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By E-Filing:

Ms. Cynthia T. Brown
Chief, Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: FD 36164, *Ulster & Delaware Railway Revitalization Corp. Petition for Declaratory Order*

Dear Ms. Brown:

I am filing herewith the Reply of the New York City Department of Environmental Protection to the Petition for Declaratory Order in the above referenced proceeding.

Sincerely,

Charles A. Spitulnik

Cc: John D. Heffner, Esq.
Beatrice Havranek, Esq.
Daniel R. Elliott, Esq.

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36164

**ULSTER & DELAWARE REVITALIZATION CORP.
PETITION FOR DECLARATORY ORDER**

**VERIFIED REPLY OF
THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

CHARLES A. SPITULNIK
CHRISTIAN L. ALEXANDER
Kaplan Kirsch & Rockwell LLP
1001 Connecticut Avenue, NW
Suite 800
Washington, DC 20036
(202) 955-5600
Email: cspitulnik@kaplankirsch.com
calexander@kaplankirsch.com

*Counsel for New York City Department of
Environmental Protection*

Dated: February 23, 2018

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36164

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**VERIFIED REPLY OF
THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The New York City Department of Environmental Protection (“DEP”), acting on behalf of the City of New York (the “City”), a municipal corporation of the State of New York, hereby submits this Reply to the Ulster & Delaware Railway Revitalization Corp.’s (“U&D”) Petition for Declaratory Relief, STB Docket No. FD 36164, filed January 16, 2018 (“U&D January 16 Petition”) regarding the regulatory status of a line of railroad known as the Catskill Mountain Branch (the “Line”). DEP, the owner of the land lying under the approximately 11.5 miles of the Line that passes next to the Ashokan Reservoir (the “Ashokan Segment”), supports the position presented by the owner of the Line’s easement, Ulster County, New York (the “County”), that the Line has been abandoned and is no longer subject to STB jurisdiction.

BACKGROUND

DEP operates the City’s water supply, providing more than 1 billion gallons of water each day to more than nine million residents, including over eight million in New York City. The City is the fee owner of various properties in upstate New York for the purposes of securing and managing its municipal water supply resources. Among these property holdings is the Ashokan Reservoir, a roughly 12 mile long, 122.9 billion gallon reservoir located in Ulster County, New York, approximately 13 miles west of Kingston. NYCDEP, Watershed Protection, Ashokan

Reservoir, http://www.nyc.gov/html/dep/html/watershed_protection/ashokan.shtml (visited Feb. 19, 2018), attached as **EXHIBIT A**. The Ashokan Reservoir, together with the Schoharie Reservoir located upstream, normally provide approximately 40 percent of the City's drinking water. *Id.* The City acquired the land containing Ashokan Reservoir pursuant to eminent domain powers granted by the New York State Legislature. Act of June 3, 1905, ch. 724, 1905 N.Y. Laws 2027.

An approximately 11.5 mile segment of the Line that is the subject of this proceeding runs entirely within the City's Ashokan Reservoir property holdings along the northern edge of the reservoir itself, as depicted in the map attached as **EXHIBIT B** (the "Ashokan Segment"). Pursuant to an agreement dated June 15, 1911, the City granted a perpetual and exclusive easement for the Ashokan Segment for railroad purposes to a now-defunct railroad, the Ulster and Delaware Railroad Company. *AGREEMENT Between THE ULSTER AND DELAWARE RAILROAD, COMPANY, and THE CITY OF NEW YORK, In the Matter of THE LOCATION OF THE TRACKS OF THE RAILROAD COMPANY AND THE DAMAGES TO IT GROWING OUT OF THE CONSTRUCTION BY THE CITY OF NEW YORK OF THE ASHOKAN RESERVOIR, dated June 15, 1911* (relevant excerpt attached as **EXHIBIT C**). The Penn Central Transportation Company ("Penn Central") eventually acquired the easement for the Line. *See* U&D January 16 Petition, Exhibit A.

