

LAND SWAP AGREEMENT

1. PARTIES. This Land Swap Agreement (this "Agreement") is entered into as of the 11 day of March, 2013 by and between PATRICK J. CRAGIN, TRUSTEE OF THE PATRICK J. CRAGIN LIVING REVOCABLE TRUST OF 2007 u/a/t dated February 21, 2007, whose mailing address is P.O. Box 250, Dover, New Hampshire 03820 (the "Trustee"), and THE INHABITANTS OF THE TOWN OF YORK, a body corporate and politic located in York, York County, Maine, whose mailing address is 186 York Street, York, Maine 03909 (the "Town").

2. TRANSACTION. Subject to the terms and conditions of this Agreement, at the Closing, as hereinafter defined, the Trustee agrees to convey to the Town the real estate located on the northerly side of Ridge Road in York, York County, Maine, described in Schedule A attached hereto and made a part hereof (the "Trustee Property"), the Trustee Property being a portion of the premises described in a deed from Patrick Cragin, a/k/a Patrick J. Cragin, a/k/a Patrick J. Cragin, Jr., to the Trustee dated February 21, 2007, and recorded in the York County Registry of Deeds in Book 15173, Page 402, and the Town agrees to convey to the Trustee the real estate located northerly of but not adjacent to Ridge Road in York, York County, Maine, described in Schedule B attached hereto and made a part hereof (the "Town Property"), the Town Property being a portion of the premises described in a deed from Dewey Roger Horn, Harry H. Horn and Samuel Horn to the Town dated May 28, 2010, and recorded in the York County Registry of Deeds in Book 15871, Page 326. The Trustee Property and the Town Property may be referred to herein collectively as the "Properties."

For the purpose of this Agreement, the Trustee Property and the Town Property are each valued at Twenty Two Thousand Four Hundred Dollars (\$22,400.00) and Twenty Three Thousand Two Hundred Dollars (\$23,200.00), respectively, such that no cash consideration shall pass between the parties at the Closing (other than any adjustment for real estate tax proration).

3. DEEDS. The Properties shall be conveyed by good and sufficient quitclaim deeds in accordance with the Maine Short Form Deeds Act, 33 M.R.S.A. §761, *et seq.*, which deeds shall convey good and clear record and marketable title thereto in accordance with the Maine Title Standards, free from all liens and encumbrances.

4. TIME FOR PERFORMANCE/DELIVERY OF DEEDS. The deeds are to be delivered and the consideration paid on the ninetieth (90th) day following notice from the Town to the Trustee that (a) the Town has received all necessary approvals for the transaction contemplated by this Agreement from the Selectmen of the Town and, as required, from the voters of the Town at an election duly held for such purpose, and (b) the Town has received all necessary permits, approvals and any required zoning variances, modifications or revisions under applicable local, state and federal laws, ordinances and regulations in order to permit the Town's development of a new public safety facility on the Town's abutting land with all appeal periods relating thereto having expired without any appeals having been filed or, if filed, having been resolved in favor of the Town, provided that in the event said ninetieth (90th) day falls on a Saturday, Sunday or legal holiday in Maine, then on the first (1st) business day thereafter, at

11:00 a.m. at the offices of the Town's attorneys, Drummond Woodsum, 84 Marginal Way, Suite 600, Portland, Maine, unless otherwise mutually agreed (the "Closing").

5. CLOSING DOCUMENTS. At the Closing, and in addition to any other documents referred to in this Agreement to be delivered at the Closing, the parties shall execute, acknowledge as necessary and deliver the following documents and such other documents as may reasonably be required to complete the transaction contemplated herein:

(a) Transfer Documents. The Trustee and the Town shall each execute, acknowledge and deliver a quitclaim deed and a Real Estate Transfer Tax Declaration of Value;

(b) Title Affidavits. The Trustee and the Town shall deliver such customary certificates, affidavits or indemnity agreements as the title insurance company issuing the title insurance policies, if any, to the Trustee and the Town on the Properties shall require in order to issue such policies and to omit therefrom all exceptions for unfiled mechanic's, materialmen's or similar liens and for parties in possession;

(c) Underground Oil Storage Tank Certification. The Trustee and the Town shall deliver a written notice, in form and substance reasonably satisfactory to the other party, which written notice shall certify either (i) that to the best of such party's knowledge, there is no underground oil storage facility located on the Property of such party, or (ii) pursuant to 38 M.R.S.A. § 563(6), if there is such a facility on such Property, that the facility exists and shall disclose its registration number or numbers, the exact location of the facility, whether or not it has been abandoned in place, and that the facility is subject to regulation by the Maine Board of Environmental Protection;

(d) Authority Documents. Such documents as shall be reasonably required to evidence the legal existence of each party and the authority of each to enter into and complete the transactions contemplated by the Agreement; and

(e) Other Customary Documents. Such other documents as are customarily delivered by sellers and buyers in the conveyance of commercial property in Maine.

