July 3, 2018 – 6:30pm

Burleigh H. Loveitt Council Chambers

### **1. Item # 9349**

Action to consider instructing staff to prepare a cost benefit analysis of contracting certain winter maintenance routes for review by the Town Council. (Councilor Smith Spon.)

This item will instruct the Town Manager to work with the Gorham Public Works Department to conduct an analysis and bring back a recommendation to the Town Council on the possibility of plow route(s) being contracted as a cost reduction.

### **2. Item # 9350**

Action to consider adopting a revised Town Procurement Policy to conform to new Federal standards. (Finance Committee Spon.)

In the spring of 2018, our Town auditors recommended that our procurement policy be amended to incorporate Federal standards on procurement with Federal funds. The policy has been updated to include these standards, as well as adding language to instruct staff to give preference to local vendors with local funds only, all factors being equal. The Finance Committee recommends the adoption of this revised policy included in your packet.

### **3. Item # 9351**

Action to consider resolving a tax acquired property error through quitclaim deed on a certain parcel of land situated at 148 Burnham Road, Tax Map 2, Lot 2, being approximately 0.33 acres of land. (Admin. Spon.)

In 2009, the Town “foreclosed” on a small, undeveloped landlocked parcel of land (0.33 acres) off of Burnham Road which had previously belonged to a residential property in Scarborough making the lot in that town a conforming lot with the added acreage in Gorham. The foreclosure of the .33 acre lot in Gorham did not include the mortgage company in 2009 and the technical completion of the actual foreclosure is doubtful. A new owner of the Scarborough lot has provided deed and ownership information to us and it is the most cost effective recommendation of legal Counsel to sell the property to the Scarborough owner via a quitclaim deed for \$300 to resolve the issue and get it back on the tax rolls. A tax map is attached.

### **4. Item # 9352**

Action to consider authorizing staff to review the contract zone of Hans Hansen to allow one single family dwelling unit and also amend the zone to expand certain commercial uses. (Councilor Benner Spon.)

Hans Hansen, the owner of contract zone property located off of Blue Ledge Road in South Gorham is requesting that he be permitted to build a residential dwelling unit on one of the contract zone lots. Per the current agreement in the contract zone, no residential dwelling units are permitted. There is also a request to increase the square footage allotment in the contract zone where it is currently capped. All costs in amending the zone would be borne by the developer and this order would instruct staff to bring back an amendment to the

contract that is agreeable to Mr. Hansen for the Council to consider. A copy of the current contract zone agreement is attached.

**5. Item # 9353**

Action to consider amending the Land Use & Development Code to allow for form based codes in the Village Center & Urban Commercial Districts. (Councilor Hartwell Spon.)

This item will direct the Ordinance Review Committee to evaluate the use and implementation of form based codes in the Village Center & Urban Commercial Districts.

# **TOWN OF GORHAM PROCUREMENT POLICY**

Adopted March 1, 1994

Revised 9/05/2006

Revised 7/03/2018, Effective 7/01/2018

## **PURPOSE AND SCOPE**

The purpose of this manual is to establish a uniform purchasing procedure for the Town of Gorham that recognizes the federal purchasing requirements (currently the Office of Management and Budget (OMB) Uniform Guidance). This Policy outlines the procedures to comply with those regulations, along with a process for smaller purchases. This procedures manual is a guide to staff of the Town of Gorham in procurement of goods and services to ensure full and open competition and compliance with all federal purchasing requirements.

Additionally, the purpose of this is to require the establishment of procurement files that contain all relevant records for all procurements. The Town of Gorham shall retain the originals of all documents associated with procurement actions including independent cost estimates, all documents associated with the solicitation documents for bids or proposals, evaluation and award documents, and final contracts and purchase orders.

A separate file for each procurement action shall be maintained, containing the original documentation, and shall remain in a centrally filed location through closeout of the contract or purchase order. These files shall be retained in accordance with the State of Maine Records Retention Schedule.

## **INTENT**

A purchasing system is essential in assuring proper security and expenditure of public funds, and cannot function properly without the cooperation and assistance of all departments. It is the intent to comply with federal procurement regulations, and also to employ efficient and sound purchasing practices that offer competitive opportunities to do business with the Town, and to achieve the best overall value on our purchases.

## **AUTHORITY AND ROLES**

The Town Manager, through its Town Council, is generally responsible for assuring compliance with this manual. The oversight and enforcement of this manual and of managing all procurement processes lies with the Town Manager or his/her designee, acting as the Town's Procurement Officer. All Department Heads of the Town of Gorham are charged with understanding and following these procedures, and to ensure understanding and adherence by their respective staff.

## **PROCUREMENT PROCESS**

The policy of the Town is to maintain a responsible purchasing process that is administered by the Town Manager or his/her designee, whose responsibilities include administering purchasing policies, maintaining files containing all information regarding the Town's purchasing performance, consolidating purchases of like or common items and continually evaluating the purchasing process. Procurement commitments may be stated by contract or purchase order. All contracts must be signed by the Town Manager. Selections may be based on price alone (BID), and may also be awarded based also on availability, quality, reputation and performance capability of the vendor (RFP).

Funding availability and source must be identified before placing orders or signing contracts, to ensure fiscal capacity and adherence to budgeted fund limits.

Procurement of services from vendors providing services on the Town's equipment or on property should have a signed agreement or contract. Vendors will be required to provide proof of insurance, and to name the Town of Gorham as an additional insured on liability and auto certificates. This requirement protects the Town from being liable for any injury, damage, or other fault of the vendor. All federal procurements are subject first to the requirements of Uniform Grant Guidance, and then by any additional requirements of the Town as described in this Policy.

The Finance Director is a resource to all staff in interpreting this manual, OMB Uniform Guidance procurement regulations, and general procurement practices. Staff should consult with the Finance Director before starting a federal project procurement to ensure the proper steps are followed and that it satisfies the federal requirements.

## **I. GENERAL PROCUREMENT PROCEDURES**

- A. Full and Open Competition.** All procurements must be conducted in a manner that provides full and open competition. Real or perceived unfair advantages will be avoided. Accordingly, the Town will not (i) place unreasonable requirements on firms or vendors to qualify for a procurement, (ii) require unnecessary experience or use excessive bonding, (iii) use noncompetitive pricing practices between firms or affiliated companies, (iv) allow organizational conflicts of interest, (v) specify a "brand name" product without allowing firms or vendors to offer an equal alternate product, or (vi) allow any arbitrary action in the procurement process. To ensure objective contractor performance and eliminate unfair competitive advantage, firms or vendors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements. (2 CFR § 200.319(a).)
- B. Responsible Contractors.** The Town must award contracts only to responsible contractors who are able to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. (2 CFR § 200.318(h).)
- C. Oversight of Contractors.** The Town must maintain a contract administration and oversight system to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (2CFR§ 200.318(b).)
- D. Fostering Economy and Efficiency.** The Town must avoid purchasing unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase, and to using federal surplus equipment and property. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. To foster greater economy and efficiency, consideration should also be given to: (i) entering into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services, (ii) using federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs, and (iii) using value

engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. (2 CFR § 200.318(d)-(g).)