In 1974, subsequent to the Penn Central's bankruptcy declaration, the trustees of the Penn Central proposed to abandon the Line pursuant to Section 304(f) of the Regional Rail Reorganization Act of 1973, which required approval by the United States Railway Association ("USRA") before abandonment could be effected. *See* USRA, *Proposed Interim Abandonment of Part of Branch*, 39 Fed. Reg. 30,212 (Aug. 21, 1974), attached as **EXHIBIT D**. However, DEP

could find no documentation that the USRA ever granted abandonment. Instead, as recounted in the U&D January 16 Petition, the Line was included in United States Railway Association's Final System Plan ("FSP"), but was not designated for conveyance to Conrail and was instead identified as available for subsidy. *See* U&D January 16 Petition, Exhibit A. The County has supplied documentation that in 1977 the trustees of the Penn Central provided notice of intent to abandon as required to consummate abandonment under Section 304(b) of the Regional Rail Reorganization Act, and that notice was further published by the New York State Department of Transportation. In 1979, the County acquired the Line by quitclaim deed from Penn Central.

In 2015, the City and the County entered into a Memorandum of Understanding for the construction of a recreational trail along the Ashokan Segment. *See* U&D January 16 Petition, Exhibit B. In 2017, the City granted a trail easement to the County for the Ashokan Segment, and the easement was subsequently recorded. *See* Deed of Trail Easement dated Aug. 23, 2017, attached as **EXHIBIT E**.

In its January 16 Petition, U&D seeks a declaratory order from this Board determining whether the Line has been abandoned, and if so, whether the Line could be railbanked pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (the "Trails Act").

ARGUMENT

A. Ulster County Correctly Concludes that the Line is Abandoned.

DEP agrees with Ulster County's conclusion that the available facts indicate that the Line has long since been abandoned. The County has supplied evidence that prior to transfer of the Line to the County, the trustees of Penn Central served the 30 days' notice to relevant parties required to abandon under Section 304 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 744(b). Furthermore, the County's subsequent conduct regarding the Line indicates its intent to

abandon the Line. Prior to the STB's current regulations regarding notice and consummation of abandonment, the standard for determining consummation of abandonment hinged on the railroad owner's intent to abandon. *Beaufort R.R.—Modified Rail Certificate*, STB Docket No FD 34943, slip op. at 6 (STB Service Date Mar. 19, 2008). While STB regulations now require a formal submission regarding consummation of an abandonment, 49 C.F.R. §1152.29(e)(2), the Board continues to assess the status of rail lines abandoned prior to 1997 according to the earlier more informal intent standard. *Maryland Transit Administration—Abandonment Exemption—In Somerset County, MD*, STB Docket No. AB 590 (Sub-No. 1X) (Service Date May 14, 2015, slip op. at 3 (“*MTA*”). Intent remains the pre-1997 standard even in the case of lines acquired under 45 U.S.C. 744(b), where Congress provided a means for providing formal notice of abandonment. *Id.*

STB precedent indicates that in this case the County's conduct in the 40 years since it acquired the Line right-of-way easement confirms an intent to abandon the Line. In *MTA*, the Board determined that a line acquired by the State of Maryland pursuant to 45 U.S.C. 744(b) had been abandoned, notwithstanding lack of evidence in the record that the required 30 days' notice of abandonment was ever served on the relevant parties. Instead, the Board determined that *MTA*'s conduct with respect to the line, including a lack of a designated freight operator or of actual freight operations on the line as well as a lack of upkeep and repair of the line, indicated its lack of intent to maintain the corridor as a railroad line prior to 1997.

Here, there is a similar lack of intent by the County to maintain the corridor as a freight railroad line. DEP has found no evidence or documentation in the records of the STB or its predecessor, the Interstate Commerce Commission, indicating that any shortline railroad has ever acquired regulatory rights to operate over the Line since the County's acquisition. Furthermore,

U&D's filing indicates that there have been virtually no freight operations over the Ashokan Segment for 40 years and that segments of the Line have been in un-operable condition for much of the time since the County's acquisition. *See* January 16 Petition at 4-5 and Exhibit C. Furthermore, as the detailed factual account in the County's reply in this proceeding reflects, the County's longstanding planning effort to provide for alternative use for the Line also indicates that it considered the Line abandoned. This record adds up to confirm, as in *MTA*, that the County has in fact abandoned the Line.

