

TRAIL EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this _____ day of _____, 2024 by and between the **VILLAGE OF FREEVILLE**, a municipal corporation of the State of New York, with offices at 5 Factory Street, P.O. Box 288, Freeville, New York 13068 (hereinafter referred to as "Owner of Parcels") and the **TOWN OF DRYDEN** (hereinafter referred to as "Town"), a municipal corporation of the State of New York, with offices at 93 East Main Street, Dryden, New York 13053.

WHEREAS, Owner of Parcels is the owner in fee simple of certain abandoned railroad real property (hereinafter referred to as the "Parcels") currently serving as public trail and parkland in the Village of Freeville, Tompkins County, State of New York, and designated as tax parcel numbers 3.-2-4, 3.-2-5.1, 3.-2-5.2, 3.-2-5.3, 5.-2-29, 6.-1-2 and 7.-1-1 as more particularly described in a deed dated March 6, 1981, in Liber 585 of Deeds at page 795 in the Tompkins County Clerk's Office; and

WHEREAS, Town is a municipal corporation of the State of New York which desires to preserve, protect and enhance land in its natural, scenic, educational, historical, agricultural, forested, and/or open space condition and also to provide a wide array of recreational opportunities to its residents, as well as alternative means of commuting; and

WHEREAS, Town desires to create a 10 foot wide recreational trail (the "Trail") for non-vehicular use by the public within abandoned railroad property, portions of which pass through the Village of Freeville, which Trail is intended to enhance local and regional hiking, bicycling and recreational opportunities for the general public by providing attractive and scenic sections of a local trail; and

WHEREAS, Owner of Parcels desires to grant to Town a 10-foot easement across a portion of the Parcels consisting of said abandoned railroad property and more particularly shown in yellow on Exhibit A, said easement not to encroach upon the existing parking lot or barn owned by the Owner of Parcels (the "Easement Area"), the intent being that the Easement Area would be the entire length of the currently existing rail trail within the Village, for Town to construct, improve and/or maintain the Trail, and Town desires to accept said easement;

NOW, THEREFORE, in consideration of the foregoing recitals and \$1.00, and other good and valuable consideration, receipt of which is hereby acknowledged by Owner of Parcels, the parties agree as follows:

1. Grant of Easement to Town for Trail: Subject to Section 2 below, Owner of Parcels hereby grants, transfers, and conveys to Town, for the benefit of the public:
 - a. A perpetual easement and right-of-way for non-vehicular ingress, egress, and access by the public over and across the Easement Area.
 - b. A perpetual easement and right-of-way for vehicular and non-vehicular ingress, egress, and access by Town for improvement, maintenance and emergencies over and across the Easement Area.

2. Purposes, Conditions, Restrictions, Reserved Rights.

- a. The easement to Town for the Trail is established for recreational and commuting trail purposes, such as, but not limited to, walking, running, skiing, snowshoeing, bicycling, horseback riding, bird watching, nature study, and the use of electric-assist bicycles and power-driven mobility devices by persons who have mobility impairments (“Recreational Purposes”). Such Recreational Purposes shall be subject to the following conditions:
 - i. Camping, hunting, cooking, campfires, meetings, drug usage, alcohol consumption, gathering or similar activities are expressly prohibited. Notwithstanding the foregoing, recreational group outings such as bird watching and running clubs shall not be considered “meetings.” No trash, litter or other belongings shall be deposited within the Easement Area and no persons other than the Town or Village of Freeville shall remove or disturb any timber vegetation or crops within the Easement Area.
 - ii. No vehicles, structure or other property shall be parked, stored or placed within the Easement Area at any time except to the extent specifically permitted herein.
 - iii. The Town shall place appropriate signage and take such steps as may be reasonably necessary to communicate these conditions to the users of the Trail.
- b. The Trail location within the Easement Area shall be defined by reasonable agreement between Town and Owner of Parcels, and may be indicated by standard markings.
- c. Owner of Parcels retain all rights accorded to the general public for use of the Trail.
- d. Owner of Parcels may remove or exclude from the Easement Area and Parcels any Persons who are (i) in locations other than the Trail or Trail facilities or (ii) engaged in non-permitted Trail uses.
- e. Owner of Parcels reserve the right to use the Easement Area for any lawful purpose, including but not limited to the installation of utilities, vegetation management, and signage installation, provided such use does not permanently interfere with the Town’s construction or maintenance of the Trail or substantially impede the public’s use of the Trail. Notwithstanding the foregoing, the Village may maintain any buildings presently located within the Easement Area and the Town acknowledges and consents to the Village’s continued maintenance and access thereto.
- f. Upon reasonable agreement between Town and Owner of Parcels

concerning trail maintenance, Town shall, at their sole cost, mow, trim brush and branches, and grade and improve the Easement Area, including the application of gravel, crushed stone, cinders, stone dust and/or asphalt, the construction, installation, repair and/or replacement of bridges, culverts, pipes, railings, fences, gates, barriers to control access, vegetative screening, and interpretive signs.

