

Tioga County Commissioners

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COMMISSIONER

ERICK J. COOLIDGE
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June 1, 2022

Secretary
Surface Transportation Board
Washington, DC 20423-0001

304683
ENTERED
Office of Proceedings
June 2, 2022
Part of
Public Record

Re: Request for Public Use Condition and Addition as Party of Record
Docket No. AB 1320_X: Growth Resources of Wellsboro Foundation – Abandonment
Exemption, Tioga County, PA

Dear Secretary:

This request is filed on behalf of Tioga County (Proponent), a county of the sixth class, providing a multitude of services to support and improve the quality of life for residents of Tioga County, Pennsylvania.

Proponent has been in partnership with the Pennsylvania Department of Transportation (PennDOT), and the Department of Conservation and Natural Resources (DCNR) to advance the construction of Pine Creek Rail Trail Extension/Marsh Creek Greenway (Greenway) Project, a 3.2-mile non-motorized trail that will link downtown Wellsboro to the Pine Creek Rail Trail. PennDOT and DCNR have provided grant funds for this project.

Pursuant to 49 C.F.R. § 1152.28, Proponent requests issuance of a Public Use Condition rather than an outright abandonment authorization for the rail line between Milepost .624 and Milepost 3.815 ("Line") in Wellsboro, Tioga County, PA. Proponent further requests that it be added as a party of record to all future filings and decisions regarding Docket AB 1320 X.

A. Request for Public Use Condition

Proponent requests the STB to find that this property is suitable for other public use, specifically the Pine Creek Rail Trail Extension/Marsh Creek Greenway (Greenway) and other open space areas and trail connectors to support the Greenway, and to place the following conditions on the abandonment:

- 1) An order prohibiting Growth Resources of Wellsboro Foundation from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. Justification for this condition is that the rail corridor has been identified as the preferred route for the Greenway, and the conversion of the property to the Greenway is widely supported by the community. The time period sought is 180 days from the

FILING FEE WAIVED

effective date of the abandonment authorization. Proponent needs this much time to finalize all negotiations with Growth Resources of Wellsboro Foundation.

- 2) An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested in 180 days from the effective date of abandonment authorization for the same reasons as listed above.

A map depicting the right-of-way is attached.

Finally, as a local governmental entity, Tioga County respectfully requests a waiver of the Board's filing fees in accordance with 49 C.F.R. § 1002.2(e)(1).

By my signature below, I certify service upon Growth Resources of Wellsboro Foundation, by U.S. Mail, postage per-paid, first class, this 1st day of June, 2022.

Respectfully submitted,


Roger C. Bunn


Erick J. Coolidge


Mark L. Hamilton

COMMERCIAL AGREEMENT OF SALE

This Commercial Agreement of Sale (this "Agreement"), dated **April 6, 2022**, is between: Growth Resources of Wellsboro Foundation, a Pennsylvania non-profit (hereinafter referred to as "Seller") and the County of Tioga, Pennsylvania (hereinafter referred to as "Buyer").

1. Final Approval by Tioga County Board of Commissioners. It is expressly understood and agreed by the parties that notwithstanding anything in this Agreement to the contrary, upon execution of this Agreement by Buyer, such signature constitutes merely preliminary approval of this Agreement, and that this Agreement does not constitute a final, binding and legally enforceable agreement against Buyer unless and until it is approved by the Tioga County Board of Commissioners after satisfactory completion of all municipal requirements at a duly called and constituted meeting, presently scheduled to occur on July 12, 2022, after expiration of the Due Diligence Period herein, at which point the Commissioners shall provide final written approval of this Agreement as provided herein. Unless and until this Agreement is approved by the Commissioners as aforesaid, the County shall have no obligation to purchase the Property as defined herein and may terminate this Agreement at will.
2. Termination by Seller. Notwithstanding anything in this Agreement to the contrary, Seller shall have the absolute and unconditional right to terminate this Agreement for any reason whatsoever within forty-five (45) days of complete execution of this Agreement, by delivering written notice to Buyer of such termination.
3. Property. Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase all that certain lot or piece of ground situate in Tioga County, Pennsylvania, and being more particularly described as Parcel Nos. #04-05.00-110, Parcel # 39-01.00-109 and approximately 5.8 acres of Parcel # 09-02.00-081, as more particularly described on **Exhibit "A"** which is attached hereto and made a part hereof by reference, together with all appurtenant rights, easements, improvements and fixtures now or hereafter located thereon (collectively, the "Property"). It is understood and agreed that Parcel # 09-02.00-081 may require a recorded lot line revision and survey prior to closing.
4. Purchase Price and Initial Deposit. The purchase price for the Property shall be Forty-One Thousand Dollars (\$41,000.00) (the "Purchase Price"). The Buyer will place into escrow the sum of One Thousand Dollars (\$1,000) (the "Initial Deposit") upon final approval by the Commissioners of Tioga County as described herein unless Buyer elects to terminate this Agreement as provided herein.
5. Appraisal and Financing Contingencies.
 - a. Seller understands and agrees that in accordance with Tioga County municipal requirements, the Purchase Price must be supported by an appraisal of the Property which is valued equal to or in excess of the Purchase Price. If for any

reason a qualified appraisal is not obtained by the Buyer, or if the appraiser giving such valuation of the Property rescinds or modifies his/her appraisal such that the Property is not appraised at a value equal to or in excess of the Purchase Price, the Buyer reserves the right to terminate this Agreement upon written notice to the Seller, with any money or other deposits of the Buyer returned to Buyer.

