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Little River Park, Phase Two Report

Laurel Cox
Town of Lee

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Little River Park, Phase Two REPORT

A Final Report to
The New Hampshire Estuaries Project

Submitted by
Laurel Cox
Town of Lee
Lee, New Hampshire

30 September 2006

This project was funded in part by a grant from the New Hampshire Estuaries Project as authorized by the U.S. Environmental Protection Agency's National Estuary Program.



**Final Report for Little River Park, Phase II
Purchase of Mills Property by the
Town of Lee**

Table of Contents

Summary of Project

Goals and Expectations

Results

Conclusions

Recommendations

Appendices

Appendix A Mills Property Purchase and Sales Agreement

Appendix B Mills Property Deed

Appendix C Mills Property Conservation Easement

Appendix D Documentation of Matching Funds

Invoice

Final Report for Little River Park, Phase II Purchase of Mills Property by the Town of Lee

Goal and Expectations

Our goal for this project was to purchase the 11.93-acre (final survey) property from Gail Mills to add to the recently purchased 24.01-acre Granger property to form the 35.94-acre Little River Park. This adds to the 6.6-acre parkland just upstream, along Little River, that the Town has owned for several years, providing a total of 42.54 acres of town-owned protected land along the Little River in the center of Lee.

Our expectations include the protection of the water resources of the Little River and the underlying aquifer, and passive recreation opportunities for the citizens of Lee and surrounding communities. The Little River flows into the Lamprey River, a designated Wild and Scenic River, so the protection of the Little River is important to the protection of the Lamprey River Watershed.

Results

The Town of Lee purchased the Mills property from Dexter Mills, Executor of the Will of Gail Mills, on January 25, 2006, for a total of \$134,200, recorded on February 1, 2006, at the Strafford County Registry of Deeds, Book 3326 Page 940. (Gail Mills died on May 5, 2005.)

A conservation easement on the property was recorded on September 21, 2006, at the Strafford County Registry of Deeds, Book 3436 Page 0152. The easement is held by the Strafford County Conservation District.

Conclusions

The project was successfully completed. Phase I of the establishment of Little River Park was the purchase of the Granger property. Phase II was the purchase of the Mills property. Phase III involves the next level of development of the park. The Granger property will provide organized recreational activities, and the Mills property will provide a more natural, wild area, with the public able to explore the river and trails.

The acquisition of the land for Little River Park has initiated the rebirth of the Lee Recreation Commission, and the project has excited and motivated many community members to become more involved.

Recommendations

The Town plans to continue to acquire both conservation easements and land along its rivers, both for protection of the water supply and the shoreline and wetland habitats. This is consistent with the 2006-2015 Master Plan, which was adopted on June 28, 2005 by the Lee Planning Board.

Appendix A

Mills Property Purchase and Sales Agreement

SALES AGREEMENT AND DEPOSIT RECEIPT

This agreement made this 23rd day of July, 2004 between the **SELLER, GAIL F. MILLS**, 79 Lee Hook Road, Lee, New Hampshire, and the **BUYER, TOWN OF LEE**, of 7 Mast Road, Lee, New Hampshire, as follows:

WITNESSETH: That the **SELLER** agrees to sell and convey, and the **BUYER** agrees to buy one tract of land located between North River Road (Route 155) and Lee Hill Road, in Lee, New Hampshire, bordered by the Walker Lot or Granger Gravel Pit and the Little River, consisting of approximately 12.6 acres. It is further identified as Tax Map 20, Lot 3. See also deed recorded at Strafford County Registry of Deeds at Book 2080, Page 119.

The **SELLING PRICE** shall be One Hundred and Thirty-four Thousand Two Hundred Dollars (\$134,200), less an agreed upon charitable deduction. The purchase price shall be paid at closing by certified or bank check or attorney's trust account.

DEED: Title shall be conveyed by a Warranty Deed, and shall be conveyed free and clear of all encumbrances except usual public utilities serving the property. Any restrictive covenants of record to be acceptable to the **BUYER**.

TRANSFER OF TITLE: Transfer of title shall occur following a favorable vote at the March 2005 Town Meeting for the Town of Lee, New Hampshire to approve the acquisition of the property. The closing shall be at Attorney's Office, Registry of Deeds, Lending Institution, or other place of mutual consent.

POSSESSION: Free of all tenants, personal property, and encumbrances except as herein stated is to be given at the time of transfer of title.

AGENT: The undersigned **SELLER** and **BUYER** agree that no real estate broker or his/her representative has in any way brought about this sale as an agent of either party.