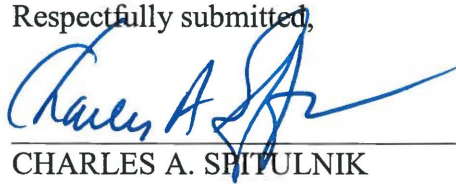
If the County has abandoned the Line, then STB precedent makes clear that there is no opportunity to railbank the Line subject to the Trails Act. Because the City owns the underlying property interest in the portion of the Line's corridor that extends across its reservoir property holdings in fee simple subject to the rail easement, the conclusion that the Line has been abandoned will result in confirmation that the City holds its entire interest free and clear of any regulatory railroad encumbrance. As a result, and consistent with the trail easement granted by the City to the County, there is no bar to construction of the trail by the County within the trail easement.

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CONCLUSION

WHEREFORE, in view of the foregoing, DEP respectfully requests that the Board to determine that the Line has been abandoned. As a result, the Petition for Declaratory Order should be denied as unnecessary.

Respectfully submitted,



CHARLES A. SPITULNIK
CHRISTIAN L. ALEXANDER
Kaplan Kirsch & Rockwell LLP
1001 Connecticut Avenue, NW
Suite 800
Washington, DC 20036
(202) 955-5600
Email: cspitulnik@kaplankirsch.com
calexander@kaplankirsch.com

*Counsel for New York City Department of
Environmental Protection*

Dated: February 23, 2018

VERIFICATION

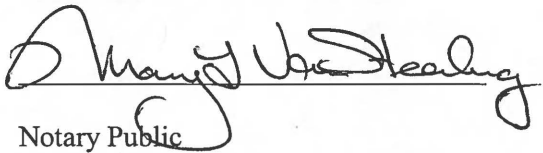
I, Charles Laing, Senior Property Manager, Natural Resource Division of the New York City Department of Environmental Protection, verify under penalty of perjury that the facts recited in the foregoing Reply of the New York City Department of Environmental Protection are true and correct. Further, I certify that I have personal knowledge of the facts recited herein and that I am authorized to verify these facts stated in this Verified Reply.



Charles Laing

Subscribed and sworn to before me this

22nd day of February 2018.


Notary Public

MARY L. VANSTENBURG
NOTARY PUBLIC-STATE OF NEW YORK
No. 01VA8022603
Qualified in Ulster County
My Commission Expires January 18, 2022

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Reply of the New York City Department of Environmental Protection to the Petition for Declaratory Order dated February 23rd, 2018, was sent by U.S. mail and e-mail to the following persons:

John D. Heffner, Esq.
Strasburger & Price
Of Counsel
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036

Beatrice Havranek, Esq.
Ulster County Attorney
244 Fair Street
Kingston, NY 12402

Daniel R. Elliott, Esq.
1850 M Street NW
Suite 600
Washington, DC 20036


Charles A. Spitulnik

Dated: February 23, 2018

Exhibit A

NYCDEP Website, Watershed Protection, Ashokan Reservoir



GO

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Ashokan

Located in Ulster County, about 13 miles west of Kingston and 73 miles north of New York City. Formed by the damming of the Esopus Creek, which eventually flows northeast and drains into the Hudson River. Consisting of two basins separated by a concrete dividing weir and roadway, it holds 122.9 billion gallons at full capacity and was placed into service in 1915.

The Ashokan is one of two reservoirs in the City's Catskill Water Supply System. The other is the Schoharie, located 27 miles to the north, whose water flows into the Ashokan via the Shandaken Tunnel and the Esopus Creek. Including the water it receives from the Schoharie Reservoir, the Ashokan supplies about 40% of New York City's daily drinking water needs in non-drought periods. Water enters the Ashokan's West Basin and, after a settling period, is withdrawn from its East Basin. It is carried southeast under the Hudson River via the 92-mile Catskill Aqueduct, which has a maximum depth of 1,114 feet. It ordinarily enters the Kensico Reservoir in Westchester for further settling, where it mixes with Delaware system water and then travels south in two aqueducts before entering New York City's water supply distribution at the Hillview Reservoir in Yonkers, just north of the City line.

The Ashokan watershed's drainage basin is 255 miles and includes parts of 11 towns: Denning, Hardenburgh, Hurley, Kingston, Marletown, Olive, Shandaken and Woodstock in Ulster County; Hunter and Lexington in Greene County and Middletown in Delaware County.