- b. It is understood and agreed that Buyer will be applying for a Pennsylvania Department of Conservation & Natural Resources ("DCNR") C2P2 Grant or other qualified State or Federal trail grant subsidy (hereinafter a "Grant") which is intended by Buyer to finance such amounts of the Purchase Price hereunder as the Buyer deems satisfactory in its sole discretion. If for any reason Buyer no longer qualifies for, is rejected for, or is denied financing for a Grant which will fund the purchase of the Property and/or satisfactory acquisition costs hereunder, the Buyer reserves the right to terminate this Agreement by written notice to the Seller, with any money or other deposits of the Buyer returned to Buyer. Buyer reserves the sole and absolute discretion to determine whether the terms of any such Grant are acceptable to Buyer.
6. Date and Place of the Closing. Settlement of the sale and purchase of the Property (the "Closing") shall be on or before July 29, 2022 (the "Closing Date"). The Closing shall be held at such time and location as mutually agreed to by the parties or if the parties are unable to agree, at such location as designated by the Buyer.
7. Warranty Deed. Conveyance of the Property from Seller will be by fee simple deed of special warranty; provided, however, that if Seller is unable to convey fee simple title by deed of special warranty that is insurable at regular rates without exceptions that the Buyer determines are unsatisfactory in the Buyer's sole and exclusive discretion, the Buyer may elect, in its sole and absolute discretion, to accept title by quitclaim deed. If a special warranty deed cannot be issued as aforesaid and a quitclaim deed is unsatisfactory to Buyer in its sole and absolute discretion, Buyer shall have the right to terminate this Agreement upon written notice to Seller, with any money or other deposits of the Buyer returned to Buyer.
8. Realty Transfer Taxes. It is understood and agreed that the deed conveying the Property herein shall be in lieu of condemnation by the Buyer and that consequently, payment of realty transfer taxes is exempt pursuant to 61 Pa. Code § 91.193(b)(1)(i). The Buyer will, prior to Closing, issue an appropriate statute, ordinance, resolution, plan or order for the condemnation, appropriation or acquisition of the Property prior to Closing in order to facilitate this tax exemption, as provided in 61 Pa. Code § 91.193(b)(1)(i).
9. Allocation and Proration of Taxes and Assessments.
 - a. If Seller has paid or is obligated to pay any non-delinquent taxes or assessments due and owing at time of the Closing, non-delinquent taxes and assessments (if

any) will be adjusted pro-rata on a daily basis between Buyer and Seller, reimbursing where applicable, together with any other lienable municipal service. The charges are to be pro-rated for the periods covered. Seller will reimburse Buyer up to and including the Closing Date. The amounts as computed shall be adjusted when the final tax assessment and tax rates are determined.

- b. If the calculation of an item listed in any of the subsections above shall prove to be incorrect or either party discovers an item which should have been included in the adjustments but which was omitted therefrom, the party in whose favor the error or omission was made shall pay or credit the sum necessary to correct such error or omission to the other party promptly following receipt of proof of such error or omission from such other party.
- 10. Possession. Possession is to be delivered by deed and physical possession to the Property free of man-made obstructions or hazards created by Seller, clear of any litter, rubbish or debris caused or created by Seller, at the time and day of the Closing.
 - 11. Zoning Classification. [Intentionally Omitted]
 - 12. Utilities. [Intentionally Omitted]
 - 13. Seller's Provision of Property Information to Buyer. Seller shall promptly upon execution of this Agreement provide Buyer with all information and supporting documentation within its possession or control regarding:
 - a. All knowledge of structural alterations or earth movements upon the Property;
 - b. All information regarding bridges situate upon the Property, including but not limited to, studies, drawings, schematics, blueprints, designs, reports, or evaluations;
 - c. All environmental matters known to Seller, including but not limited to the presence or potential presence of hazardous materials and any materials for which Buyer could become liable under State or Federal law.
 - d. All knowledge of subsidence, sinkholes, mine drainage, abandoned mines, or any other earth condition affecting the stability of the land or safety of persons traversing upon it.
 - e. Names, addresses and telephone numbers of any contractors who worked on any material portion of the Property for Seller.
 - f. Names, addresses and telephone numbers of any maintenance personnel who regularly work on or in the Property for Seller.

- g. Any Property operating expenses, including but not limited to security, cleaning, and grounds keeping.
- h. Any other information reasonably requested by Seller which could affect the Seller's use of the Property as a public trailway.