6. SELECTMEN AND VOTER APPROVALS; APPROVAL OF NEW PUBLIC SAFETY FACILITY. In addition to such other conditions to closing as are set forth herein, and notwithstanding anything to the contrary set forth herein, the Town's obligations under this Agreement are conditioned upon (a) the Town receiving all necessary approvals for the transaction contemplated by this Agreement from the Selectmen of the Town and, as required, from the voters of the Town at an election duly held for such purpose, and (b) the Town receiving all necessary permits, approvals and any required zoning variances, modifications or revisions under applicable local, state and federal laws, ordinances and regulations in order to permit the Town's development of a new public safety facility on the Town's abutting land with all appeal periods relating thereto having expired without any appeals having been filed or, if filed, having been resolved in favor of the Town. In the event the Town is unable to obtain all

such approvals, the Town shall have the right to terminate this Agreement by giving Seller written notice of Buyer's intention to do so, in which case the parties shall be relieved of all further obligations under this Agreement except for such obligations, if any, as may by their terms survive the termination of this Agreement.

7. POSSESSION AND CONDITION OF PROPERTIES. Full possession of the Properties free of all tenants and occupants is to be delivered at the Closing.

8. EXTENSION TO PERFECT TITLE OR MAKE PROPERTIES CONFORM. If either party hereto shall be unable to give title or to make conveyance, or to deliver possession of its respective Property, all as herein stipulated, or, if at the time of the Closing, the Trustee Property or the Town Property do not conform to the requirements of this Agreement, then the Trustee or the Town, as the case may be, shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make their respective Property conform to the requirements hereof, as the case may be, in which event the time for performance hereof shall be extended for a period of up to sixty (60) days.

9. FAILURE TO PERFECT TITLE OR MAKE PROPERTIES CONFORM. If at the expiration of such extended time the Trustee or the Town, as the case may be, shall have failed so to remove any defects in title, deliver possession, or make their respective Property conform, as the case may be, all as herein agreed, then all obligations of all parties hereto shall cease and this Agreement shall be void without recourse of the parties hereto.

10. PARTY'S ELECTION TO ACCEPT TITLE AND CONDITION. Each party hereto shall have the right to elect, at either the original or such extended time for performance, to accept such title to the Property in its then condition as the other party hereto can deliver and to pay therefor the same consideration as provided herein without deduction, in which case the parties shall close and shall convey such title or deliver the Properties in such condition.

11. ACCEPTANCE OF DEEDS. The acceptance of the deeds by the parties shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed or to survive the Closing.

12. PENDING CLOSING. Until Closing, risk or loss or damage to Properties shall remain on the respective owner of the Properties.

13. ADJUSTMENTS. Real estate taxes for the Properties for the then current municipal tax year shall be apportioned as of the Closing, and the net amount due to either the Trustee or the Town shall be paid in cash or cash equivalent at the Closing. Real estate transfer taxes due on the sale will be paid by the parties in accordance with Maine law.

14. ADJUSTMENT OF UNASSESSED TAXES. If the amount of said taxes referred to in the preceding paragraph is not known at the time of the Closing, they shall be apportioned on the basis of the real estate taxes assessed for the immediately preceding year.

15. **BROKERAGE.** The Trustee and the Town each represent and warrant to the other that no brokers, agents or consultants have been employed with respect to this transaction by either of them, and the parties agree to indemnify and hold the other harmless from any claim by any broker or agent claiming compensation in respect of this transaction, alleging an agreement with either of the parties. This agreement to indemnify and hold harmless shall survive the Closing or termination of this Agreement.

16. **DEFAULT/DAMAGES.** Should either party be in breach of this Agreement, the other party hereto shall be entitled to all applicable remedies at law or equity.