[Map of Ashokan Reservoir](#)

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Exhibit B

Map of Ashokan Segment

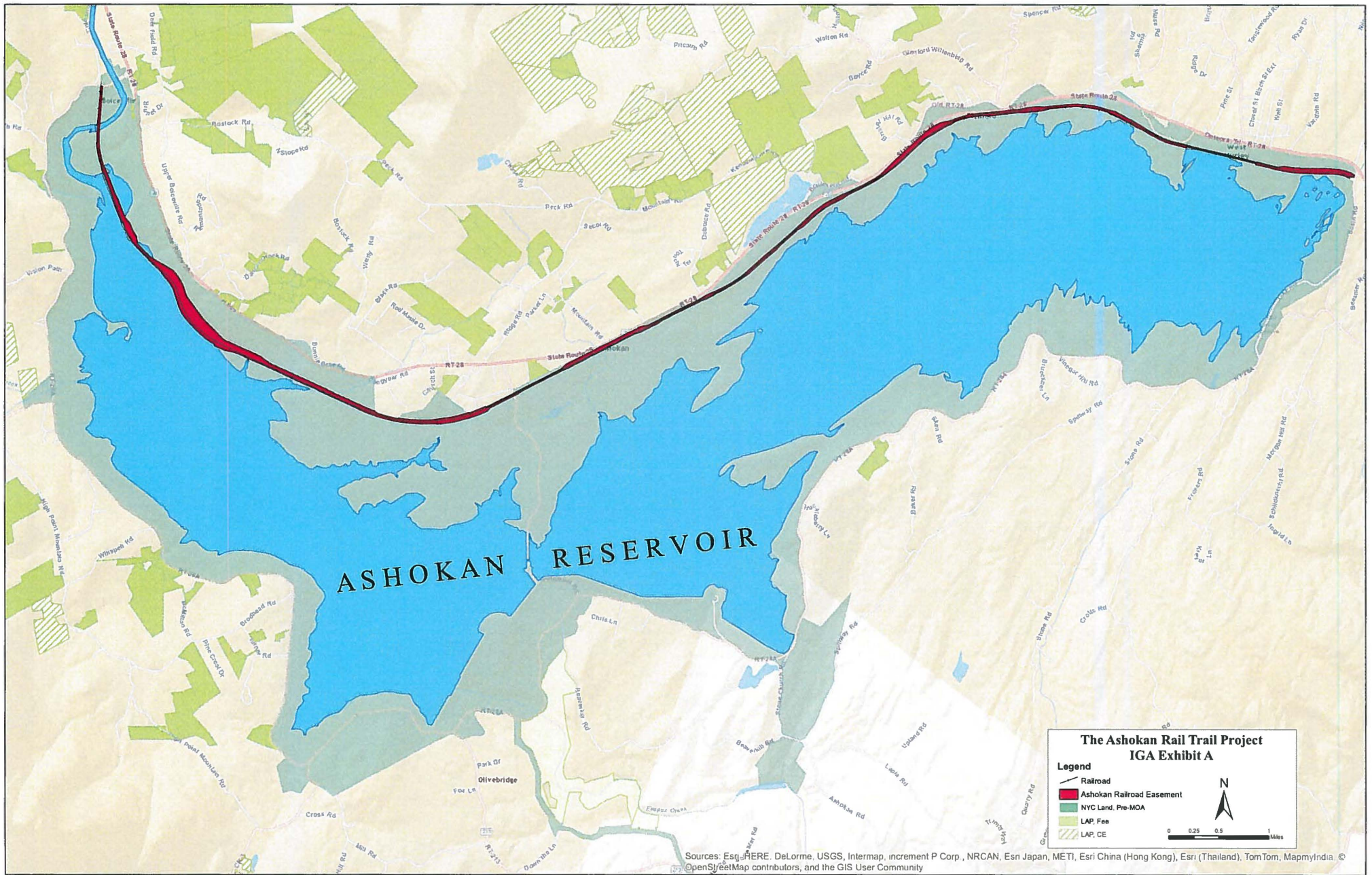


Exhibit C

Excerpt from *AGREEMENT Between THE ULSTER AND DELAWARE RAILROAD, COMPANY, and THE CITY OF NEW YORK, In the Matter of THE LOCATION OF THE TRACKS OF THE RAILROAD COMPANY AND THE DAMAGES TO IT GROWING OUT OF THE CONSTRUCTION BY THE CITY OF NEW YORK OF THE ASHOKAN RESERVOIR, dated June 15, 1911*

