

## Declaration of Restrictions

This Declaration of Restrictions is entered into and made this \_\_\_\_ day of May, 2014, by the Town of Falmouth, Maine, a municipal corporation (the “Town”), for the benefit of the Falmouth Conservation Trust, a/k/a the Falmouth Land Trust, a Maine non-profit corporation (the “Land Trust”).

WHEREAS, the Town is the owner of a certain wooden aerial bridge known as “Clifford’s Bridge” (~~the “Bridge”~~) located in West Falmouth, Cumberland County, Maine, and located over Maine Central Railroad Company railroad tracks;

WHEREAS, the Town intends to replace the Clifford Bridge with a new bridge in the same location, the proposed new bridge being referred to herein as the “Bridge.”

WHEREAS, the Bridge exists in an easement created by a certain Easement Deed from Maine Central Railroad Company to River Point, LLC dated February 5, 1999, and recorded in the Cumberland County Registry of Deeds in Book 14587, Page 307 (the “Bridge Easement”);

WHEREAS, the Bridge Easement is appurtenant to approximately 41 acres of land known as River Point and bounded by said railroad tracks, the Piscataqua River and the Presumpscot River (the “River Point Land”);

WHEREAS, River Point, LLC conveyed the River Point Land and the appurtenant Bridge Easement to the Town by deed dated April 9, 1999, and recorded in said Registry in Book 14674, Page 64; and

WHEREAS, the Town desires to restrict the use of the Bridge and the Bridge Easement by covenanting with the Land Trust regarding the use of the Bridge.

Now, therefore, for \$1.00 and other good and valuable consideration, the Town hereby covenants and agrees with the Land Trust that the Town shall use and allow the use of the Bridge (~~and any replacement thereof~~) and the Bridge Easement only subject to the following covenants, restrictions and obligations:

- 1) Except as provided in this Declaration, the Bridge and Bridge Easement shall only be used by the public for access to the River Point Land by pedestrians using non-motorized means such as walking, biking, running, and skiing, except that motorized wheelchairs for handicapped access across the Bridge shall not be prohibited by the foregoing restriction.
- 2) The Town reserves the right, for itself, its employees, and its contractors, to use the Bridge and Bridge Easement for vehicular and equipment access to the River Point Land for property stewardship and maintenance purposes and for the purposes of demolition and removal of existing structures on the River Point Land. Notwithstanding anything in this Declaration to the contrary, the Portland Water District and its employees and contractors also shall have the right

to use the Bridge and Bridge Easement for access by vehicles and equipment to the River Point Land for maintenance, repair, replacement and inspection of its improvements located within certain easement areas pursuant to a Quitclaim Deed with Covenant from Daniel A. Walker and Azilda E. Walker dated February 23, 1988, and recorded in said Registry in Book 8189, Page 245.

3) The Town reserves the unrestricted right to use the Bridge and Bridge Easement for vehicular access to the River Point Land by emergency service vehicles.

4) Except for motorized vehicles and equipment as provided in paragraphs 2 and 3 above, the Bridge and Bridge Easement shall not be used by motorized vehicles of any type, except that the Town may in its discretion allow the use of the Bridge and Bridge Easement on a temporary basis by vehicles for purposes of surveying, study of habitat, archeological study, biological study and similar scientific studies, inspections, and surveys of the River Point Land and the abutting rivers.

5) The Town retains responsibility for maintenance, repair, replacement, inspection and monitoring of the Bridge, and nothing in this Declaration shall impose on the Land Trust any obligation with respect to the Bridge or Bridge Easement. Notwithstanding this Declaration, the Town may in its sole discretion remove the Bridge at any time and, upon removal of the Bridge, this Declaration automatically shall terminate and any replacement bridge which may be erected thereafter and the Bridge Easement shall not be subject to this Declaration.

The Town acknowledges and agrees that there is no adequate remedy at law for its breach of this Declaration and that the Land Trust shall be entitled to seek injunctive relief in the event of breach of this Declaration.

This Declaration shall run with the Bridge Easement and River Point Land and be binding on the successors and assigns of the Town. In the event that the River Point Land and the appurtenant Bridge Easement are made subject to a qualifying conservation easement to the Land Trust, this Declaration automatically shall terminate.

Witness:

Town of Falmouth, Maine

\_\_\_\_\_

By:

\_\_\_\_\_  
Nathan A. Poore, Town Manager

State of Maine

County of Cumberland

May \_\_\_\_\_, 2014

Personally appeared before me the above-named Nathan A. Poore, Town Manager of the Town of Falmouth, Maine, and acknowledged the foregoing to be his free act and deed in said capacity and the free act and deed of said municipal corporation.

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