TITLE: If **BUYER** desires an examination of title, it shall pay the cost thereof. If upon examination of title it is found that the title is not marketable, the **SELLER** shall have a reasonable time, not to exceed thirty (30) days from the date of notification of defect (unless otherwise agreed to in writing), to remedy such defect. Should the **SELLER** be unable to provide marketable title within said thirty (30) days, the **BUYER** may rescind this agreement at the **BUYER'S** sole option, with full deposit being refunded to the **BUYER** and all parties being released from any further obligation hereunder. The **SELLER** hereby agrees to make a good faith effort to correct the title defect within the 30-day period above prescribed once notification of such defect is received.

TAXES and special assessments shall be pro-rated as of the date of closing in accordance with the practice prevailing in the Town of Lee, New Hampshire.

PROPERTY INCLUDED: All fixtures pertaining to the land, if any, all standing timber, and unexcavated land and mineral deposits.

FEES: The parties agree that neither party shall be responsible for the costs or attorney's fees of the other party and that each party shall pay its share of all transfer taxes and recording charges.

BINDING EFFECT: This Agreement shall be binding upon the heirs, executors, administrators, and assigns of both parties.

RIGHT OF ENTRY FOR DUE DILIGENCE. The **BUYER** and its agents, employees or nominees, are hereby granted the right for a period of sixty (60) days from the execution of the within Agreement to enter upon any and all portions of the Property for the purpose of making any engineering, geological, ecological, environmental, hazardous waste site assessment, soil surveying, land surveying, or other work as may be reasonably necessary or appropriate for the **BUYER'S** proposed use. The **BUYER** agrees to indemnify and hold the **SELLER** harmless for any inspections provided for herein. In the event the **BUYER** does not close on the Property, the **BUYER** agrees to return the Property, as reasonable as possible, to its condition prior to the execution of the within Agreement and will provide the **SELLER** with all information generated as a result of the surveys completed by the **BUYER** on the subject premises. The **BUYER**, in its sole discretion, during the sixty (60) day due diligence period shall have the right to terminate the within agreement and receive back its full deposit. If the **BUYER** fails to notify the **SELLER** of its election to terminate the transaction within the sixty (60) days provided herein, the parties agree that the **BUYER** will be deemed to have waived its right to terminate under this provision.

ADDITIONAL PROVISIONS: This Agreement is subject to approval by vote at the March 2005 Town Meeting for the Town of Lee, New Hampshire. By signing this Agreement, a majority of the Selectmen of the Town of Lee agree that they shall cause an article to be placed on the warrant for the March 2005 Town Meeting to authorize the Town to obtain and expend sufficient funds for the purchase of this property. Further, a majority of the Selectmen for the Town of Lee will recommend that the article be approved.

EFFECTIVE DATE: This is a binding contract and the effective date shall be when it is signed and dated, whether by electronic transfer or original, and all changes are initialed and dated by the **SELLER** and the **BUYER**.

PRIOR STATEMENTS: All representations, statements, and agreements made heretofore between the parties hereto are merged into this Agreement, which alone fully and completely expresses the respective obligations of the parties; and this Agreement is entered by each party after opportunity for investigation, neither party relying on statements or representations not embodied in this Agreement made by the other or on his/her behalf.

A copy of this contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged.

IF NOT FULLY UNDERSTOOD, PARTIES ARE ADVISED TO CONTACT AN ATTORNEY.

The Tax Identification Number for the Town of Lee, New Hampshire is 02-0308336.

The Tax Identification Number for Gail Mills is 003-32-6414.

In Witness Whereof, the parties have set their hands the day and year first written above:

Town of Lee, New Hampshire, BUYER

By its Selectmen:

<u><i>Diana A. Gaubus</i></u>	<u><i>Joseph B. Fink</i></u>	<u>7/26/04</u>
Witness	Selectman	Date

<u><i>Diana A. Gaubus</i></u>	<u><i>Dwight Barney</i></u>	<u>7/26/04</u>
Witness	Selectman	Date

<u><i>Diana A. Gaubus</i></u>	<u><i>David W. Wilby</i></u>	<u>7/26/04</u>
Witness	Selectman	Date

Gail F. Mills, SELLER

<u><i>Caren Rossi-Pressy</i></u>	<u><i>Gail F. Mills</i></u>	<u>7/23/04</u>
Witness	Gail F. Mills	Date