**E. Geographical Preferences Prohibited.** The Town must conduct procurements so as to prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except (i) where applicable federal statutes expressly mandate or encourage geographic preference or (ii) when contracting for architectural and engineering (A/E) services, so long as its application leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project. (2 CFR § 200.319(b).) **If federal funds are not involved, the Town requires local preference when all other factors are equal.**

**F. Clear and Accurate Technical Requirements.** The Town must have written selection procedures for procurements that incorporate a clear and accurate description of the technical requirements for the goods or services to be procured, identify all requirements which offerors must fulfill, and identify all other factors to be used in evaluating solicitations. Technical descriptions (i) must not, in competitive procurements, contain features which unduly restrict competition; (ii) may include a statement of the qualitative nature of the goods or services to be procured; (iii) when necessary, must set forth those minimum essential characteristics and standards to which goods or services must conform if they are to satisfy their intended use; (iv) should avoid detailed product specifications if possible; and (v) may use a brand name or equivalent description as a means to define performance or other salient requirements of procurement when it is impractical or uneconomical to make a clear and accurate description of the technical requirements (the specific features of the named brand which must be met by offerors must be clearly stated). (2 CFR § 200.319(c).)

## **II. CODE OF CONDUCT**

As a governmental institution the Town must be vigilant in its protection of the public trust. Employees, officers, and agents of the Town of Gorham must conduct themselves in a manner which will foster public confidence in the integrity of the Town's procurement system. The following section sets standards of conduct designed to ensure honesty and integrity in the Town procurements. The standards established herein shall apply to all activities associated with the procurement of goods and services, and shall extend to all employees, officers, directors, and agents of the Town of Gorham.

### **A. Conflict of Interest**

- a.** No employee, officer, director, or agent of the Town of Gorham shall participate in the selection, award, or administration of a contract or purchase order if a conflict of interest would be involved. Such conflict would arise when any of the following has a financial or other interest in the firm(s) considered or selected for award:
  - A Town of Gorham employee, officer, director, or agent;
  - Any member of his/her immediate family;
  - His/her business associate; or
  - An organization which employs or is about to employ any of the above.

- b. A conflict or perceived potential conflict of interest must promptly be reported to the Town Manager, who will evaluate the conflict and make a determination as to the impact on the procurement process.

#### **B. Gifts and Gratuities**

- a. In order to avoid any situation which may give an appearance of improper influence in the Town's procurement activities, no employee, officer, director, or agent of the Town of Gorham may individually solicit or accept, either directly or indirectly, any gift, gratuity, loan, or other item or service of value from a current or potential vendor or contractor.
- b. Gifts, gratuities, and invitations that are offered to the Town of Gorham's employees, officers, director, or agent that are also offered to other businesses or agencies, or the public, can be accepted.
- c. Invitations for business lunches, parties, or similar functions shall be declined if received from bidders or other parties involved in a pending procurement.

#### **C. Contacts with Vendors, Bidders, and Proposers**

- a. Prior to the issuance of a procurement solicitation, informational and research contacts with prospective vendors may be made for the purpose of gathering needed data. However, in making such contacts, no commitment, or implication thereof, of a possible future award should be made or suggested.
- b. Accordingly, requests for complimentary services or supplies which may imply an obligation on the part of the Town shall be avoided. Also to be avoided are requests for testing services and free trips to examine vendor products. Product samples or demonstrations should be part of the procurement process and should not be requested prior to that.
- c. Whenever a procurement is in process (e.g., during the solicitation, evaluation, negotiation, and award phases) all contacts with potential contractors or vendors shall be made through the Town Manager or his/her designee. Departments should be particularly careful not to discuss any elements of the outstanding bid/RFP with any current vendors who may be a potential bidder.

### **III. PROCUREMENT METHODS AND THRESHOLDS**

- A. Methods of Procurement** The Town must use one of the following five methods of procuring goods or services: micropurchases, small purchases, sealed bids, competitive proposals (a.k.a. requests for proposals), and non-competitive proposals (a.k.a. sole source procurement). (2 CFR § 200.320.)

*No Local fund purchases will be made without an appropriation approved by the Town Council through an approved budget or by specific order. When the cost of a capital item has been included in the annual budget that is approved by the Town Council and the subsequent cost of the item does not exceed the budgeted amount, the Town Manager is authorized to purchase the capital item without further Town Council action. The Town Council shall approve capital*

***purchases in excess of \$35,000 if the capital item being purchased exceeds the amount in the approved budget.***

**a. *Micropurchases (less than \$3,500 as of October 1, 2015).***

Micropurchases up to the federal micropurchase threshold (\$3,500 as of October 1, 2015) may be made without soliciting competitive quotations if the departments considers the price to be reasonable. To the extent practicable, the departments must distribute repurchases equitably among qualified suppliers, vendors, or firms. (2 CFR §§ 200.67, 200.320(a).)

***Local Funds: (less than \$5,000). Purchases up to the threshold (\$5,000) may be made without soliciting competitive quotations if the department considers the price to be reasonable. To the extent practicable, the department should use local preference if all factors are equal.***

**b. *Small Purchases (\$150,000 or less as of October 1, 2015).*** Small purchases up to the federal simplified acquisition threshold (\$150,000 as of October 1, 2015) may be made using simple, informal procurement methods and without requiring sealed bids. For any such purchases, the department must obtain price or rate quotes from an adequate number of qualified vendors or firms (preferably, from at least three qualified vendors or firms). The department shall document any price or rate quotes received, whether written or oral. (2 CFR §§ 200.88, 200.320(b).)

***Local Funds (\$5,000-\$34,999). Small purchases up \$34,999 may be made using simple, informal procurement methods and without requiring sealed bids. For any such purchases, the department must obtain price or rate quotes from an adequate number of qualified vendors or firms (preferably, from at least three qualified vendors or firms). The department shall document any price or rate quotes received, whether written or oral. To the extent practicable, the department should use local preference if all factors are equal.***

**c. *Sealed Bids (over \$150,000 as of October 1, 2015)/Local Funds (Over \$35,000).*** For purchases in excess of the federal simplified acquisition threshold (\$150,000 as of October 1, 2015) where a complete, adequate, and realistic specification or purchase description is available, the Department Head shall issue a notice of written invitation for sealed bids in a manner reasonably calculated to attract qualified bidders and provide the bidders with sufficient response time. The invitation for bids shall provide a complete specification of the goods or services to be purchased. Bids shall be opened at the time and place prescribed in the invitation for bids. A firm fixed price (lump sum or unit price) contract award shall be made in writing to the lowest responsive and responsible bidder whose bid conforms to all material terms and conditions of the invitation to bid. Any or all bids may be rejected if there is a sound documented reason. (2 CFR §§ 200.88, 200.320(c).)