STATE OF NEW YORK,
COUNTY OF ULSTER, SS:

On this Ninth day of April, in the year Nineteen Hundred and Thirteen, before me, the subscriber, personally appeared,

-----MARY L. FORSYTH,-----

to me known and known to me to be the same person described in, and who executed the within instrument, and she duly acknowledged to me that she executed the same.

(Seal) Frederick M. W. Darrow,
Notary Public.

A true record entered
Apr. 9, 1913, at 12-20 P. M.

William G. White
Clerk.

A G R E E M E N T .

Between

THE ULSTER AND DELAWARE RAILROAD COMPANY,

and

THE CITY OF NEW YORK.

In the Matter of

THE LOCATION OF THE TRACKS OF THE RAILROAD COMPANY AND
THE DAMAGES TO IT OWING OUT OF THE CONSTRUCTION BY
THE CITY OF NEW YORK OF THE ASHOKAN RESERVOIR.

Agreement dated June 18th, 1911.

A G R E E M E N T .

Between

THE ULSTER AND DELAWARE RAILROAD COMPANY,

and

THE CITY OF NEW YORK.

WHEREAS, the plans of the City of New York, for the development, of a supply of water from the Catskill Mountains and for the construction of the Ashokan Reservoir, render necessary the removal of a portion of the tracks of the Ulster and Delaware Railroad Company and require that the portion so removed be constructed on a new location approximately between the stations of Stony Hollow and Boiceville, on the line of the said The Ulster and Delaware Railroad Company, and

WHEREAS, it is provided by statute that where loss, damage or expense, direct or consequential, has resulted to any duly incorporated railroad corporation, as a result of the development of the water supply hereinabove mentioned, the Board of Estimate and apportionment of the City of New York, is authorized and empowered to agree with such railroad corporation upon the compensation which shall be made to it, for such loss, damage, or expense, and

WHEREAS, it is provided by statute that in case any real estate used for railroad purposes is acquired for the purposes hereinbefore set forth, the persons or corporations owning the said real estate or claiming interest therein shall be allowed the perpetual use for such purposes of the same, or of such other real estate to be acquired for the purposes above stated, as will afford practicable route or location for such railroad, and which shall be commensurate with and adapted to its needs and

WHEREAS, it is further provided by statute that the persons or corporations owning such real estate or claiming interest therein shall not directly or indirectly be subject to expense, loss or damage by reason of the changing of such route or location, but that such expense, loss or damage shall be borne by the City of New York, and

WHEREAS, the said parties hereto having met and discussed their respective rights and claims, including an adjustment and settlement of the money payments to be made for the loss, damage and expense claimed by said Railroad Company, resulting from the change of its location herein referred to and including also the relocation and reconstruction of that portion of the railroad line made necessary by reason of the construction of the said Ashokan Reservoir, as is hereinafter stated, now therefore,

THIS AGREEMENT, entered into this 15th day of June, 1911, by and between The Ulster and Delaware Railroad Company, party of the first part, hereinafter referred to as the Railroad Company, and the City of New York, acting by and through its Board of Water Supply, and by and through its Board of Estimate and Apportionment, by virtue of the authority vested by Chapter 724 of the Laws of 1906, of the State of New York, and Chapter 314, of the Laws of 1906, of the State of New York, and the amendments thereto, party of the second part, hereinafter referred to as The City,

WITNESSETH, That the parties to these presents, each in consideration of the undertakings, promises, and agreements on the part of the other herein contained, have undertaken, promised and agreed, and do hereby undertake, promise and agree, subject to the conditions and limitations herein contained, the party of the first part, for itself and its successors, and the party of the second part, for itself and its successors, as follows:-

(1) The said City has agreed and does hereby agree to pay unto the said Railroad Company the sum of One Million Three Hundred Thousand Dollars (\$1,300,000.), which sum the said Railroad Company has agreed and does hereby agree to accept in full and complete payment of, and for all loss, damage or expense, direct or consequential, of every name and nature, which has resulted or will result from the construction of the Ashokan Reservoir or of the so-called Catskill Aqueduct from the Ashokan Reservoir to the City line, and for all loss, damage or expense incurred by or resulting to said Railroad Company from the changing of the route or location of the present line or tracks of the Railroad Company, between the Stations of Stony Hollow and Boiceville, or from any other causes arising from or in connection with the present construction. Payment of this sum of One Million Three Hundred Thousand Dollars, (\$1,300,000), is to be made in the manner hereinafter set forth.