- g. No person is permitted to charge a fee for access to the Trail or use of Trail facilities.
 - h. The parties hereto acknowledge and agree that access to the Trail is available at designated locations and other than the Easement Area, no access to the Trail by either the public or the Town shall be permitted from, across or over the Grantor's Parcels or any portion hereof
 - i. Right to Suspend Trail Use. Town or its designee, in its sole discretion, shall have the right to suspend public use of the Trail from time to time. Village shall have the right to suspend public use of the Trail when reasonably needed for the Village to safely perform work on the Village sewer, or for other lawful purposes, or if Town is in breach of its obligations herein, after written notice to Town of such breach and ten (10) days opportunity for the Town to cure, except that such cure period shall be extended for such time as reasonably necessary if such cure is not capable of being completed within such ten (10) day period of time.
3. Easement Runs with Land, Successors and Assigns. This easement shall bind and run with title to the Parcels forever, and shall inure to the benefit of Town and Town's successors and assigns; provided, however, that any successor or assignee of the Town must be agreed upon by the Village, whose agreement will not be unreasonable withheld, and be a federal, state or local government corporation or a Not-For-Profit Corporation qualified under the laws of New York State to hold such easements; and further provided that Town may terminate this Easement as provided under Paragraph 5 below.
4. Hold Harmless, Indemnification of Owner of Parcels. Town agrees to defend, indemnify and hold harmless Owner of Parcels from any claims, suits, actions or proceedings for any cause of action arising out of any negligent act or omissions of Town, its employees, contractors or agents with respect to the easement herein granted, and from any claims, suits, actions or proceedings for any cause of action claimed or brought by any person using the Easement Area, except for those claims, suits, actions or proceedings arising from or out of the sole and direct negligence of Owner of Parcels, its employees, contractors or agents.
5. Termination/Modification. In the event that Town determines that the Easement Area is no longer needed or desirable across the Parcels, Town may terminate said easement by written instrument duly signed by Town and acknowledged, and recorded in the Tompkins County Clerk's Office. This Easement may only be modified or amended by written instrument executed by the parties (or their successors in interest) and recorded in the Tompkins County Clerk's Office.

6. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of New York.
7. Dispute Resolution. This process applies to all provisions of this Easement Agreement. It is possible that in the future the parties may have disagreements with one another concerning the interpretation of this Easement Agreement, or concerning modification of provisions of this Easement Agreement. Notwithstanding this, the parties wish to not resort to litigation before reasonable non-court alternatives have first been attempted. The parties agree, therefore, to try to resolve any disputes that may arise in the future as set forth below, except in the case of urgent or emergency situations which would reasonably prevent such resolutions or make them impracticable:
 - a. As a first step in resolving future differences, if any, the parties first will attempt in good faith to confer with one another orally.
 - b. If speaking with one another is unsuccessful, then as the second step the parties will try to achieve resolution in writing, with each of them to present to the other a proposed modification to and/or implementation of this easement agreement.
 - c. If there is no resolution at the end of the second step, as a third step the parties agree to participate in mediation or Collaborative Law negotiations to resolve the dispute. Both parties agree to participate in mediation or Collaborative Law negotiations in good faith and to attend at least three mediation or negotiation sessions prior to resorting to litigation.
 - d. If there is no resolution at the third step, either party may commence contested court proceedings. It is the intent and commitment of the parties to make diligent efforts to avoid court proceedings and resolve disputes by agreement.
8. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and all other costs and expenses of litigation from the other party, which amounts may be set by the court in the trial of such action or may be enforced in a separate action brought for that purpose.
9. Each party hereto represents and warrants to the other party that this Agreement has been duly authorized and approved and the person signing below on behalf of each party has been duly authorized to execute this Agreement on behalf of such party.

TO HAVE AND TO HOLD said easement and the rights granted hereunder to Town and to Owner of Parcels, their respective successors and assigns forever.

IN WITNESS WHEREOF, Owner of Parcels and Town have set their hands on the day and year first above written.

VILLAGE OF FREEVILLE

TOWN OF DRYDEN

By: _____
MILES MCCARTY
Village Mayor

By: _____
JASON M. LEIFER,
Town Supervisor

STATE OF NEW YORK)

COUNTY OF TOMPKINS) ss.:

On the ____ day of _____ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared **MILES McCARTY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the persons upon behalf of whom the individuals acted, executed the instrument.

Notary Public

STATE OF NEW YORK)

COUNTY OF TOMPKINS) ss.:

On the ____ day of _____ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared **JASON M. LEIFER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the persons upon behalf of whom the individuals acted, executed the instrument.

Notary Public