14. Inspections Contingency.

- a. Buyer, at its own expense, shall have the right until July 1, 2022 (the "Due Diligence Period") to have the Property and any and all parts of the Property inspected or reviewed by inspectors, engineers, architects, attorneys, accountants, contractors, electricians, surveyors, appraisers, itself and others of its choosing. Such inspections or reviews may be for any purpose deemed appropriate such as, but not limited to, obtaining information regarding: the structural integrity of the land or bridges; the sufficiency of the Property for Buyer's intended use as a public trailway; environmental matters; zoning and governmental restrictions; termite, pest, or insect infestation or damage; flood plain verification; the existence and extent of electromagnetic fields or microwave emissions; water penetration; property boundary confirmation; square foot verification; the risk of application of historic preservation regulations or other land use restrictions; title encumbrances and restrictions; State or Federal Government approvals or permits required; whether the Property and Buyer's intended use of the Property conform to all applicable ordinances and other applicable rules, regulations, and laws; the dimensions and boundaries of the Property, location of improvements and other survey matters; whether all utilities are available and are of sufficient capacity for Buyer's desired use of the Property; whether all permits, licenses, and approvals which are required for the desired use of the Property may be obtained from applicable authorities; and any other items or matters that Buyer may select. Seller shall ensure unimpeded access for such inspections. Seller shall also permit Buyer and its representatives and inspectors to interview persons who have knowledge of the Property, such as but not necessarily limited to maintenance personnel, for the purpose of obtaining knowledge of the Property.
- b. If after the expiration of the Due Diligence Period Buyer is dissatisfied with the condition of the Property or any matter related to the Property, then Buyer may terminate this Agreement until and including at the County Commissioner meeting currently scheduled on July 12, 2022, or, if rescheduled, cancelled or postponed, until such time as the County Commissioners hold such meeting in July, 2022. In the event Buyer timely elects to so terminate this Agreement, this Agreement will be null and void, and all money or other deposits delivered to or on behalf of Seller shall be returned within five (5) days thereof.

15. Bulk Sales. If requested by the Buyer in writing on or before Closing, the Seller shall, promptly upon written request of the Buyer, provide all notices to, and obtain all consents and clearances from, the Pennsylvania Department of Revenue, any other government or taxing authority and any creditors pursuant to any bulk sales or similar laws that may be applicable to the transactions contemplated by this Agreement. Seller shall and hereby agrees to indemnify Buyer for any damages suffered by Buyer as a result of Seller's failure to pay any tax attributable to periods ending on or before the Closing.
16. Representations of Seller. Seller hereby warrants and represents that the following are true on the date of this Agreement and will be true as of the Closing Date:
- a. Seller has good, absolute, and marketable title to the Property, subject to no lease, mortgage, pledge, lien, charge, or security interest, whatsoever that will not be discharged prior or at the time of the Closing, or any encumbrance or restriction.
 - b. The execution and performance of this Agreement and the documents necessary to close have been and will be duly authorized by all prerequisite proceedings by Seller, and, when so delivered, constitute a legal and binding obligation. There is no agreement between Seller and any other party for the sale of any portion of the Property, and Seller is not bound by or subject to any contractual or other obligation that would be violated by Seller's execution or performance of this Agreement.
 - c. Seller is a non-profit corporation duly organized and in good standing under the laws of Commonwealth of Pennsylvania.
 - d. Execution and delivery of this Agreement and consummation of the transactions contemplated hereby do not conflict with or result in a breach of any of the terms, provisions, or conditions of any statute, regulation, or court or administrative order, Seller's organizational documents, by-laws or the like, or any agreement, lease, or other agreement or instrument to which Seller is party, or by which it is bound, nor does the execution of this Agreement and consummation of the transaction contemplated hereby constitute a default thereunder.
 - e. Seller shall not sell, dispose of, transfer or encumber any part of the Property after the execution of this Agreement.
 - f. There are no adverse or other parties in possession of the Property or any part thereof and no party has been granted any license, lease or other right or interest relating to the use or possession of the Property, or any part thereof.
 - g. Seller and the Property are not in violation of any applicable statute, law, ordinance, decree, order, rule, regulation of any governmental body, nor is Seller in default of, any provision of any promissory note, indenture or any evidence of

indebtedness or security therefor, lease, contract, purchase or other commitment or any other agreement to which Seller is a party or by which Seller is bound which may result in any adverse effect on the Property or the transactions contemplated by this Agreement.

- h. The operations and activities of Seller conducted on the Property complies in all material respects with all applicable federal, state and local laws, including, without limitation, health and safety statutes and regulations.
- i. There is no suit, claim, action or proceedings now pending or threatened before any court, administrative or regulatory body, or any governmental agency, nor is Seller aware of any grounds therefor, to which Seller is a party or which may result in any judgment, order, decree, liability or other determination which will, or could have any material adverse effect upon the Property or the transactions contemplated by this Agreement, and no such judgment, order or decree has been entered against Seller nor any such liability incurred which has, or could have, such effect.
- j. Seller has obtained all material permits that are required under federal, state and local laws for the ownership, use and operation of the Property and all such permits are in effect.
- k. No public improvement or assessments have been made against the Property which remain unpaid and no notice by any government or public authority has been served upon Seller or anyone on Seller's behalf, including notices relating to violations of zoning, building, safety or fire ordinances which remain uncorrected, and that Seller knows of no condition that would constitute violation of any such ordinances which remains uncorrected nor of other potential notices (including violations) and assessments.
- l. All information provided to Buyer is true, complete and accurate. No warranty or representation by Seller, nor any information in any certificate, exhibit, schedule or other document furnished or to be furnished by Seller, contains or will contain any untrue statement of a material fact or omits or will fail to state a material fact or omits or will fail to state a material fact necessary to make the statements contained therein not misleading.
- m. Environmental Representations.
 - i. For the purposes of this Agreement, the following terms shall be defined as follows:
 - (1) "Cleanup" means all actions required to: (1) cleanup, remove, treat or remediate Hazardous Substances, Oils, Pollutants or

Contaminants (as hereinafter defined) in the indoor or outdoor environment; (2) prevent the Release (as hereinafter defined) of Hazardous Substances, Oils, Pollutants or Contaminants; (3) perform pre-remedial studies and investigations and post-remedial monitoring and care; or (4) respond to any government requests for information or documents in any way relating to cleanup, removal, treatment or remediation or potential cleanup of Hazardous Substances, Oils, Pollutants or Contaminants in the indoor or outdoor environment.