(2) The route on which the reconstructed line shall be built is shown on the accompanying map, entitled, "The Ulster and Delaware Railroad Company, relocation from Stony Hollow to Boiceville, and bearing date of June 7th, 1911, and hereto annexed as "schedule A", and said relocation is hereby fixed, accepted and adopted, as the route for the said relocated line, subject only to natural conditions which may be met in the course of construction and which may make changes of such relocated route imperative.

(3) The Railroad Company agrees, upon the transfer of its service from the present to the relocated line, and upon receiving the third payment, as stated in subdivision 3, of paragraph 17, of this agreement, to convey to the City without cost, or expense by "bargain and sale", deed or "covenant against the grantor's acts", all lands now occupied and controlled by the Railroad Company, either as a right of way or for other railroad purposes, between the present Easterly limits of the lands of the City, near West Hurley and the present Northerly limits of the lands of the City near Boiceville, and which will not be required for the future operation of the railroad on the relocated line. A description of the lands to be so conveyed is attached hereto as "schedule B", and is made a part of this agreement. The City shall, however, have the right immediately upon the execution and delivery of this agreement to use and

take possession of all such railroad lands and right of way for the purpose of constructing overhead or underneath crossings necessary to facilitate the City or its contractors in prosecuting the construction of the dams and dikes at said Ashokan Reservoir, provided, however, that the maintenance and operation of the railroad be not interfered with thereby.

(4) The City agrees to, and hereby does give, grant and convey to the Railroad Company, without expense a perpetual and exclusive easement for railroad purposes in a strip of land acquired for this purpose and beginning at a point in the Easterly line of the City's lands near Woodstock Dike, and continuing thence, except as noted below, to a point in the lands of the Railroad Company near Boiceville Station. This said strip of land being described in the accompanying "Schedule C", which is made a part of this agreement, and shown on a map thereof, which is to be filed in the Office of the Clerk of the County of Ulster, at Kingston, N. Y., said map being entitled "Reservoir Department." Railroad Section No. 4, Board of Water Supply of the City of New York, Map of Real Estate, situated in the Towns of Woodstock Hurley, Olive and Kingston, County of Ulster, and State of New York, to be dedicated by the City of New York, under the provisions of Chapter 724 of the Laws of 1905, as amended to the Ulster and Delaware Railroad Company, for railroad purposes as a substituted route for existing railroad from the vicinity of West Hurley to Boiceville." The said perpetual easement shall cover the entire length and width of the strip of land between the points above referred to, except where the line crosses over and upon the Woodstock and Glenford Dikes and where the railroad traverses any embankment located within the waters of the reservoir. At these places the City will grant and convey and does hereby grant and convey to the Railroad Company, a perpetual right of way to operate a railroad, described in the accompanying "Schedule C", hereinbefore referred to, and subject to the reservations and restrictions therein named.

(5) The Railroad Company hereby assumes completely the construction of the new line of railroad from a point East of the Station at Stony Hollow, to a point North of the station at Boiceville, as shown on map marked "Schedule A" hereto annexed and agrees to construct the said new line, releasing the City from all duty and obligation in connection therewith, in consideration of the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00), which the City has agreed and does hereby agree to pay and the said Railroad Company has agreed and does hereby agree to accept said sum as full and complete compensation therefor, and to convey also all other duties and obligations in the premises hereinafter more specifically mentioned and described, and payment of this amount is to be made in the manner hereinafter stated.