CAREN ROSSI-PRESSEY, Notary Public
My Commission Expires March 10, 2009

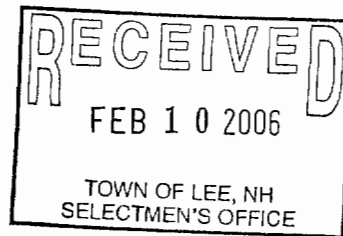
Appendix B

Mills Property Deed

002274

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REGISTER OF DEEDS
STRAFFORD COUNTY



20-3-0

FIDUCIARY DEED

Unqual- gov. agency

KNOW ALL PERSONS BY THESE PRESENTS, that I, DEXTER M. MILLS, of 79 Lee Hook Road, Lee, County of Strafford, State of New Hampshire, EXECUTOR OF THE WILL OF GAIL F. MILLS, late of Lee in said county, by the power conferred by the Strafford County Probate Court and every other power, in consideration of One Hundred Thirty Four Thousand Two Hundred Dollars (\$134,200) to me in hand paid,

GRANT TO the TOWN OF LEE, a municipal corporation, duly organized and existing under law in the County of Strafford, State of New Hampshire and having a place of business at 7 Mast Road, in said Lee, the following described premises.

A certain tract or parcel of land, situate in the Town of Lee, County of Strafford, State of New Hampshire, bounded and described as follows:

Beginning at a stone post set at an old woods road where the northwest line of Lawrence A. Dougherty meets the line of land of Lulu B. Walker; thence by said woods road by land of said Walker, to a stone post set at the land formerly of Thomas M. Thompson or his heirs; thence running by said Thompson land to the east bank of the Little River; thence following said river bank to a stone post set at land of Lawrence A. Dougherty and thence in a straight line about thirty eight (38) degrees north of east, five hundred forty feet (540'), more or less, to the stone post begun at, containing twelve (12) acres, more or less.

Together with Right of Ways described in the deed of Anthony Serra dated May 21, 1988 and recorded in the Strafford County Registry of Deeds at Book 1385, Page 685; and Deed of Dianne M. Norton dated April 28, 1988 and recorded at Book 1383, Page 20.

Meaning and intending to convey the same parcel described in the deed of George A. Stimpson to Gal F. Mills, by deed dated February 5, 1999 and recorded in the Strafford County Registry of Deeds at Book 2080, Page 0119.

For further title reference, see the Estate of Gail F. Mills filed in the Strafford County Registry of Probate as Docket Number 2005-0361.

The above-described premises are not homestead property.

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Executed this 25 day of January 2006.

Dexter M. Mills
Dexter M. Mills, Executor of the
Will of Gail F. Mills

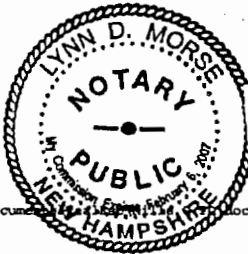
STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

January 25, 2006

Personally appeared, Dexter M. Mills, Executor of the Will of Gail F. Mills, known to me, or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

Before me,

Lynn D. Morse
Notary Public
Type or Print Name: Lynn D Morse
My Commission Expires: 2.6.2007



Foster's Daily Democrat, Dover, N.H., Saturday Morning

May 7, 2005

OBITUARIES

Gail Mills

LEE — Gail F. Mills, 60, of Lee died May 5, 2005, at home following a two-year battle with lung cancer.

She was born on May 29, 1944 in Exeter, the daughter of the late James and Evelyn (Albee) Lavallee. She retired as a telephone operator from AT&T 10 years ago. She enjoyed spending time in her flower garden. She was a loving homemaker and mother and cherished her grandchildren.

Family members include her husband of 41 years, Dexter Mills; one son, Scott Mills, of Lee; a daughter, Kathleen Harter, of Newmarket; and three grandchildren.

There will be a graveside service on Saturday, May 14, at 2 p.m. at the Lee Cemetery.

The Cremation Society of New Hampshire is in charge of arrangements. To view the online obituary or to send condolences, please visit www.csnh.com.


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REGISTER OF DEEDS
STRAFFORD COUNTY