**d. *Requests for Proposals (over \$150,000 as of October 15, 2015).*** For purchases in excess of the simplified acquisition threshold (\$150,000 as

of October 1, 2015), when conditions are not appropriate for the use of sealed bids because the goods or services sought cannot be defined or specified such that bids will not be comparable, the Department Head shall issue a request for proposals (“RFP”) to solicit the goods or services. Typically, the RFP seeks proposals that are evaluated qualitatively such that price is not the primary evaluation criterion. Contracts may be awarded on either a fixed price or cost-reimbursement basis. If this procurement method is used, the following requirements apply:

- RFPs must be publicized in a manner reasonably calculated to attract qualified vendors or firms, and RFPs must identify all evaluation factors and their relative importance. Proposals shall be reviewed by the Department Head or a selection committee identified in the RFP. Any response to an RFP must be considered to the maximum extent practical;
- Proposals must be solicited from at least two qualified sources; and
- The Department Head shall award a contract to the responsible vendor or firm whose proposal is most advantageous to the Town, with price and other factors considered; however, any and all proposals may be rejected if there is a sound documented reason.

The departments may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, may only be used in procurement of A/E professional services. It cannot be used to purchase other types of services even if A/E firms are a potential source to perform the proposed effort. (2 CFR § 200.320(d).)

***Local Funds: To the extent practicable, the department should use local preference if all factors are equal.***

**e. *Non-Competitive Proposals (Sole Source); Emergencies.***

Procurements may be made through a non-competitive process (i.e., through the solicitation of a proposal from only one source) only when one or more of the following circumstances apply:

- The item is available only from a single source;
- An exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request; or
- After solicitation of a number of vendors or firms, competition is determined inadequate.



The Department Head must document the basis for the sole source procurement by documenting the basis for any exigency or emergency, obtaining express authorization from the federal awarding agency or pass-through entity, or demonstrating a good faith effort on the part of the Town to solicit proposals from a number of sources. (2 CFR §§ 200.320(e), 200.324(b)(2).)

**B. Purchases Over \$25,000.** For purchases exceeding \$25,000, prior to contracting with a vendor, the Department Head or Finance Director shall use the System for Award Management (SAM) to search for the vendor by name, tax identification number, or another characteristic to make sure that the vendor has not been suspended or debarred from performing federally funded work. (2 CFR § 200.205.)

**C. Purchases Over the Simplified Acquisition Threshold (\$150,000 as of October 1, 2015).** The following additional procedures apply to purchases exceeding the simplified acquisition threshold:

**a. Cost/Price Analysis.**

- i. The Department Head must perform a cost or price analysis in connection with every procurement in excess of the simplified acquisition threshold, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular situation, but as a starting point, the Department Head must make independent estimates before receiving bids or proposals.
- ii. The Department Head must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- iii. Costs or prices based on estimated costs for contracts under a federal award are allowable only negotiated prices would be allowable under Subpart E (Cost Principles) of 2 CFR Part 200. The Town may reference its own cost principles that comply with the federal cost principles.
- iv. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(2 CFR § 200.323.)

**b. Bonding Requirements.** For construction or facility improvement contracts or subcontracts in excess of the simplified acquisition threshold, the following bonds, or equivalent, are required:

- i. A bid guarantee from each bidder equivalent to 5% of the bid price. The "bid guarantee" must consist of a firm commitment

such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified;

- ii. A performance bond on the part of the contractor for 100% of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract; and
- iii. A payment bond on the part of the contractor for 100% of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(2 CFR § 200.325.)

#### **IV. CONTRACTING WITH SMALL & MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**

The departments must take all necessary affirmative steps to assure that small & minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

- A.** Placing qualified small & minority businesses and women’s business enterprises on solicitation lists;
- B.** Assuring that small & minority businesses and women’s business enterprises are solicited whenever they are potential sources;
- C.** Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small & minority businesses and women’s business enterprises;
- D.** Establishing delivery schedules, where the requirement permits, which encourage participation by small & minority businesses and women’s business enterprises;
- E.** Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- F.** Requiring the prime contractor, if subcontracts are to be allowed, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

(2 CFR § 200.321.)

#### **V. CONTRACTS ARISING FROM PROCUREMENTS**

- A. Contract Administrator.** Prior to the execution of a contract funded by a federal award, the Town should name a Contract Administrator. The Contract Administrator shall be responsible for the tasks, technical requirements, service performance, and verification that payments are in compliance with the contract. (2 CFR § 200.319.)
- B. Contract Provisions.** Any contract entered into between the Town and a firm or vendor who is to be compensated using a federal award or a portion thereof must

contain the applicable contract provisions described in Appendix C. (2 CFR § 200.326.)

**C. Subrecipient and Contractor Determinations.** The Town must make case-by-case determinations whether each agreement it makes for the disbursement of federal funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Town shall make this classification using its judgment based on the following factors, as well as any additional guidance supplied by the federal awarding agency:

**a. Contractors.** A contract is for the purpose of obtaining goods and services for the party's own use and creates a procurement relationship with the contractor. (*See* 2 CFR § 200.22.) Characteristics indicative of a procurement relationship between the Town and a contractor are when the contractor (i) provides the goods and services within normal business operations; (ii) provides similar goods or services to many different purchasers; (iii) normally operates in a competitive environment; (iv) provides goods or services that are ancillary to the operation of the federal program; and (v) is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

**b. Subrecipients.** A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. (*See* 2 CFR § 200.92.) Characteristics which support the classification of a party receiving federal funds as a subrecipient include when the party (i) determines who is eligible to receive what federal assistance; (ii) has its performance measured in relation to whether objectives of a federal program were met; (iii) has responsibility for programmatic decision making; (iv) is responsible for adherence to applicable federal program requirements specified in the federal award; and (v) in accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity. If the party receiving the funds is classified by the Town as a subrecipient, the Town must:

i. Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information:

- Federal Award Identification: (a) Subrecipient name (which must match the name associated with its unique entity identifier); (b) subrecipient's unique entity identifier; (c) Federal Award Identification Number (FAIN); (d) federal award date (*see* 2 USC § 200.39) of award to the recipient by the federal agency; (e) subaward period of performance start and end date; (f) amount of federal funds obligated by this action by the Town to the subrecipient; (g) total amount of federal funds obligated to the subrecipient by the Town including the current obligation; (h) total amount of the federal award committed to the subrecipient by the Town; (i) federal award project description, as required to be responsive to the

Federal Funding Accountability and Transparency Act (FFATA); (j) name of federal awarding agency, Town, and contact information for awarding official of the Town; (k) CFDA number and name (the Town must identify the dollar amount made available under each federal award and the CFDA number at time of disbursement); (l) identification of whether the award is R&D; and (m) indirect cost rate for the federal award (including if the *de minimis* rate is charged per 2 USC § 200.414).