(6) The Railroad Company agrees to proceed with the construction of said new line with all possible expedition in order that the said reservoir and aqueduct construction work, in which the City is now engaged, may be facilitated and unnecessary delays entirely avoided, and said Railroad Company agrees to have said new line substantially completed and in operation in order that the old or present line may be abandoned or removed within two years from the date of this agreement, unless prevented by unavoidable delays arising from causes beyond its control. The said Railroad Company further agrees to acquire at its own expense, all rights of way which are not upon lands now owned by the City and which may be necessary for the construction of the new line as shown on the plan hereto annexed.

(7) The city agrees to construct and maintain in perpetuity the Glenford Dike, in such a manner as to provide at least for the standard embankment

cross-section shown on the drawing attached hereto, as "Schedule D".

(8) The City hereby agrees that all salvage, including buildings and all fixtures, from that part of the present line of the Railroad Company which will be abandoned, and more particularly described in "Schedule B" hereinbefore mentioned, shall, when the line is released from service as herein provided, for, become the property of the Railroad Company. The Railroad Company agrees to remove and dispose of any and all buildings on such line upon the opening of the new line as may be directed by the City, but the Railroad Company shall not be required to re-erect said buildings on another location unless the Railroad Company so elects.

(9) The City agrees to temporarily furnish without expense to the Railroad Company, during the construction of the new line, as also during the construction of other tracks at some future time, means of access from neighboring highways across lands of the City, opportunities for procuring, blowing, space for storage of materials, and provision for borrow-pits, on the lands of the City at localities approved by its engineers. The City also agrees to grant and hereby does grant and convey to the Railroad Company, all necessary rights for slopes, ditches, diversion of streams or other protective features, on lands of the City, beyond the limits of the lines, covered by the easement hereinbefore mentioned, and described in detail in "Schedule C."

(10) The Railroad Company agrees that, after that portion of the existing line which will be abandoned shall have been released, it will continue, on request of the City, to maintain it in service for delivery of material for City, construction for as long as it may be required for that purpose, and will maintain this line without expense to the City or its contractors, except for the legal tariff rates and charges for the transportation of such material.

(11) The Railroad Company agrees to secure, at its own expense, any and all rights of way necessary for carrying the two highway crossings at or near Stony Hollow across the relocated line. It also agrees to construct at its own expense, the bridges for said highways, over the relocated tracks at Stony Hollow and Vandale Road. The Railroad Company hereby agrees to preserve and save harmless the City from all expense in connection with the perpetual maintenance and repair of these rights of way and bridges.

(12) Should, at any time, the Railroad Company require for its own purposes, additional lands or rights of way outside of the present lands of the City for drainage or other necessary purposes, it hereby agrees to secure the same at its own expense.

(13) The Railroad Company agrees to permit the City to erect abutments for overhead highway bridges on its lands at Boiceville and on its easement at a point North of the present Brown's Station. The City agrees that these bridges shall give the railroad double-track clearances and that they will be constructed with every necessary precaution and according to the reasonable requirements of the Railroad Company. The perpetual maintenance and repair of these two bridges is to be at the expense of the City, but the Railroad Company reserves the right, at its own expense, to change said bridges at any time for additional track clearances, if required.

(14) The Railroad Company agrees to secure at its own expense all permits and rights from local, state, highway, railroad and other duly constituted authorities as may be necessary for the changes in connection with the present highway and bridges at Stony Hollow, and Vandale Road, or elsewhere upon said relocated route, except those crossings which the Railroad Company agrees herein to permit the City to erect across its tracks.

(15) The Railroad Company agrees at its own expense to construct and maintain the necessary access roads over lands of the City to its telegraph offices, and the West Hurley Station unless such obligation shall be otherwise assumed, but in no event shall the City be put to any expense in connection therewith. The City hereby grants to the Railroad Company, without expense, such rights of way over its lands as may be necessary for the purposes here stated.

These rights of way are described in detail in "Schedule C", hereinbefore mentioned.

(16) The Railroad Company, but without expense to it, agrees to permit crossings for sewers or other public utilities, or for overhead crossings for maintenance roads, if any be in the future built by the City of New York, over any of the lands covered by the easement hereinbefore granted, to the Railroad Company by the City, and described in detail in "Schedule C" hereto attached. Such permits shall require provision for the safe and convenient, present and future operation of the railroad.

(17) The said parties hereto have agreed, and do hereby agree that payment of the said two amounts of

One Million Three Hundred Thousand Dollars . . .	\$1,300,000.
and	
One Million Five Hundred Thousand Dollars . . .	<u>1,500,000.</u>
Together	\$2,800,000.