17. **CONDITION OF PROPERTIES.** Except as expressly set forth in this Agreement, the Trustee Property and the Town Property shall be conveyed AS IS, WHERE IS, with no representations or warranties of any kind or nature whatsoever, including any warranty of fitness for a particular purpose of warranty of habitability.

18. **POST CLOSING OBLIGATIONS OF TOWN.** Following the Closing hereunder, and in connection with, and at the time the Town proceeds with, the development of the new public safety facility on the Town's abutting land, the Town shall, at its cost and expense:

(a) Extend water and sewer lines to the southwesterly corner of the Trustee's remaining property; and

(b) Construct the parking lot and all related landscaping on the Trustee's remaining property as approved by the Planning Board on March 8, 2012 and depicted on the plan thereof by CLD Consulting Engineers entitled "TM 94, Lot 84A, Patrick J. Cragin, Trustee, Parking Lot Revisions, 416 Ridge Road, York Beach, Maine, Amended Site Plan" dated February, 2012, a reduced copy of which is attached hereto as Schedule C and made a part hereof, subject, however, to the Planning Board's confirmation of the approval such plan by the execution thereof in recordable form along with execution thereof by the York Water and Sewer Districts.

The above obligations of the Town shall survive the Closing hereunder.

19. **RESTORATION OF TRUSTEE'S FORMER PARKING LOT.** In the event the Town does not proceed with the transaction described herein as a result of lack of Selectmen or voter approval or lack of approvals for the Town's new public safety facility on the Town's abutting land as required hereunder, the Town shall, at its cost and expense, promptly restore the prior parking lot on the Trustee's property to its former condition and install new trees to replace those that were removed by the Town from the Trustee's property in the Spring of 2012, which obligations of the Town shall survive the termination of this Agreement.

20. MISCELLANEOUS.

(a) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

(b) Any notice relating in any way to this Agreement shall be in writing and shall be sent by (a) registered or certified mail, return receipt requested, (b) overnight delivery by a nationally recognized courier, or (c) hand delivery obtaining a receipt therefor, addressed as follows:

To the Trustee: Patrick J. Cragin, Trustee
P.O. Box 250
Dover, NH 03820

With copy to: Jeffrey J. Clark, Esq.
Clark & Howell
P.O. Box 545
16A Woodbridge Road
York, ME 03909

To the Town: Robert G. Yandow, Town Manager
Town of York
186 York Street
York, ME 03909

With copy to: Richard A. Shinay, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480

and such notice shall be deemed delivered when so posted in the case of notice by certified mail, the next business day in the case of notice by overnight courier and the business day when delivered in the case of notice by hand delivery. Either party may, by such manner of notice, substitute persons or addresses for notice other than those listed above.

(c) All paragraph headings in this Agreement are for convenience of reference only and are of no independent legal significance.

(d) This Agreement may not be modified, waived or amended except in a writing signed by the parties hereto. No waiver of any breach or term hereof shall be effective unless made in writing signed by the party having the right to enforce such a breach, and no such waiver shall be construed as a waiver of any subsequent breach. No course of dealing or delay or omission on the part of any party in exercising any right or remedy shall operate as a waiver thereof or otherwise be prejudicial thereto.

(e) Any and all prior and contemporaneous discussions, undertakings, agreements and understandings of the parties are merged in this Agreement, which alone fully and completely express their entire agreement.

(f) This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute one and the same instrument. This Agreement may be transmitted between the parties by facsimile machine and signatures appearing on faxed instruments shall be treated as original signatures. Both a faxed Agreement containing either original or faxed signatures of all parties, and multiple counterparts of the same Agreement each containing separate original or faxed signatures of the parties, shall be binding on them.

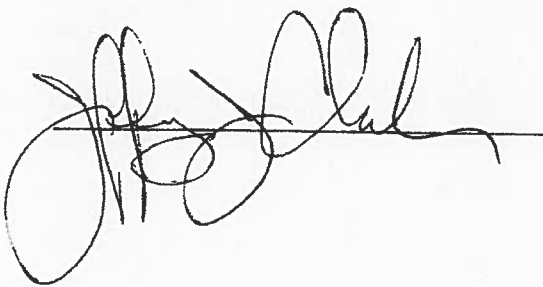
(g) It is expressly understood and agreed that time is of the essence in respect of this Agreement.