- (2) “Environmental Laws” means all foreign, federal, state and local laws, regulations, rules and ordinances relating to pollution or protection of the environment, including without limitation the Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”) and the Resource Conservation and Recovery Act (“RCRA”), laws relating to Releases or threatened Releases of Hazardous Substances, Oils, Pollutants or Contaminants into the indoor or outdoor environment and all laws and regulations with regard to record keeping, notification, disclosure and reporting requirements respecting Hazardous Substances, Oils, Pollutants or Contaminants.
- (3) “Environmental Liabilities and Costs” means all liabilities, obligations, responsibilities, obligations to conduct Cleanup, losses, damages, deficiencies, punitive damages, consequential damages, treble damages, costs and expenses fines, penalties, restitution and monetary sanctions, interest, direct or indirect, known or unknown, absolute or contingent, past, present or future, resulting from any claim or demand, by any Person, whether based in contract, tort, implied or express warranty, strict liability, joint and several liability, criminal or civil statute, including any Environmental Law, or arising from environmental, health or safety conditions, the Release or threatened Release of Hazardous Substances, Oils, Pollutants or Contaminants into the environment, as a result of past or present ownership, leasing or operation of any properties, owned, leased or operated by Seller, including, without limitation, any of the foregoing incurred in connection with the conduct of any Cleanup.
- (4) “Environmental Reports” means all environmental reports or environmental data compilation that refers or relates to the Property, and all copies of any correspondence to or from Seller and the Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, or any third party that

refers or relates to the environmental condition of the Property.

- (5) "Hazardous Substances, Oils, Pollutants or Contaminants" means all substances defined as such in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. §300.5, to the extent such substances have been designated, listed or identified or with respect to which the Environmental Protection Administration Administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act, or defined as such by, or regulated as such under, any Environmental Law, in each case as of the date hereof.
 - (6) "Release" means, when used as a noun, any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment or into or out of the Property, including the movement of Hazardous Substances, Oils, Pollutants or Contaminants through or in the air, soil, surface water, groundwater or property and, when used as a verb, the occurrence of any of the above.
 - ii. Except as expressly provided in subsection (iii) below, Seller makes no representations or warranties whatsoever regarding the Property's compliance with Federal or State environmental rules, regulations, statutes, ordinances and/or orders.
 - iii. Seller has not received nor has any actual knowledge of any notice or order from any governmental agency or private or public entity advising it that it is responsible for or potentially responsible for Cleanup or paying for the cost of Cleanup of any Hazardous Substances, Oils, Pollutants or Contaminants or any other waste or substance.
17. Representations to Survive the Closing. All of the warranties and representations contained herein, including all statements contained in any exhibit or certificate or other instrument delivered by or on behalf of Seller to Buyer pursuant to this Agreement or in connection with the transactions contemplated by it are a material part of the consideration for the sale of the Property and the inducement for Buyer to buy the Property, and the same shall survive the Closing for a period of four (4) years and shall not be merged into the deed.
18. No Assumption of Liabilities. Buyer is assuming no liabilities of Seller, whether related to the Property or otherwise. Seller as promptly as practicable after the Closing shall satisfy in full all of its debts, liabilities, and obligations associated with the Property.

19. Notices and Assessments.

- a. Seller will pay any municipal claim for improvements, assessments or otherwise against the Property if the ordinance or resolution authorizing the work or improvement is adopted prior to the date of the Closing. Seller shall not be responsible for payment of any municipal claim against the Property if the ordinance or resolution authorizing the work or improvement is adopted on or after the date of the Closing.
- b. Seller will deliver to Buyer within one day of Seller's receipt of the same, but in all events prior to the Closing Date, any notice of any uncorrected violation of laws or ordinances.

20. Title, Title Contingency and Costs.

- a. The Property is to be conveyed free and clear of all liens, encumbrances, and easements, excepting however the following: existing deed restrictions, easements of roads, easements of record, privileges or rights of public service companies, and prior grants, reservations or leases of coal, oil, gas, timber and/or other mineral rights as shown by instruments of record so long as the same are acceptable to Buyer in Buyer's sole discretion; further provided that any such exceptions may not inhibit the Property from being used in Buyer's sole discretion as a public trailway; otherwise the title to the Property will be good and marketable and such as will be insured by a reputable title insurance company at the regular rates.
- b. Any survey or surveys which may be required by the reputable title insurance company or such title insurance company's agent issuing title insurance in connection with Buyer's purchase of the Property (individually or collectively, the "Title Company") for the preparation of an adequate legal description of the Property (or the correction thereof), will be secured and paid for by Buyer. Any survey or surveys desired by Buyer will be secured and paid for by Buyer.
- c. Buyer will pay for the following: (1) title search and title insurance; (2) appraisal fees and charges paid in advance, if any; and (3) Buyer's customary settlement costs.
- d. Buyer's obligations hereunder are contingent upon Buyer receiving from the Title Company at Buyer's expense, a commitment in a form acceptable to Buyer and its counsel for an owner's policy of title insurance at standard rates, and in an amount not less than the value of the Property, insuring title thereto to be good and marketable, free and clear of all encumbrances and restrictions except as otherwise permitted hereunder, which insurance shall include coverage for all appurtenant easements and servitudes, and contain zoning, contiguity, access,

encroachment or comprehensive endorsements, or such other endorsements as Buyer shall reasonably deem necessary. Without limiting the generality of the foregoing, Seller shall at the Closing deliver to the title insurance company issuing said policy a seller affidavit and such other affidavits and/or indemnity agreements as Title Company may reasonably require to omit from the policy any exception for encumbrances and restrictions.