STATE OF NEW HAMPSHIRE

DEPARTMENT OF REVENUE ADMINISTRATION  REAL ESTATE TRANSFER TAX

**** THOUSAND * HUNDRED AND 20 DOLLARS

MONTH	DAY	YEAR	REGISTERED AMOUNT	TAX AMOUNT
09	21	2006	792235	\$ *****20.00

VOID IF ALTERED

Appendix C

Mills Property Conservation Easement

CONSERVATION EASEMENT DEED

The **TOWN OF LEE**, a municipal corporation with a mailing address of 7 Mast Road, Lee, New Hampshire 03824, (hereinafter referred to as the "**Grantor**", which word where the context requires includes the plural and shall include, unless the context clearly indicates otherwise, the Grantor's legal representatives, successors and assigns),

for consideration paid, with **WARRANTY** covenants, grant in perpetuity to the **STRAFFORD COUNTY CONSERVATION DISTRICT**, an organization established under the laws of the United States of America with an office located at 259 County Farm Road in Dover, New Hampshire, 03820, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for Federal income tax purposes, pursuant to the United States Internal Revenue Code (hereinafter referred to as the "**Grantee**" which word shall include the plural, unless the context clearly indicates otherwise, and shall include the Grantee's legal representatives, successors and assigns), pursuant to NH RSA 432, as more fully described below,

the Conservation Easement (herein referred to as the "**Easement**") hereinafter described with respect to that certain area of land (herein referred to as the "**Property**") being unimproved land situated off Lee Hill Road, in the Town of Lee, County of Strafford, State of New Hampshire, consisting of 11.93 acres, more or less, as shown on "Plan of Land prepared for Town of Lee, located at Route 155 & Lee Hill Road, Lee, N.H." by Atlantic Survey Co., Inc., 149 Mill Road, Durham, New Hampshire 03824 and recorded in the Strafford County Registry of Deeds, Plan #85-27, more particularly bounded and described in Appendix "A" attached hereto and made a part hereof.

1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes:

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A. The preservation and conservation of open spaces, particularly the conservation of productive fields, forestland, and wetlands of which the Property consists and of the wildlife habitat thereon, for the use and scenic enjoyment of the general public;

B. The long-term protection of the Property's capacity to produce agricultural and forestry products;

C. The conservation of the riparian habitat and water quality of the Little River, on which the property fronts for 1,000 feet, more or less; and

D. The protection of waterfowl habitat along the river and in wetland habitats on the property.

These purposes are consistent with the clearly delineated open space conservation goals and/or objectives as stated in:

The Town of Lee Master Plan, 1996 to the year 2005, which reaffirms the 1988 Master Plan's philosophies for the promotion and preservation of open space, agricultural land, and resource conservation interests and encourages "the promotion of sizable tracts of farm and forest lands through conservation easements, and other means.... Lee residents strongly support the preservation of wetlands and open space, encouragement of agriculture and forestry, [and] protection of scenic vistas...." The Master Plan states the following goals:

- Encourage land preservation techniques such as conservation easements, purchase of development rights, or donation of land to the Town.
- Protect and preserve natural resources in order to provide residents with access to quality water, air, food, fuel, construction materials, and recreational opportunities, as well as to protect the unique natural habitat.

The New Hampshire RSA Chapter 79-A states:

"It is hereby declared to be in the public interest to encourage the preservation of open spaces in the state by providing a healthful and attractive outdoor environment for work and recreation on the state's citizens, by maintaining the character of the state's landscape, and by conserving the land, water, forest, and wildlife resources."

All of these purposes are consistent and in accordance with the U.S. Internal Revenue Code Section 170(h).

The Easement hereby granted with respect to the Property is as follows:

2. **USE LIMITATIONS**

(Subject to the reserved rights specified in Section 3 below)

A. No industrial or commercial activities or improvements shall occur on the Property except in conjunction with any water supply, agricultural, forestry, or dispersed, passive outdoor recreational activities;

B. No land surface alterations shall occur on the Property such as filling, excavation, mining, and dredging except in conjunction with any water supply, agricultural, forestry, or dispersed, passive outdoor recreational activities, or earth reclamation of formerly mined areas;

C. No industrial or commercial activities, improvements, structures, land surface alterations or timber harvesting other than for potential water supply facilities shall occur within fifty feet of mapped wetlands in the National Wetland Inventory;

D. No wastes generated off the Property shall be disposed of or discharged on the Property;

E. No hazardous substances shall be stored, applied, or disposed of on the Property, except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that do not threaten water supply protection; and

F. No acts or uses shall occur on the Property that would:

- i. Degrade the water quality such that the standards set for public drinking water by the State of New Hampshire Department of Environmental Services would be threatened;
- ii. Cause an unsustainable quantity of water to be withdrawn;
- iii. Harm state or federally recognized rare, threatened, or endangered species or exemplary natural communities as determined by the New Hampshire Natural Heritage Bureau.