- All requirements imposed by the Town on the subrecipient so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.
  - Any additional requirements that the Town imposes on the subrecipient so as to meet its own responsibility to the federal awarding agency, including identification of any required financial and performance reports.
  - An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either a rate negotiated between the Town and the subrecipient or a *de minimis* indirect cost rate as defined in 2 USC § 200.414(f).
  - A requirement that the subrecipient permit the Town and auditors to have access to the subrecipient's records and financial statements as necessary for the Town to meet the requirements of 2 USC § 331.
  - Appropriate terms and conditions concerning closeout of the subaward.
- ii. Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described below, which may include consideration of such factors as: (a) the subrecipient's prior experience with the same or similar subawards; (b) the result of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements—of 2 USC Part 200, and the extent to which the same or similar subaward has been audited as a major program; (c) whether the subrecipient has new personnel or new or substantially changed systems; and (d) the extent and results of federal awarding agency monitoring.
- iii. Consider imposing specific subaward conditions upon a subrecipient as described in 2 USC § 200.207.
- iv. Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

Town monitoring of the subrecipient must include: (a) reviewing financial and performance reports required by the Town; (b) following up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the Town detected through audits, on-site reviews, and other means; and (c) issuing a management decision for audit findings as required by 2 USC § 200.521. Depending on the Town's assessment of risk posed by the subrecipient, the following monitoring tools may be useful to ensure proper accountability and compliance with program requirements and performance goals: (a) providing subrecipients with training and technical assistance; (b) performing on-site reviews of the subrecipient's program operations; and (c) arranging for agreed-upon-procedures engagements as described in 2 USC § 200.425 (audit services).

- v. Verify that each subrecipient is audited as required by Part F (Audit Requirements) of 2 USC Part 200 when it is expected that the subrecipient's federal awards expanded during the respective fiscal year equaled or exceeded the threshold set forth in 2 USC § 200.501.
- vi. Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the Town's own records.
- vii. Consider taking enforcement action against noncompliant subrecipients as described in 2 USC § 200.338.

(2 CFR §§ 200.330, 200.331.)

## VI. RECORDS

**A. Recordkeeping** The Town must maintain records sufficient to detail the history of procurement. Records must include the following: (i) rationale for the method of procurement, (ii) selection of contract type, (iii) contract selection or rejection, and (iv) the basis for the contract price. Department Head should forward all completed bid files to the Finance Director.

**B. Record Retention Requirements** The Town must maintain records related to each federal procurement for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or Town in the case of a subrecipient. The following exceptions apply:

- a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- b. When the Town is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

- c. Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.
- d. When records are transferred to or maintained by the federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the Town.
- e. Records for program income transactions after the period of performance. In some cases, federal fund recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the Town's fiscal year in which the program income is earned.
- f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

If the proposal, plan, or other computation is required to be submitted to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

If the proposal, plan, or other computation is not required to be submitted to the federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(2 CFR §§ 200.318(i), 200.333.)

## **VII. PROTESTS AND CLAIMS**

The Town is solely responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements of goods or services under federal awards. Except as may be otherwise provided in a written request for proposals or other solicitation of the Town, these procedures are available to proposers for the purpose of handling and resolving disputes relating to such procurements, including evaluation and selection, protests of awards, disputes, and claims relating to the selection process and contract award.<sup>1</sup> A protestor must exhaust all of these administrative remedies before pursuing a protest with the federal grant agency or in any court of law. For purposes of this section, the term "proposer" means any person or entity

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<sup>1</sup> These protest procedures are not available to contractors or third parties for the purpose of handling and resolving disputes, claims or litigation arising in the course of contract formation or contract administration. Any such disputes, claims or litigation will be handled and resolved in accordance with applicable contract terms, if any, and applicable law.

that has submitted a bid or a proposal in response to an RFP or other solicitation to the Town, or a person or entity that is a prospective bidder or offeror and who has a demonstrated direct economic interest in the results of the procurement.

- A. Protest Submission Requirements.** To be considered by the Town, a protest must be made in writing, supported by sufficient information to enable the protest to be fairly evaluated, and submitted within the time periods set forth herein. At minimum, protests must include (i) the name, phone number, and address of the protester; (ii) identification of the detailed and specific provision(s) of applicable federal or state law which would be allegedly violated by the procurement; (iii) copies of all exhibits, evidence, or documents supporting the protest; and (iv) a concise description of all remedies or relief requested.
- B. Pre-Award Protests.** Pre-award protests are protests based upon the content of the solicitation documents. Any protest to the terms, conditions, or specifications set forth in a solicitation must be submitted to the Town Manager or the contract administrator, if a contract administrator is identified in the solicitation, within 5 calendar days after the issuance of the solicitation. All such protests will be considered by the Town Manager, or the contract administrator as appropriate, prior to the solicitation due date, and a written decision will be provided to the protestor. A decision of the Town Manager or contract administrator is final, and no further protest or appeal of the terms, conditions, or specifications of any solicitation will be considered by the Town Council.
- C. Protests of Proposal Evaluations and Award Decision.** Proposers shall be notified of any award decision by a written or oral notice of the award. This notice shall be transmitted to each proposer at the address, email address, or telephone number contained in its proposal. Any proposer whose proposal has not lapsed may protest an award decision on any ground arising from the evaluation of proposals or the award decision, but not on any ground specified in the “Pre-Award Protests” category, above. Any such protest must be submitted to the Town Manager or the contract administrator, if a contract administrator is identified in the solicitation, within 3 calendar days after notice of the award. All such protests will be considered by a Protest Review Subcommittee, composed of members selected by the Town Council in its sole discretion. A written decision from the Protest Review Subcommittee stating the grounds for allowing or denying the protest shall be transmitted to the protestor before a final contract award is made. A decision of the Protest Review Subcommittee is final, and no further protest or appeal will be considered by the Town Council.

(2 CFR § 200.318(k).)

## **VIII. FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW**

- A.** The Town must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the Town desires to have the review accomplished after a solicitation has been developed, the federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

- B.** The Town must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
- a.** The Town’s procurement procedures or operation fails to comply with the procurement standards in 2 CFR Part 200;
  - b.** The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
  - c.** The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “brand name” product;
  - d.** The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
  - e.** A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

The Town is exempt from the pre-procurement review in this paragraph if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of 2 CFR Part 200.

- C.** The Town may request that its procurement system be reviewed by the federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis.
- D.** The Town may self-certify its procurement system. Such self-certification must not limit the federal awarding agency’s right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the Town that it is complying with these standards. The Town must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

(2 CFR § 200.324.)

## **IX. EXCEPTIONS TO THESE ADMINISTRATIVE PROCEDURES**

The requirements set forth in these administrative procedures do not apply to:

1. Block grants awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services);
2. Federal awards authorized under the Child Care and Development Block Grant Act of 1990, as amended;
3. Classes of federal awards identified as exceptions by the Office of Management and Budget; or
4. Any circumstance where the provisions of federal statutes or regulations differ from the provisions of Part 200 of Title 2 of the Code of Federal Register.

(2 C.F.R. §§ 200.101-200.102.)