- e. Buyer shall have received delivery of such other instruments and documents as may reasonably be required by Buyer, or which may be required by the Title Company to consummate the transactions herein contemplated.
21. Indemnification. Seller shall defend, indemnify and hold Buyer harmless from and against any loss, cost, damage and expense, including judgments and reasonable attorneys' fees, which may be suffered or incurred by Buyer by reason of: (i) any third party claims for breach of contract (including, without limitation, any Leases) incurred or attributable to the ownership or operation of the Property prior to the Closing; (ii) any third party claim for tort liability incurred or attributable to the ownership or operation of the Property prior to the Closing; and/or (iii) any claim to fees or commissions associated with the sale of the Property by any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the sale contemplated herein. The foregoing indemnification shall apply regardless of whether the claim, cause of action or suit is asserted or filed before or after the Closing and shall survive the Closing.
22. Conditions Precedent.
- a. Buyer's obligations under this Agreement are subject to the satisfaction of the following conditions precedent which may be waived in whole or in part by Buyer (excepting final approval by the Commissioners as stated below):
 - i. Final approval of this Agreement by the Tioga County Commissioners as provided in Section 1 of this Agreement (non-waivable);
 - ii. Performance in all material respects of the obligations and covenants of, and deliveries required of, Seller under this Agreement.
 - iii. Subject to the other provisions of this Agreement, all of Seller's representations and warranties made in this Agreement shall be true and correct in all material respects as of the Closing Date as if then made, other than those representations or warranties made as of a specific date, or with reference to previously dated materials, in which event such representations and warranties shall be true and correct in all material respects as of the date thereof or as of the date of such materials, as applicable.

- iv. At Closing, Seller shall deliver to the Title Company counterparts of each of the following documents, each executed by Seller (and notarized if required) and in form and substance reasonably acceptable to the Title Company:
 - (1) The customary form of special warranty deed duly executed by Seller, notarized and in recordable form;
 - (2) A customary affidavit of title (addressing, among other things, the status of mechanics' liens and parties in possession);
 - (3) A closing statement showing the applicable closing adjustments;
 - (4) Foreign Investment in Real Property Tax Act of 1980 affidavit;
 - (5) A good standing certificate for Seller from the state of its formation (or equivalent), and an executed consent and resolution of the Seller authorizing the sale of the Property in accordance with this Agreement and an executed incumbency certificate (or equivalent) of Seller;
 - (6) All realty transfer tax forms and any other filings, forms or documents required in order to record the deed;
 - (7) A payoff letter or release with respect to any mortgages or similar encumbrances on the Property;
 - (8) An executed certificate stating that all of Seller's representations and warranties contained herein are true and correct in all material respects as of the Closing; and
 - (9) Such other customary documents as Buyer or the Title Company may reasonably request.
- b. Seller's obligations under this Agreement are subject to satisfaction of the following conditions precedent which may be waived in whole or in part by Seller:
 - i. Buyer shall have paid or tendered payment of the Purchase Price pursuant to the terms hereof;
 - ii. At Closing, Buyer shall deliver to the Title Company counterparts of each of the following documents, each executed by Buyer (and notarized if

required):

- (1) A closing statement showing the applicable closing adjustments; and
- (2) Such other customary documents as Seller or the Title Company may reasonably request.

23. Default.

- a. In the event of a default by Buyer, Seller is limited to retaining the Initial Deposit paid by Buyer as liquidated damages, and Buyer and Seller will be released from further liability or obligation and this Agreement will be null and void. It is hereby agreed that, without resale, Seller's damages will be difficult of ascertainment and that the Initial Deposit deposit constitutes a reasonable liquidation thereof and not a penalty.
- b. In the event of a default by Seller, Buyer may elect to either:
 - i. Waive any claim for loss of bargain, in which event Seller hereby agrees to repay to Buyer the Initial Deposit and all monies paid on account; or
 - ii. Proceed with either or both of the following remedies:
 - (1) An action for specific performance;
 - (2) An action at law for damages including loss of bargain;

Provided, however, that no such election of the remedies under subsections (b)(ii)(1) and/or (2) shall be final or exclusive until full satisfaction shall have been received. In the event that Buyer commences a legal action to enforce the terms of this Agreement and substantially prevails it shall be entitled to reimbursement from the Seller for its costs of litigation, including reasonable attorneys' fees.

24. Delivery of Initial Deposit after Termination or Default. In the event either Seller or Buyer become entitled to the Initial Deposit upon cancellation or termination of this Agreement and/or as a result of a breach of this Agreement in accordance with its terms, Buyer and Seller covenant and agree to deliver a letter of instruction to the holder of the Initial Deposit directing said holder to promptly deliver the Initial Deposit to the party entitled thereto. In the event either party hereto fails or refuses to sign or deliver such an instruction letter when the other party is entitled to disbursement of the Initial Deposit, such party shall pay, upon the final order of a court with appropriate jurisdiction, all reasonable attorneys' fees incurred by the party so entitled to the Initial Deposit in

connection with the recovery thereof.