3. **RESERVED RIGHTS**

All acts and uses not prohibited in Section 2, **Use Limitations**, are permissible provided that such acts and uses do not materially impair the purposes of this Easement or other significant conservation interests. The Grantor reserves to itself, its successors and assigns all other customary rights and privileges of ownership, including the right to conduct or permit the following uses of the Property:

A. Uses consistent with community drinking water supply, agriculture, forestry and dispersed, passive outdoor recreational uses limited to non-motorized travel on unsurfaced paths and

shall be conducted in accordance with the stewardship plan prepared for the property within the State of New Hampshire best management practices then applicable; except, however, winter season snowmobile travel on designated trails is permitted so long as there is adequate snow cover to protect soil resources. All other motorized off-highway recreational vehicles, as defined in NH RSA 215-A:1, shall not be allowed on the Property, at any time;

B. Grantor reserves the right to conduct forestry activities in accordance with the Comprehensive Shoreland Protection Act as specified in NH RSA 483-B:9.V., as amended, and with then current, generally accepted best management practices for the sites, soils and terrain of the Property as described in "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire" (State of New Hampshire, Department of Resources and Economic Development, 1998); and in accordance with the recommended practices contained within "Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire" (Division of Forests and Lands, Department of Resources and Economic Development and Society for the Protection of New Hampshire Forests, 1997); or similar successor or other publications;

C. Earth Reclamation Activities. Earth Reclamation activities may be conducted as may be required by law, as may be necessary to advance the purposes of this Easement including recreational uses, as may be required to disburse existing piles of material or to minimize and/or revegetate slopes in the area of the former gravel pit, or as may be reasonable and necessary for the safety of the users of the Property.

D. Grantor reserves the right to stabilize the bank of the Little River to protect fields and forest land, provided such activity is conducted to protect the river's scenic and ecological value, utilizing noninvasive plants or plant materials as the primary stabilizing material or instream measures such as vanes and weirs, and has the Grantee's prior written consent, which consent shall be granted only if the Grantor demonstrates to the Grantee's satisfaction that the need for the proposed stabilization results from off-site, man-induced activities and, further, that the proposed stabilization will not cause erosion elsewhere on the river. Restoration shall be performed utilizing natural channel design practices as contained in "Stream Corridor Restoration: Principles Processes, and Practices," October 1998, prepared by the Federal Interagency Stream Restoration Working Group, or similar successor publications;

E. Grantor shall have the right to post against vehicles, trespass, hunting, or fishing, or other activity in order to protect natural resource values and as consistent with the Purposes of this Easement.

F. Grantor shall have the right to construct and maintain permeable surface roads necessary for timber harvesting, maple sugaring operations, or for other uses allowed under this easement.

G. Grantor shall have the right to stockpile and compost stumps, tree and brush limbs and similar unpainted, untreated biodegradable materials originating on the Premises in locations

where the presence of such materials will not have a deleterious impact on the purposes (including scenic values) of this Conservation Easement;

H. Grantor shall have the right to clear, construct, and maintain trails for the expansion of the agricultural fields or for timber harvesting or management of low impact, non-motorized, non-commercial outdoor recreational activities, such as hiking, skiing, and horseback riding. This includes signs associated with these trails; and

I. Grantor retains and reserves water rights sufficient to maintain agricultural productivity of the Property.

4. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

A. The Grantor agrees to notify the Grantee in writing at least twenty-one (21) business days before the transfer of title to the Property to any successor in interest, along with the name(s) and address(es) of such successor(s) in interest.

B. In any deed, lease, or other agreement conveying an interest in the Property, the Grantor shall make reference to this Easement, and shall indicate that the provisions hereof are binding upon all successors in interest in the Property in perpetuity.

C. The Grantee shall be under no obligation to maintain the Property or pay any taxes, liens, or assessments thereon.

5. BENEFITS, BURDENS, AND ACCESS

A. The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

B. The Grantee shall have reasonable access to the Property and all of its parts for such inspection as is necessary to determine compliance with and to enforce this Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

C. This easement shall in no way be interpreted to permit physical access by the public to or across the Property for any purpose.

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6. **BREACH OF EASEMENT**

A. When a breach of this Easement, or conduct by anyone inconsistent with this Easement, comes to the attention of the Grantee, it shall notify the Grantor in writing of such breach or conduct, delivered in hand or by certified mail, return receipt requested.

B. The Grantor shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken under this section.

C. If the Grantor fails to take such proper action under the preceding Section 6.B., the Grantee shall, as appropriate to the purposes of this deed, undertake any actions that are reasonably necessary to cure such breach or to repair any damage in the Grantor's name or to terminate such conduct. The cost thereof, including the Grantee's expenses, court costs, and legal fees shall be paid by the Grantor, provided that the Grantor is directly or primarily responsible for the breach.