Legal Reference: 2 CFR Part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)





APPENDIX A

Independent Cost Estimate (ICE)\*

(ICE's are required for all purchases with an expected cost of at least \$3,500)

Project Name: \_\_\_\_\_ Current Date: \_\_\_\_\_

Method of Obtaining Estimate:

- Published price list / Past pricing as of (date) \_\_\_\_\_
- Engineering or technical estimate
- Independent third party estimate
- Other

Total Estimated Cost: \$ \_\_\_\_\_

Comments:

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\_\_\_\_\_  
Signature

*\*Attach cost estimate to this form and put in the bid file. Estimates should contain sufficient detail to facilitate a Cost/Price Comparison after bids/RFPs are received. Estimates based on past pricing should reflect amounts no older than six months.*

**NOTE: Estimates must be received before any bids/RFP's are received and opened.**

## Documentation of Procurement Process Exception

*Procurement of goods or services that would not be done under normal purchasing processes and would be considered Sole Source, Unique, or adequate competition has not been achieved, must be described for the procurement record and approved by the Town Manager.*

Please complete the following, describing the situation and which exception is requested.

**Date:** \_\_\_\_\_

**Project:** \_\_\_\_\_

**Prepared by:** \_\_\_\_\_

An exception to procurement procedures is requested for this project under the condition of xxxxxxx (sole source, unique capability/availability, etc.) based on:

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Approved

\_\_\_\_\_  
Ephrem Paraschak, Town Manager

Date

\_\_\_\_\_

## APPENDIX C.

### REQUIRED CONTRACT PROVISIONS

All contracts made by the Town for the procurement of property, goods, or services using a federal award must contain provisions covering the following, as applicable:

- A. Remedies (over \$150,000).** Contracts for more than the simplified acquisition threshold (currently \$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for such sanctions and penalties as appropriate.
- B. Termination for Cause and Convenience (over \$10,000).** All contracts in excess of \$10,000 must address termination for cause and for convenience by the Town, including the manner by which it will be effected and the basis for settlement.
- C. Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.360-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- D. Davis-Bacon Act, Copeland “Anti-Kickback” Act (construction contracts over \$2,000).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by the Town must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “*Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The Town must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Town must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “*Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Town must report all suspected or reported violations to the Federal awarding agency.
- E. Contract Work Hours and Safety Standards Act (over \$100,000).** Where applicable, all contracts awarded by the Town in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C.

3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- F. Rights to Inventions Made Under a Contract or Agreement.** If the federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “*Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,*” and any implementing regulations issued by the awarding agency.
- G. Clean Air Act; Federal Water Pollution Control Act (over \$150,000).** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- H. Debarment and Suspension.** A contract award (*see* 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “*Debarment and Suspension.*” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- I. Byrd Anti-Lobbying Amendment (over \$100,000).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.



**MUNICIPAL QUITCLAIM DEED**

KNOW ALL PERSONS BY THESE PRESENTS, that the TOWN OF GORHAM, a municipality organized under the laws of the State of Maine and with offices located at 75 South Street, Gorham, Maine, for consideration paid by WDM HOLDINGS, LLC, a Maine limited liability company with a mailing address of c/o Perkins Thompson, One Canal Plaza, PO Box 426, Portland, Maine 04112, the receipt and sufficiency of which is hereby acknowledged, does hereby release unto the said WDM HOLDINGS, LLC, its successors and assigns forever, all of its right, title, and interest in and to the following described real estate:

A certain lot or parcel of land situated at 148 Burnham Road in the Towns of Gorham and Scarborough, in the County of Cumberland, State of Maine, the portion of which located in the Town of Gorham is depicted on Town of Gorham Tax Map 2, as Lot 2, (Property Map for Town of Gorham, Maine compiled by BH2M Company, Gorham, Maine, dated April 1, 1997, as revised by Woodard & Curran dated April 1, 2014, on file in the office of Grantor), and being further described in a deed from Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust, which deed is recorded in the Cumberland County Registry of Deeds in Book 34884, Page 239, to which deed reference is hereby made.

The purpose of this deed is to convey to the Grantee herein all of the rights of the Town of Gorham in the above-described real estate acquired by the Town of Gorham by virtue of its tax lien on said real estate as evidenced by the following:

**Date of Lien Certificate**  
August 26, 2005

**Book and Page Number**  
Book 23087, Page 97

IN WITNESS WHEREOF, the said TOWN OF GORHAM has caused this instrument to be executed and sealed by Ephrem Paraschak, its duly authorized Town Manager, on this \_\_\_\_ day of June, 2018.

TOWN OF GORHAM

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Ephrem Paraschak  
Its Town Manager

STATE OF MAINE  
County of Cumberland, ss.




June \_\_\_\_, 2018

Personally appeared the above-named Ephrem Paraschak in his/her capacity as Town Manager of the TOWN OF GORHAM and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of the TOWN OF GORHAM.



Before me,



\_\_\_\_\_  
Notary Public/Maine Attorney-at-law  
Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

---

From:  "Chris Griffith" <cgriff@greatmoose.com> 6/5/2018 8:40:08 AM  

Subject: RE: Gorham Map 2 Lot 2 & 148 Burnham Road, Scarborough

To:  Sharon Laflamme  eparaschak@gorham.me.us

Attachments:  Wells Fargo Foreclosure Deed (Recorded) (P1524214x9F873).pdf...  
 Municipal Quitclaim Deed (P1524195x9F873).docx / Uploaded File ...

---

Good morning Sharon and Ephrem,

I have just received the recorded deed of my LLC's purchase of 148 Burnham Road in Scarborough (attached). I also asked our attorney to create a draft municipal deed for the Town of Gorham (to keep your costs at a minimum for this transaction, attached).

Now that the property is in our name, I am ready to purchase lot 2 Map 2 back from the Town of Gorham as you outlined below, which will make 148 Burnham Road, Scarborough a conforming lot once again.

Please let me know what the timing and logistics will be from here to close on this parcel. Thank you ever so much for helping me!

Sincerely,

Chris

*[Faint signature]*  
*[Faint name]*  
*[Faint phone number]*

**From:** Sharon Laflamme [mailto:slaflamme@gorham.me.us]  
**Sent:** Thursday, May 03, 2018 12:45 PM  
**To:** cgriff@greatmoose.com  
**Cc:** Ephrem Paraschak  
**Subject:** Map 2 Lot 2

Hi Chris,

Renee has adjusted the value of map 2, lot 2 to \$1,200 which is now classified as backland with a credit for wetland. Using this valuation, I did a new spreadsheet with what the taxes would have been for the years not

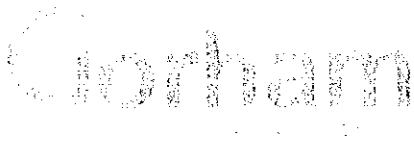
paid which I attached. You will notice that I included an estimate for tax year 2018-19 since taxes will not be assessed to you because it is after April 1st.

The Town Manager is going to recommend that we request \$300 for this property and do a quit claim deed to the owner at the time of the payment. He is also going to request a special meeting on 5/15/18 for the Council to vote on this.

Please let me know if you need anything else from me.

Thanks so much,  
Sharon

Sharon LaFlamme  
Finance Director  
Town of Gorham  
75 South Street, Ste., 1  
Gorham, ME 04038  
207-222-1611



NOTICE: Under Maine's Freedom of Access ("Right to Know") Law, documents - including emails - in the possession of public officials about Town business are considered public records. This means if anyone asks to see it, we are required to provide it. There are very few exceptions. We welcome citizen comments and want to hear from our constituents, but please keep in mind that what you write in an email is not private and will be made available to any interested party.