25. Cumulative Remedies. Except as otherwise provided, the remedies afforded in this Agreement are cumulative to each other and to all other remedies provided by law.
26. Coal Notice. THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHTS OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SERVICE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 894.) "Buyer acknowledges that it may not be obtaining the right of protection against subsidence resulting from coal mining operations, and that the property described herein may be protected from damage due to mine subsidence by private contract with the owners of the economic interests in the coal. This acknowledgment is made for the purpose of complying with the provisions of Section 14 of the Bituminous Mine Subsidence and the Land Conservation Act of April 27, 1966." Buyer agrees to sign the deed from Seller which will contain the aforesaid provision.
27. Maintenance and Risk of Loss.
 - a. Seller will maintain the Property specified herein in its present condition.
 - b. Seller shall bear risk of loss from fire or other causes until time of the Closing.
28. Condemnation. Except for any matters initiated or advised by Buyer prior to this Agreement, Seller has no knowledge of any current or pending condemnation or eminent domain proceedings that would affect the Property. If any portion of the Property should be subject to previously undisclosed condemnation or eminent domain proceedings after the signing of this Agreement, Seller shall immediately advise Buyer in writing of such proceedings. Buyer shall have the option of terminating this Agreement by providing written notice to Seller within fifteen (15) days after Buyer receives said notice from Seller, in which case Seller shall return to Buyer all money paid on account of the Purchase Price by Buyer.
29. Sewage Facility. The Pennsylvania Sewage Facilities Act of January 24, 1966, No. 537 P.L. 1535, as amended, requires that there be a statement regarding the availability of a community sewage system. Seller does not make any representations or warranties that a community sewage system exists or is available, and Buyer is not relying upon any such representations or warranties.
30. Binding on Successors. This Agreement and all of its terms and conditions shall extend

to and be binding upon the parties hereto and upon their respective successors and assigns.

31. Assignment. The parties shall not assign any of their respective rights or obligations hereunder.
32. Choice of Law. This Agreement shall be construed, interpreted and enforced with the laws of the Commonwealth of Pennsylvania; provided, however, that if conflict or choice of law rules would choose the law of another state, the parties waive such rules and agree that Pennsylvania substantive, procedural and constitutional law shall nonetheless govern.
33. Gender. All personal pronouns used in this Agreement shall include the other genders whether used in the masculine or feminine or neuter gender, and the singular shall include the plural and vice versa whenever and as often as may be appropriate.
34. Further Instruments and Actions. Each party shall deliver any further instruments and take any further action that may be reasonably requested by the other in order to carry out the provisions and purposes of this Agreement.
35. Notice. All notice requirements under the provisions of this Agreement or by application of statutory or common law will be addressed to the appropriate party, at the address, telefax number, and/or email address listed below:

If to Seller: Growth Resources of Wellsboro Foundation
 P.O. Box 502
 114 Main Street
 Wellsboro, PA 16901

with a copy to: Brian S. Duff, Esquire
 Owlett & Lewis, P.C.
 One Charles Street
 P.O. Box 878
 Wellsboro, PA 16901
 (570) 723-1451
 BSD@owlettlewis.com

If to Buyer: Marc Rice, Assistant Chief Clerk/Risk Manager
 Tioga County Courthouse
 118 Main Street, Wellsboro, PA 16901
 Phone: (570) 723-8207
 Email: mrice@tiogacountypa.us

with a copy to: Adam T. Petrun, Esq.

Cafardi Ferguson Wyrick Weis + Gabriel, LLC
2605 Nicholson Road, Suite 2201
Sewickley, PA 15143
Phone: (412) 515-8900
Email: apetrun@cfwwg.com

36. Merger of Prior Agreements and Representations. This Agreement constitutes the entire agreement between the parties hereto with respect to the Property, and it is understood and agreed that all undertakings and agreements theretofore made between Buyer and Seller are merged herein. No representation, promise or inducement not included herein shall be binding upon any party hereto.
37. Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument. An electronic transmission of a party's signature shall be considered an original of said signature.
38. Exclusivity. Seller acknowledges that it intends to convey the Property to Buyer and until Buyer terminates this Agreement, if ever, Seller shall not market the Property or negotiate with any other party.
39. Business Day. If the day on which any act, matter or thing is to be done under or pursuant to this Agreement is not a "Business Day" (as hereinafter defined), that act, matter or thing must be done on the next succeeding Business Day. The terms "Business Day" shall mean any day other than a weekend or holiday, or any day during which bank or similar financial institutions in Pittsburgh, Pennsylvania are open to the public for regular conduct of business.
40. Construction. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.
41. No Oral Modifications. This Agreement cannot be changed or terminated orally or in any manner other than by a written agreement executed by both parties.
42. Partial Invalidity or Unenforceability. In the event that a court of competent jurisdiction shall determine that any provision of this Agreement is invalid or unenforceable under applicable law, then this Agreement shall be deemed modified by the court as is minimally necessary to render such provision, as so amended, not invalid or unenforceable under applicable law. The parties agree to be bound by the court's modification except that the parties may appeal the court's ruling on any issue to the appropriate appellate court or courts.
43. Knowledge of Parties. Where any warranty or representation contained in this

Agreement is expressly qualified by reference to the best knowledge of the party making such warranty or representation, or similar language, such party hereby confirms that it has made due and diligent inquiry as to the matters that are the subject of such warranty or representation.