D. If a court of law determines that the Grantor has failed to comply with this Easement, the Grantee shall be entitled to special or general damages as may be ordered by such court in addition to reasonable costs of enforcement. In the event such court decides that the Grantee initiated litigation in bad faith or without reasonable cause, then the Grantee shall reimburse the Grantor for any reasonable costs of defending such action, including court costs and attorney's fees.

E. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

F. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.

G. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair Grantee's rights or remedies or be construed as a waiver.

7. **NOTICES**

All notices, requests and other communications, required under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Grantor or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

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8. **SEVERABILITY**

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

9. **CONDEMNATION/EXTINGUISHMENT**

A. Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Easement conveyed hereby, the Grantor and the Grantee shall thereupon act jointly or separately to recover the full damages resulting from such taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.

B. The balance of the land damages recovered (including, for purposes of this subsection, proceeds from any lawful sale, in lieu of condemnation, of the Property unencumbered by the restrictions hereunder) shall be divided between the Grantor and the Grantee in proportion to the fair market value, at the time of condemnation, of their respective interests in that part of the Property condemned. The values of the Grantor's and Grantee's interests shall be determined by an appraisal prepared by a qualified appraiser at the time of condemnation.

C. The Grantee shall use its share of the proceeds in a manner consistent with and in furtherance of one or more of the conservation purposes set forth herein.

10. **SEPARATE PARCEL**

The Grantor agrees that for the purpose of determining compliance with any present or future regulation (other than those governing N.H. Current Use Assessment under RSA 79-A), bylaw, order, or ordinance (within this section referred to as "legal requirements") of the Town of Lee, the State of New Hampshire or any other governmental unit, the Property shall be deemed a separate parcel of land and shall not be taken into account in determining whether any land of the Grantor, other than the Property, complies with any said legal requirements. Specifically, it is agreed that, even after this transfer, the Grantor shall be entitled to qualify for a Current Use Assessment on the property and the land included in the Easement shall be included for purposes of qualification. The Property shall not be taken into account to satisfy in whole or in part any of said legal requirements or any area, density, setback or other dimensional standard applicable to such land.

11. **MERGER**

The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Easement set forth herein are to last in perpetuity,

and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assign shall be deemed to eliminate the Easement, or any portion thereof, granted hereunder under the doctrine of "merger" or any other legal doctrine.

12. ALTERNATE DISPUTE RESOLUTION

A. The Grantor and the Grantee desire that issues arising from time to time concerning prospective uses or activities in light of the conservation purposes of the Easement will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantor and the Grantee agree that if a party becomes concerned about the consistency of any proposed use or activity with the purpose(s) of this Easement, wherever reasonably possible, the concerned party shall notify the other party of the perceived or potential problem, and explore the possibility of reaching an agreeable resolution.

B. If informal dialogue does not resolve the issue, and the Grantor agrees not to proceed with the proposed use or activity pending resolution of the on-going dispute, either party may refer the dispute to mediation by request made in writing to the other. Within ten (10) days of the receipt of such a request, the parties shall agree on a single impartial mediator who shall be an attorney licensed to practice law in New Hampshire or an experienced land use or land conservation professional, both of which must have experience with conservation easements and training in mediation. Each party shall pay its own attorney's fees and the costs of mediation shall be split equally between the parties.

C. If the dispute has not been resolved by mediation within sixty (60) days after delivery of the mediation request, or the parties are unable to agree on a mediator within thirty (30) days after delivery of the mediation request, then, either party may refer the dispute to binding arbitration by request made in writing and in accordance with New Hampshire RSA 542. Within thirty (30) days of the receipt of such a request, the parties shall select a single impartial arbitrator to hear the matter. The arbitrator shall be an attorney licensed to practice law in New Hampshire with experience in conservation easements and applicable training and experience as an arbitrator. Judgment upon the award rendered by the arbitrator may be enforced in any court of competent jurisdiction. The arbitrator shall be bound by and follow the United States Internal Revenue Code.

D. If the parties do not agree to resolve the dispute by arbitration, or if the parties are unable to agree on the selection of an arbitrator, then either party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by permanent injunction, and to require the restoration of the Property to its condition prior to the breach and for such damages as appropriate.

E. Notwithstanding the availability of mediation and arbitration to address disputes concerning the consistency of any proposed use or activity with the purposes of this Easement, if the Grantee believes that some action or inaction of the Grantor or a third party is causing irreparable harm or damage to the Property, the Grantee may seek a temporary restraining order, preliminary

injunction, or other form of equitable relief from any New Hampshire court of competent jurisdiction to cause the cessation of any such damage or harm pending resolution of any dispute in accordance with this Section 13.