FORECLOSURE DEED

KNOW ALL BY THESE PRESENTS, that Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust with a mailing address of c/o Selene Finance LP, 9990 Richmond Avenue, Suite 400, Houston, TX 77042 (GRANTOR), for consideration paid, the receipt of which is hereby acknowledged, does hereby give, grant, convey and release unto WDM Holdings LLC a Maine limited liability company with a mailing address of c/o Perkins Thompson, Attn: Paul D. Pietropaoli, One Canal Plaza, P.O. Box 426, Portland, ME 04112 (GRANTEE), its successors, heirs and assigns forever, that certain lot or parcel of land, with any buildings thereon, located at 148 Burnham Road, Scarborough, in the County of Cumberland, and State of Maine, as more fully described in Exhibit A, attached hereto, and fully incorporated herein by reference.

BEING THE SAME PREMISES described in a Mortgage Deed of Scott R. Olsen and Sharri A. Olsen, dated February 02, 2005, and recorded in the Cumberland County Registry of Deeds Book 22296, Page 254; assigned to U.S. Bank National Association, as Trustee for Structured Asset Investment Loan Trust, Mortgage Pass-Through Certificates, Series 2005-6 by instrument dated December 12, 2011, and recorded in said Registry in Book 29211, Page 264; assigned to Selene Finance LP by instrument dated January 18, 2013, and recorded in said Registry in Book 30452, Page 12; assigned to Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust by instrument dated January 28, 2012, and recorded in said Registry in Book 30452, Page 17; further assigned via Confirmatory Assignment to Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust by instrument dated August 16, 2017, and recorded in said Registry in Book 34257, Page 3; which mortgage was foreclosed by civil action pursuant to 14 M.R.S.A ss 6321 et seq. in United States District Court District of Maine, Docket No. 2:17-cv-00024-NT, entitled Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust vs. Scott R. Olsen and Sharri A. Olsen by instrument recorded in said Registry in Book 34800, Page 335. Pursuant to applicable Maine law, a public auction of the property was held on April 17, 2018, in accordance with the aforesaid Judgment.

MAINE REAL ESTATE TAX PAID

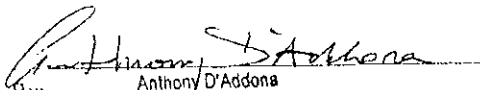
AND GRANTOR does hereby assign to Grantee all rights and interest of Grantor as high bidder at the public foreclosure sale held in the above matter.

Notwithstanding the date of execution or acknowledgment, this deed shall not be deemed delivered and the conveyance of the subject property and assignment of rights shall not be effective until this deed has been recorded in the Cumberland County Registry of Deeds.

19

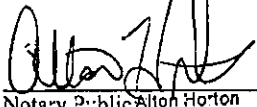
IN WITNESS WHEREOF, the said Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust, has caused these presents to be signed and sealed this 29<sup>th</sup> day of May, 2018.

Selene Finance, LP as servicer and attorney-in-fact for Wells Fargo Bank, National Association, not in its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust

  
By: Anthony D'Addona  
Its: Foreclosure Manager

State of Florida  
County of Duval

Personally appeared before me this 29 day of May, 2018,  
Anthony D'Addona, in his/her aforesaid capacity, and acknowledged the foregoing  
to be his/her free act and deed, in his/her said capacity, and the free act and deed of said Selene  
Finance, LP as servicer and attorney-in-fact for Wells Fargo Bank, National Association, not in  
its individual or banking capacity but solely as Trustee for SRMOF II 2011-1 Trust.



Notary Public Alton Horton

My Commission Expires: 8/18/2018



Alton Horton  
Commission # FF 152194  
Expires: AUG 18, 2018  
BONDED THRU  
1ST FLORIDA NOTARY, L.L.C.

EXHIBIT 'A'

A CERTAIN LOT OR PARCEL OF LAND LOCATED ON THE NORTHWESTERLY SIDE OF THE BURNHAM ROAD IN THE TOWNS OF SCARBOROUGH AND GORHAM, CUMBERLAND COUNTY, STATE OF MAINE, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE APPARENT NORTHWESTERLY SIDELINE OF BURNHAM ROAD AT A GRANITE MONUMENT MARKING THE DIVISION LINE BETWEEN GORHAM AND SCARBOROUGH. SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY CORNER OF THE LOT HEREIN DESCRIBED.

THENCE, S 53° 42' 30" W, A DISTANCE OF TWO HUNDRED TWENTY SEVEN AND NINE HUNDREDTHS FEET (227.09) BY SAID SIDELINE OF BURNHAM ROAD TO A REBAR WITH CAP # 1038, AND LAND NOW OR FORMERLY OF WILLIAM & CHARYL CLARK, AS DESCRIBED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN BOOK 6527, PAGE 332;

THENCE, N 13° 10' 45" E, A DISTANCE OF 78.77 FEET BY SAID CLARK TO A REBAR WITH CAP #1038;

THENCE, IN A NORTHERLY DIRECTION FOLLOWING THE CENTER OF A SMALL BROOK BY LAND OF SAID CLARK TO A 1" IRON PIPE IN THE CENTER OF SAID BROOK AND ON THE SAID GORHAM/SCARBOROUGH TOWN LINE AT THE NORTHEASTERLY CORNER OF LAND OF SAID CLARK AND THE SOUTHEASTERLY CORNER OF LAND NOW OR FORMERLY OF MAINE MOBILE HOMES, LTD., AS DESCRIBED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS, BOOK 5034, PAGE 149. SAID IRON PIPE BEING LOCATED ON A COURSE OF N 08° 41' 15" W A DISTANCE OF 332.33 FEET FROM THE LAST MENTIONED REBAR WITH CAP #1038;

THENCE, N 38° 29' 00" W, A DISTANCE OF 429.08 FEET BY THE SAID GORHAM/SCARBOROUGH TOWN LINE AND LAND NOW OR FORMERLY OF SAID MAINE MOBILE HOMES LTD., TO A 1" IRON PIPE;

THENCE, N 58° 33' 15" E, A DISTANCE OF 212.74 FEET BY SAID MAINE MOBILE HOMES LTD. TO A POINT;