(h) If any term or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which this Agreement is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(i) This Agreement shall be governed by and construed and enforced in accordance with the laws in effect in the State of Maine.

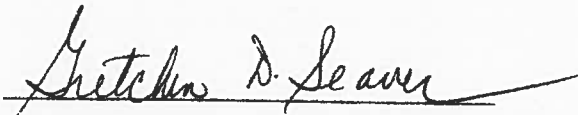
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

WITNESS:



Patrick J. Cragin By *Mary Ann Mene*
Patrick J. Cragin, Trustee as aforesaid *F of A*

THE INHABITANTS OF THE TOWN OF
YORK



By: *Robert G. Yandow*
Robert G. Yandow, Town Manager

ARTICLE SEVEN

Shall the Town vote to accept a certain easement from Daniel G. Peabody and Audrey C. Peabody at 85 Lindsay Road in York, Maine?

Statement of Fact: If approved this article would grant the Town of York an easement for the installation, maintenance, repair and replacement of a storm drain system and related improvements including, but not limited to, pipes for the collection and flowage of water.

Board of Selectmen recommends approval (5-0) YES 2481
NO 256

ARTICLE EIGHT

Shall the Town vote to accept a certain easement from Joseph Schlenker and Maria A. Schlenker at 8 Mitchell Road in York, Maine?

Statement of Fact: If approved this article would grant the Town of York an easement for the installation, maintenance, repair and replacement of a storm drain system and related improvements including, but not limited to, pipes for the collection and flowage of water.

Board of Selectmen recommends approval (5-0) YES 2469
NO 251

ARTICLE NINE

Shall the Town vote to accept a certain easement from the York Homeowners Association at Seward Way in York, Maine?

Statement of Fact: If approved this article would grant the Town of York an easement for the installation, maintenance, repair and replacement of a storm drain system and related improvements including, but not limited to, pipes for the collection and flowage of water.

Board of Selectmen recommends approval (5-0) YES 2454
NO 265

ARTICLE TEN

Shall the Town vote to accept a certain easement from Kearsarge Parking Lot, LLC at 4 Main Street in York?

Statement of Fact: If approved this article would grant the Town of York an easement for the installation, maintenance, repair and replacement of a storm drain system and related improvements including, but not limited to, pipes for the collection and flowage of water.

Board of Selectmen recommends approval (5-0) YES 2435
NO 274

ARTICLE ELEVEN

Shall the Town vote to accept a certain easement from David C. Woods and Judy A. Woods at 21 Railroad Avenue in York Beach, Maine?

Statement of Fact: This easement is for the installation and maintenance of two box culverts and the related improvements. The parcels burdened by this easement are two separate pieces of property located in Burnette's Trailer Park in York Beach, Maine.

Board of Selectmen recommends approval (3-2) YES 1973
NO 718

ARTICLE TWELVE

Shall the Town vote to accept a certain easement from York's Wild Kingdom, Inc. at 23 Railroad Avenue in York Beach, Maine?

Statement of Fact: If approved this article would grant the Town of York an easement for the installation, maintenance, repair and replacement of a storm drain system and related improvements including, but not limited to, pipes for the collection and flowage of water.

Board of Selectmen recommends approval (3-2) YES 2004
NO 692

ARTICLE THIRTEEN

Shall the Town vote to accept a certain easement from The Union Bluff Hotel, Inc. at 14 Beach Street in York Beach, Maine?

Statement of Fact: If approved this article would grant the Town of York an easement for the installation, maintenance, repair and replacement of a storm drain system and related improvements including, but not limited to, pipes for the collection and flowage of water.

Board of Selectmen recommends approval (3-2) YES 2008
NO 681

ARTICLE FOURTEEN

Shall the Town approve the conveyance of a portion of the lot located at 414 Ridge Road (Map 94, Lot 77), which is owned by the Town of York, in exchange for conveyance of a portion of the lot located at 416 Ridge Road (Map 94, Lot 84-A), which is owned by the Patrick J. Cragin Living Revocable Trust?

Statement of Fact: The land swap with the Patrick J. Cragin Living Revocable Trust would allow the Town to construct an access road to the proposed new police station on Ridge Road through the southwestern most portion of the Cragin lot which is the most advantageous location for the Town. If the land swap is not approved the Town will be forced to locate the access road through an area that contains wetlands which may be more costly to the Town.

Board of Selectmen recommends approval (3-2) YES 1855
NO 859