13. ADDITIONAL EASEMENT

Should the Grantor determine that the expressed purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Grantor may execute an additional instrument to that effect, provided that the conservation purposes of this Easement are not diminished thereby and that a public agency or qualified organization described in Section 5.A., **Benefits, Burdens, and Access** above, accepts and records the additional easement. Any such conveyance of an additional easement shall require the approval of the Grantee. Any additional easement will be subordinate to this easement.

14. SUBSEQUENT LIENS ON PROPERTY

No provisions of this easement should be construed as impairing the ability of the Grantor to use the property as collateral for any borrowing.

15. AMENDMENTS

Except as specifically provided within this Easement, this Easement may be amended only if such amendment is intended to clarify or correct this Easement, or if it significantly furthers the conservation purposes of this Easement or increases public benefit. Any such amendment must be mutually agreed upon by the Grantor and the Grantee, comply with all applicable laws and regulations, and shall be duly executed and recorded.

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

EXECUTED under seal this 13th day of July 2006.

Town of Lee

By: Frank Reinhold, Jr.

Frank Reinhold, Jr.

By: Richard H. Wellington

Richard H. Wellington

By: Joseph P. Ford

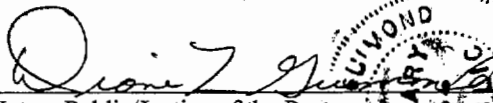
Joseph P. Ford


BK 3436PG0160

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

Date: 7-13, 2006

Personally appeared Frank Reinhold, Jr. of the Town of Lee, its authorized representative, and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of the Town of Lee. Before me,

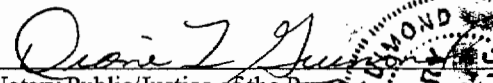

Notary Public/Justice of the Peace
My commission expires: 9-27-2008




STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

Date: July 13, 2006

Personally appeared Richard H. Wellington of the Town of Lee, its authorized representative, and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of the Town of Lee. Before me,



Notary Public/Justice of the Peace
My commission expires: 9-27-2008

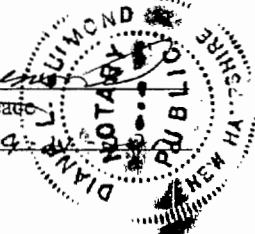


STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

Date: July 13, 2006

Personally appeared Joseph P. Ford of the Town of Lee, its authorized representative, and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of the Town of Lee. Before me,


Notary Public/Justice of the Peace
My commission expires: 9-27-2008



BK3436PG0167

The above and foregoing Conservation Easement is hereby accepted and agreed to by the Strafford County Conservation District hereunto duly authorized, this 29 day of August, 2006.

Strafford County Conservation District

By: Marian M. Aikman
Marian M. Aikman

STATE OF NEW HAMPSHIRE
STRAFFORD COUNTY

Personally appeared Marian M. Aikman, of the Strafford County Conservation District, being the authorized representative of the Strafford County Conservation District and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of the Strafford County Conservation District. Before me,

Leo E. Lessard
Notary Public / Justice of the Peace
My commission expires: _____



BK3436PG0162

Appendix A

A certain tract or parcel of land with any improvements thereon situate off of Lee Hill Road, so-called, in Lee, Strafford County, New Hampshire, and shown as **Lot 20N-3-0** on a plan entitled "Plan of Land prepared for Town of Lee located at Route 155 & Lee Hill Road, Lee, N.H." dated May, 2005, prepared by Atlantic Survey Co., Inc. and recorded in the Strafford County Registry of Deeds as Plan #85-27, more particularly bounded and described as follows:

Beginning at a stone bound which is located S 06° 38' 50" W a distance of 33.34 feet from an iron rod on the southerly side of Lee Hill Road; thence running S 34° 55' 26" E along land now or formerly of the Town of Lee a distance of 1075.88 feet to a point at land now or formerly of Corey Family Revocable Trust and land now or formerly of Mark E. & Linda M. Simmons; thence turning and running S 78° 24' 25" W a distance of 521.40 feet to an iron rod found; thence continuing S 78° 24' 25" W a distance of 15.00 feet, more or less, to the Little River; thence turning and running in a generally northerly direction along Little River a distance of 1150.00 feet, more or less, to a point at land now or formerly of Marie Stinson; thence northerly along said Stinson land to an iron rod set in a stone pile; thence running N 54° 02' 23" E a distance of 108.35 feet to an iron rod at land now or formerly of Charles P. & Lucia Hanson Irrevocable Trust; thence turning and running along said Hanson land the following courses and distances:

S 72° 22' 18" E a distance of 19.00 feet to an iron rod;

N 24° 28' 19" E a distance of 14.14 feet to an iron rod;

N 73° 27' 40" E a distance of 350.00 feet to a stone bound at the point of beginning.