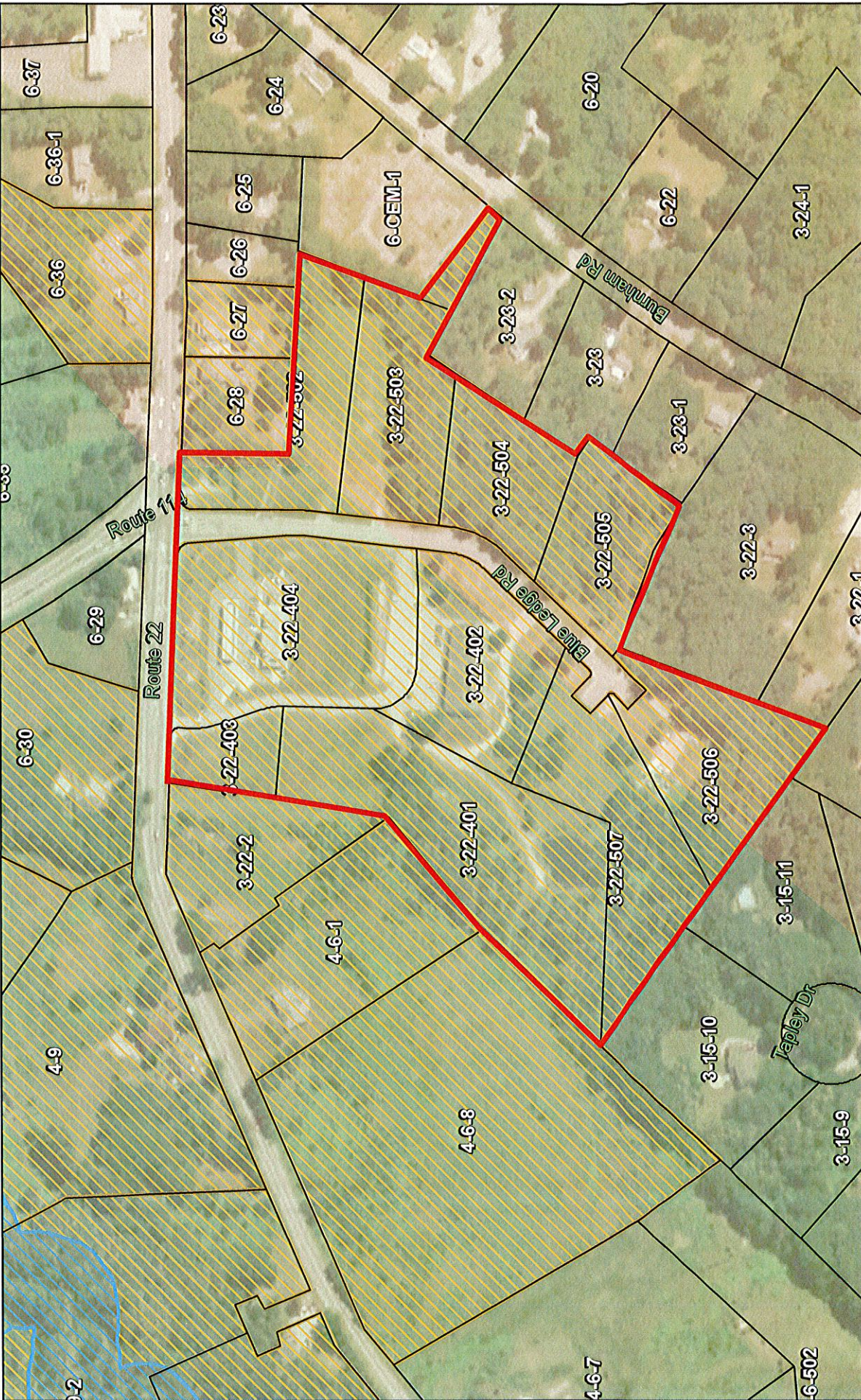
THENCE, S 12° 39' 00" E, A DISTANCE OF 370.26 FEET TO A POINT;

THENCE, S 09° 29' 28" E, A DISTANCE OF 102.73 FEET TO A POINT ON THE SAID GORHAM/SCARBOROUGH TOWN LINE;

THENCE, S 38° 29' 00" E, A DISTANCE OF 325.84 FEET BY SAID GORHAM/SCARBOROUGH TOWN LINE TO THE POINT OF BEGINNING.

SAID LOT CONTAINS 1.844 ACRES, MORE OR LESS. THE COURSES AND DISTANCES AS HEREIN USED ARE BASED ON A SURVEY PREPARED BY OWEN HASKELL, INC. FOR JEAN BELL DATED SEPTEMBER 6, 1990 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS, PLAN BOOK 187, PAGE 23. BEARINGS ARE REFERENCED TO MAGNETIC NORTH 1971. ADDITIONAL REFERENCE MAY BE HAD TO A PLAN ENTITLED SANDY TERRACE SUBDIVISION PREPARED BY PINKHAM AND GREER CONSULTING ENGINEERS, INC. DATED OCTOBER 11, 2000, RECORDED IN PLAN BOOK 201, PAGE 9, SUBJECT TO THE WETLANDS, UNNAMED BROOK AND 30 FOOT DRAINAGE EASEMENT TO THE TOWN OF GORHAM AS SHOWN ON SAID PLAN.

# Hans Hansen Contract Zone



6/28/2018, 3:31:12 PM

Parcel Labels

Parcels

SR: Suburban Residential

Zoning - Zoning Districts Zoning - Conditional Zone

R: Rural

10- PS:10 Preble

McLellan: McLellan Sampson House

Zoning - Shoreland Overlay Districts

SP

1:4,514

0.11 mi

0.17 km

0 0.03 0.06 0.09 0.17

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Public User  
Town of Gorham

**AMENDMENT TO CONTRACT ZONING AGREEMENT  
BETWEEN HANS C. HANSEN, INC.  
AND THE TOWN OF GORHAM**

This Amendment to Contract Zoning Agreement, made this 1<sup>ST</sup> day of October, 2013, by and between the **TOWN OF GORHAM**, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town") and **HANS HANSEN, INC.**, a Maine corporation with a mailing address of P.O. Box 264, Gorham, Maine 04038 (hereinafter "Hansen").

WHEREAS, the Town entered into a Contract Zoning Agreement with Hansen, dated October 21, 2011 and recorded in the Cumberland County Registry of Deeds in Book 29646, Page 97 (hereinafter the "Contract Zoning Agreement") that established zoning regulations for a parcel of real estate located at 74 County Road, Gorham, Maine, consisting of 23.8 acres (hereinafter "the Property"); and

WHEREAS, the Property consists of Lots 22.401, 22.402, 22.403, 22.404, 22.502, 22.503, 22.504, 22.505, 22.506 and 22.507 on the Town's Tax Map 3; and

WHEREAS, the Contract Zoning Agreement established use, dimensional and performance standards for the Property; and

WHEREAS, Hansen has entered into a Purchase and Sale Agreement with GC CF New England, LLC, for the purchase of the unit to be located on the area consisting of Tax Map 3, Lot 22.404 of the Property (hereinafter the "Parcel"), also known as Unit 4 of the Stargazer Subdivision, a condominium development; and

WHEREAS, Hansen seeks to amend the dimensional and performance standards established by the Contract Zoning Agreement in order to facilitate the proposed development of the Parcel; and

TOWN OF GORHAM

David O. Cole

David O. Cole  
Its Town Manager  
(duly authorized by vote of the  
Gorham Town Council on  
October 1, 2013)

HANS HANSEN, INC.

Hans Hansen

Hans Hansen  
Its President

STATE OF MAINE  
CUMBERLAND, ss

October 23, 2013

Personally appeared the above-named David O. Cole, in his capacity as Town Manager for the Town of Gorham, and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of the Town of Gorham.