44. Headings. The headings of the various sections used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.
45. Waiver of Breach. No failure to enforce a breach of this Agreement shall constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, Seller and Buyer have executed and signed this Agreement.

SELLER:

Growth Resources of Wellsboro Foundation

By: Thomas L. Rudy, Jr. {SEAL}
Thomas L. Rudy, Jr., President

Date: 4/6/22

BUYER:

County of Tioga, Pennsylvania

By: Roger L. Bunn {SEAL}

Date: 4/6/2022

(SUBJECT TO FINAL APPROVAL BELOW
BY THE BOARD OF COMMISSIONERS OF
THE COUNTY OF TIOGA AS SPECIFIED IN
PARAGRAPH 1 HEREOF)

FINAL APPROVAL:

County of Tioga, Pennsylvania

By: _____ {SEAL}

Date: _____

FIRST ADDENDUM TO COMMERCIAL AGREEMENT OF SALE

This First Addendum to Commercial Agreement of Sale (this "First Addendum") is between Growth Resources of Wellsboro Foundation, a Pennsylvania non-profit (hereinafter referred to as "Seller") and the County of Tioga, Pennsylvania (hereinafter referred to as "Buyer"):

WHEREAS, the parties executed a Commercial Agreement of Sale dated April 6, 2022 (the "Agreement") for the purchase and sale of certain real property located in Tioga County, Pennsylvania;

WHEREAS, the parties wish to amend the purchase price of the real estate being acquired under the Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference and made part hereof, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties have agreed as follows:

1. Preservation of Agreement. All terms and conditions of the Agreement are incorporated by reference herein except to the extent expressly set forth herein. Except as expressly set forth in this Addendum and any other Addendum executed by the parties, the terms and conditions of the Agreement remains in full force and effect and are unchanged.
2. Purchase Price. The Purchase Price for the Property as stated in the Agreement is hereby amended to be One Million Dollars (\$1,000,000).
3. No Other Agreements. There are no other promises, undertakings, supplements, addenda or other agreements between the parties concerning the subject matter

hereof except as expressed in the Agreement, this Addendum, and any other
Addendum executed by the parties, and any attachments or exhibits thereto.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have set
their hand and seal as of the date below written.

Growth Resources of Wellsboro Foundation

County of Tioga, Pennsylvania

By:

Alan Paul, Pres.

By:

Emily L. Lidge

Dated:

5/20/22

Dated:

5/20/22

SECOND ADDENDUM TO COMMERCIAL AGREEMENT OF SALE

This Second Addendum to Commercial Agreement of Sale (this "Addendum") is between Growth Resources of Wellsboro Foundation, a Pennsylvania non-profit (hereinafter referred to as "Seller") and the County of Tioga, Pennsylvania (hereinafter referred to as "Buyer"):

WHEREAS, the parties executed a Commercial Agreement of Sale dated April 6, 2022 (the "Agreement") for the purchase and sale of certain real property located in Tioga County, Pennsylvania;

WHEREAS, the parties entered into and executed a First Addendum to the Agreement ("First Addendum") to increase the Purchase Price to One Million Dollars (\$1,000,000); and

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference and made part hereof, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties have agreed as follows:

1. Preservation of Agreement. All terms and conditions of the Agreement are incorporated by reference herein except to the extent expressly set forth herein. Except as expressly set forth in this Addendum and the First Addendum, the terms and conditions of the Agreement remains in full force and effect and are unchanged.
2. Additional Property Interests. It is understood and agreed between the parties that:
 - A. For and in consideration of up to an additional Five Hundred Thousand Dollars (\$500,000.00), which amount is over and above the \$1,000,000.00

set forth in the First Addendum, Seller hereby agrees to sell to Buyer the portion of Seller's real property between Mile Post 1.520 and Mile Post 0.624 (hereinafter "Additional Property Area") having Parcel Number 09-02.00-081 as indicated in the attached Plan for Abandonment of Railroad (which is incorporated by reference), subject to the following conditions:

- (1) Buyer will obtain an appraisal concerning the Additional Property Area, which the Seller agrees to reasonably participate in;
- (2) The price for such Additional Property Area shall be equal to the appraised value, not to exceed \$500,000 but not to be less than \$300,000 under any circumstances. It is understood and agreed that under all circumstances, the purchase price must be supported by a competent appraisal in accordance with County procurement procedures. If the Additional Property Area fails to be supported by a competent appraisal within the range of \$300,000-\$500,000 as stated herein, the buyer shall be under no obligation to purchase the Additional Property Area.

- B. Seller also agrees to enter into good-faith negotiations with Buyer to provide Buyer a perpetual easement that is 25-feet wide for pedestrian and non-motorized vehicular access, ingress, egress and regress (hereinafter "Easement"), over and upon then area of Seller's property having Parcel Number 09-02.00-073A located between Mile Post 0.624 and the intersection of Highway 287 Stokesdale JCT. Said easement to be

permanently maintained by Buyer or its successors or assigns at Buyer's sole cost and expense.