Containing 11.93 acres, more or less.

Together with Right of Ways described in the deed of Anthony Serra dated 5/21/88 and recorded in the Strafford County Registry of Deeds at Book 1385, Page 685; and Deed of Dianne M. Norton dated 4/28/88 recorded at Book 1383, Page 20. For further location of Right of Way, see reference on said Plan #85-27 captioned "Gravel Drive, See Right of Way, S.C.R.D. 826/463."

BK 3436 PG 0163

Appendix D

Documentation of Matching Funds

Town of Lee, New Hampshire
Office of the Selectmen
7 Mast Road
Lee, New Hampshire 03824-06555
Telephone 603 659-5414
Fax 603 659-7202

ENTERED
PAID 1/30/06
CHECK 1019

January 24, 2006

Trustee to the Trust Fund
Attn: Scot Bugbee

Re: Closing of Mills Property Easement

Dear Scot,

Dwight Barney, Chairmen of the Board of Selectmen have requested that I obtain money held in trust for this purpose. In accordance to Warrant Article #22, the Town voted to raise and appropriate the sum of \$134,206.63, to purchase and acquire the fee simple land on Lee Hill Road owned by Gail F. Mills. Tax Map 0020-0003-0000.

Atty. William L. Tanguay will be representing the Town of Lee at the closing on February 1st.

Please issue checks from the following funds:

- Land Use Change Fund \$50,000.
- Land Acquisition Fund \$56,700

Please make check payable to Estate of Gail F. Mills in the amount of \$106,700.

As always, thank you for you help with this.

Best regards,

Dwight Barney Joseph P. Ford Richard W. Wellington

TOWN OF LEE 7 MAST RD. LEE, NH 03824	OCEAN NATIONAL BANK LEE, NH 03824 92-143112	16169 2/1/2006
PAY TO THE ORDER OF Estate of Gail F. Mills		\$ **27,506.63
Twenty-Seven Thousand Five Hundred Six and 63/100		DOLLARS
Estate of Gail F. Mills		
MEMO Town of Lee	<i>Richard W. Wellington</i>	
⑆016169⑆ ⑆011201432⑆00⑆05⑆1796⑆8⑆		⑆0002750663⑆

Check 16169. Amount \$27,506.63 Date 2/6/2006

Invoice
Submitted to New Hampshire Estuaries Project
University of New Hampshire

Project Title: Little River Park, Phase Two, Purchase of Mills Property
 Agency/Organization: Town of Lee
 Address: 7 Mast Road, Lee, New Hampshire 03824
 Agreement Number: Project ID 04-C-7, CE#971200 Total Grant Award: \$27,500.00
 Reporting Period: final report Project End Date: September 30, 2006
 Invoice Number: final invoice (Please note if this is the final invoice.)

	Budget Amount (from Contract Exhibit II)	Cumulative Expenses from Previous Invoices	Reimbursable Expenses This Period	Matching Funds This Period	Cumulative Expenses To Date (Reimbursable and Match)
Salaries or Wages		+		+	=
Fringe Benefits		+		+	= \$ -
Supplies/Materials		+		+	= \$ -
Equipment		+		+	= \$ -
Travel		+		+	= \$ -
Contractual		+		+	= \$ -
Other Cost (explain below)	\$27,500	+		+	\$106,700 = \$134,200
Indirect Costs		+		+	= \$ -
Total Project Costs	\$ 27,500.00	\$ -	+	\$ -	+ \$106,700.00 = \$134,200

NOTE: Documentation of supervisor-approved employee time records; receipts for supplies, materials, and equipment; travel cost documentation; and contractual costs must be kept on file by the agency/organization for audit purposes or to be supplied if requested by UNH.

Documentation of matching funds must be submitted with this invoice.

Purchase of property with conservation easement

Certified by (signature): Laurel Cox

Date: 9/29/06

Name (printed): Laurel Cox

Title: Land Protection Administrator
Town of Lee

Return invoice with original signature (no photocopies) to:

New Hampshire Estuaries Project/UNH, Hewitt Annex, 54 College Road, Durham, NH 03824-2601

For Office Use Only	
UNH Grant Number	Notes/NHEP Project Manager Approval:
UNH Fund Number	
Agreement/PO Number	
New Hampshire Estuaries Project: Invoice Template - revised 04/06	