Laurie K. Nordfors  
Notary Public/Attorney at Law

**Laurie K. Nordfors**  
**Notary Public**

Print Name **State of Maine**  
My Commission Expires 12-23-2016

STATE OF MAINE  
CUMBERLAND, ss

October 23, 2013

Personally appeared the above-named Hans Hansen in his capacity as President of Hans Hansen, Inc., and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of Hans Hansen, Inc.

Laurie K. Nordfors  
Notary Public/Attorney at Law

**Laurie K. Nordfors**  
**Notary Public**

Print Name **State of Maine**  
My Commission Expires 12-23-2016

**CONTRACT ZONING AGREEMENT  
BETWEEN  
HANS C. HANSEN, INC., AND TOWN OF GORHAM**

This Contract Zoning Agreement, made this 21<sup>st</sup> day of OCTOBER, 2011, by and between the **TOWN OF GORHAM**, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town") and **HANS HANSEN, INC.**, a Maine corporation with a mailing address of P.O. Box 264, Gorham, Maine 04038.

**WHEREAS**, Hans Hansen, Inc. ("Hansen") is the owner of a parcel of real estate located on Route 22/114 in Gorham, Maine, consisting of 23.8 acres located on or near the intersection of Route 22 and Route 114 (hereinafter "the Property"); and

**WHEREAS**, the Property consists of Lots 22.401, 22.402, 22.403, 22.404, 22.502, 22.503, 22.504, 22.505, 22.506, and 22.507 on the Town's Tax Map 3; and

**WHEREAS**, the Property is currently located partially in the Suburban Residential District and partially in the Rural District, as established by the Town's Land Use and Development Code; and

**WHEREAS**, the Property is located in an area with significant motor vehicle traffic, especially at the intersection of Route 22 and Route 114; and

**WHEREAS**, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

**WHEREAS**, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

**WHEREAS**, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

**WHEREAS**, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

**WHEREAS**, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

**WHEREAS**, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is "carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties" (Chapter 3, Section 3.g); and

**WHEREAS**, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as "Neighborhood Center," which calls for "a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area"; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town's Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on October 4, 2011;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. **Amendment of Zoning Map.** The Town will amend the Zoning Map of the Town of Gorham, as amended, a copy of which is on file at the Gorham Municipal Offices and which is incorporated by reference in the Land Use and Development Code, Chapter I, Section I, Subsection C, by adopting the map change amendment shown on Attachment I.
  
2. **Permitted Uses.** Hansen is authorized to establish on the Property any of the following uses without additional Town Council authorization:
  - a. Funeral home.
  - b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
  - c. Business Services, Personal Services and Repair Services Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
  - d. Convenience stores, either with or without associated gasoline sales.
  - e. Sit-down restaurants.
  - f. Retail stores that have a 7,000 square feet footprint or less in total floor area.
  - g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
  - h. Banks.

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study and shall acquire any permits required by the Maine Department of Transportation.

3. **Additional Uses Allowed with Town Council Approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, distilling, forging, brewing and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance Standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.
  
5. **Dimensional Requirements.** All development on the Property shall comply with the following dimensional requirements:
  - a. Minimum lot size: None.
  - b. Minimum street frontage: None.



- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
  - d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with either Blue Ledge Road or the South Gorham Crossing private driveway.
  - e. Minimum setback from Route 22/114: 75 feet.
  - f. Maximum building height: None.
  - g. Minimum setbacks from residential properties: 20 feet.
6. **Other Requirements.** All development on the property shall comply with the following requirements:
- a. The minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board.
  - b. There shall be no new entrances or exits to the property from Route 22/114.
  - c. The hours of operation will be established by the Planning Board.
  - d. To the extent possible, parking shall be in the rear of building and parking lots shall be interconnected. The Planning Board may consider parking at the side of the building if a use can show a hardship, but under no circumstances shall parking be allowed in the front yard or in the 75 foot buffered area between Rt. 22/114 and the project. For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with either Blue Ledge Road or the South Gorham Crossing private driveway and the front of the building on the lot.
  - e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subjected to the property tax.
  - f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay an application fee equal to \$500 for each lot that is sold for each of the first 7 lots. Payment is due at closing for each individual lot.
  - g. The applicant shall make a contribution towards the future extension of public sewer of \$10,000 per lot or business unit for each lot sold. The contribution shall be due at closing for each individual lot.
  - h. The building and lot design shall be consistent with a traditional New England Village Character.
  - i. Sidewalks shall be added along Blue Ledge Road and South Gorham Crossing.
  - j. Buffering along residential properties will meet the approval of the Planning Board during the site plan review of individual lots.
  - k. Signage for lots within the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code. No signage shall be placed in locations where it can be seen from Route 22/114, except for one freestanding business park directory sign meeting the requirements of Chapter II, Section III.2.b (regulations for multi-occupant property). Signage for individual lots must be placed so that it can be seen from Blue Ledge Road or from the South Gorham Crossing private driveway from which the property has access or to which the front of the building is oriented.
7. **Agreement to Be Recorded.** Hansen shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

- 8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and Hansen or its successors in interest to the Property.
- 9. **Site Plan and Subdivision Review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

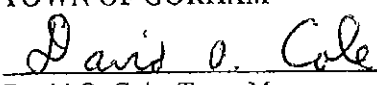
The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit Hansen, any entity affiliated with Hansen that takes title to the Property, their successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives. The provisions of this Agreement, including the permitted uses listed in Sections 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Suburban Residential and Rural Districts. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind Hansen, its successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham. If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

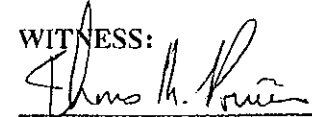
Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

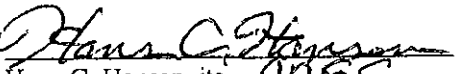
This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that Hansen or its successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law.

WITNESS:  
  
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TOWN OF GORHAM  
  
 \_\_\_\_\_  
 David O. Cole, Town Manager  
 (duly authorized by vote of the Gorham Town Council on October 4, 2011)

WITNESS:  
  
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HANS C. HANSEN, INC.  
  
 \_\_\_\_\_  
 Hans C. Hansen, its PRES.

STATE OF MAINE

CUMBERLAND, ss

October 21, 2011

Personally appeared the above-named David O. Cole, in his capacity as Town Manager for the Town of Gorham, and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of the Town of Gorham.

*Cornelia Loughran*  
Notary Public/Attorney-at-Law

**CORNELIA LOUGHRAN**  
Print Name **NOTARY PUBLIC - MAINE**  
**MY COMMISSION EXPIRES SEPTEMBER 1, 2016**

SEAL

STATE OF MAINE

CUMBERLAND, ss

October 21, 2011

Personally appeared the above-named Hans C. Hansen, in his capacity as President of Hans C. Hansen, Inc., and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of Hans C. Hansen, Inc.

*Cornelia Loughran*  
Notary Public/Attorney-at-Law

Print Name  
**CORNELIA LOUGHRAN**  
**NOTARY PUBLIC - MAINE**  
**MY COMMISSION EXPIRES SEPTEMBER 1, 2016**

SEAL

Received  
Recorded Register of Deeds  
Jun 06, 2012 03:24:44P  
Cumberland County  
Pamela E. Lovley