C. The location of the aforesaid Additional Property Area and Easement are generally identified in the attached Plan for Abandonment and the metes and bounds and/or legal description of such areas shall be set forth in final recordable instrument upon completion of the forthcoming Pennsylvania Department of Transportation ("PennDOT") Right of Way acquisition process. Closing on the Additional Property Area and Easement shall be at the same time and place and subject to the same terms and conditions as stated in the underlying Agreement between the parties.

D. The parties shall cooperate with the PennDOT acquisition process to facilitate the objectives of the Agreement and this Addendum.

3. No Other Agreements. There are no other promises, undertakings, supplements, addenda or other agreements between the parties concerning the subject matter hereof except as expressed in the Agreement, this Addendum, First Addendum and any attachments or exhibits thereto.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have set their hand and seal as of the date below written.

Growth Resources of Wellsboro Foundation

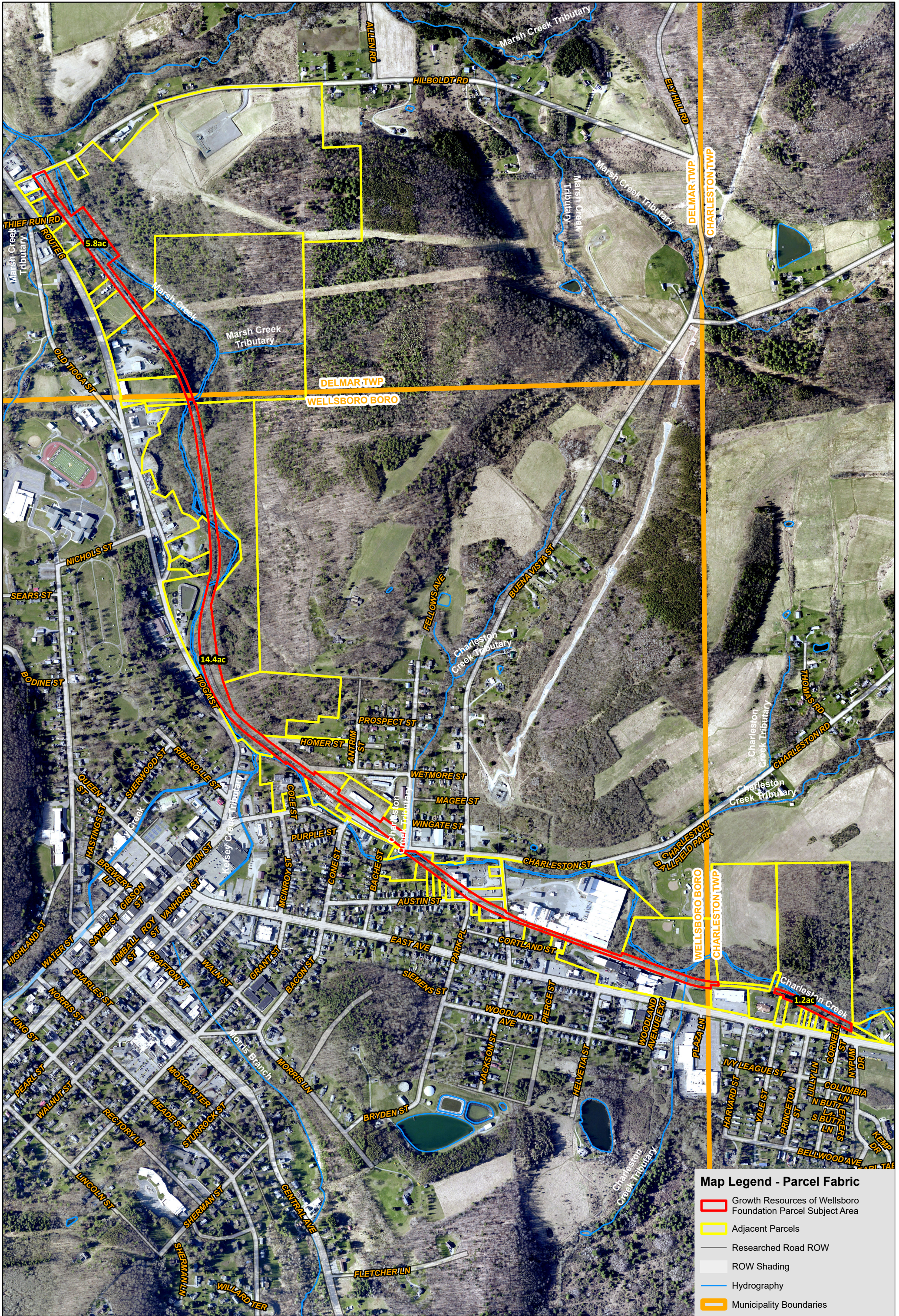
By: Tom Perry, Pres.

Dated: 5/20/22

County of Tioga, Pennsylvania

By: Ernest A. Colledge

Dated: 5/20/22



County of Tioga, PA
And its employees, make no claims as to the completeness, accuracy, or content of any data contained herein, and makes no representation of any kind, including but not limited to, the warranties of merchantability or fitness for a particular use, nor are any such warranties to be implied or inferred with respect to the information or data furnished herein.

Growth Resources of Wellsboro Foundation
Subject Area Total Calculated Acres: 21.4 Acres
Map Type/Date: Aerial Imagery, 1/28/2022

Created by: Tioga County (PA) GIS Dept.