As aforesaid, shall be made as follows:-

1. Upon the execution and delivery of this agreement, or within ten days thereafter, the sum of One Million Dollars \$1,000,000.

2. One year after the date of the delivery of this agreement, or within ten days after the expiration of said year, Seven Hundred Thousand Dollars, 700,000

3. Upon the transfer of railroad service from the present to the relocated line and the abandonment of the present railroad line within the Ashokan Reservoir, except for City purposes, and upon the transfer by the Railroad Company, to the City of the Railroad's title to that portion of the road to be abandoned by the Railroad Company, and upon thirty days' prior notice to the City, One Million Dollars, 1,000,000

4. One year after the date of the Third Payment, or at the time the Railroad Company completed the removal of its tracks and property constituting its present railroad line within the Ashokan Reservoir, if removed in less than one year, or within thirty days thereafter, the balance in full, amounting to One Hundred Thousand Dollars, 100,000
\$2,800,000

All of such payments are to be made at the office of the Comptroller, in the Borough of Manhattan, in the City of New York. On the part of the City it is agreed that all of the payments herein provided for shall be made promptly and without default or delay.

(18) And, in consideration of the mutual covenants hereinbefore set forth and expressed, the Railroad Company has agreed and does hereby agree to release and save harmless the City, its officers and agents, from any and all liability of every name and nature in connection with or which has arisen or may hereafter arise out of the construction, operation and maintenance of said Ashokan Reservoir, or of the said relocated line. This release does not include loss, damage or expense which the Railroad Company may sustain, if any, in the future, because of the erection by the City of reservoirs, aqueducts or structures other than those mentioned herein, or because of any act of negligence on the part of the City, or its employees, if any there be,

or because of limitations or requirements in the future, as to method of maintenance or operation of the railroad in order to protect the purity of the water supply. Among other possibilities and contingencies from which the Railroad Company agrees to release the City the following are enumerated.

(a) Additional cost of construction beyond the amount agreed upon, caused by slips, slides, floods, claims, extras, or for any reason whatsoever.

(b) Damages and claims which may result from accidents to passengers from derailments, falling fragments, or other accidents which may result from or in connection with railroad construction, operations adjoining the railroad under traffic, and from the turning of traffic from the old to the new line, or from damages arising during the period of construction of said railroad and during the operation of the new line or from damages or claims arising from any cause whatsoever growing out of said construction.

(c) Claims for extras in connection with construction contracts.

(d) Repairs to road-bed and its maintenance, and all claims for damage pending the filling of the reservoir or at any time from and after the date of this agreement, arising therefrom.

(e) All administration, engineering, operating and contingent expenses, interest charges and insurance costs, and every other expense not herein specifically mentioned.

(19) The foregoing release from liability, notwithstanding the specific matters last above enumerated, is intended and hereby declared to be a full and complete general release of all claims, demands, causes of action or liability of any kind or character, except as herein provided, which said Railroad Company now has or may hereafter have, for any cause or reason whatsoever against the City of New York, by reason of the location or construction of the said Ashokan Reservoir, and the relocation of its railroad line, as aforesaid, or the construction of the new line upon said relocation, and said general release is also intended and hereby declared to cover a full and complete discharge and exoneration of the City of New York, of and from all claims for the loss, damage or expense to which the said Railroad Company has been heretofore or may hereafter be subjected by reason of the construction of said Ashokan Reservoir or the relocation or construction of said Railroad, or any matters or claims arising therefrom.

(20) It is understood that the Ashokan Reservoir herein referred to means the reservoir now in construction at Brown's Station, in Ulster County, State of New York, and the aqueduct herein spoken of means the aqueduct now being constructed from Brown's Station to the City of New York.

(21) Among the causes which it is agreed shall be regarded as beyond the control of the Railroad Company, are strikes, insurrections, floods, cloud-bursts, the acts of God, or the public enemy.

(22) Payments herein provided for shall be made to such officer of the Railroad Company as shall be designated by a resolution of its Board of Directors, and upon the production of a certified copy of such resolution, the amounts herein agreed to be paid by the City shall be paid to the officer designated by the Railroad Company, his filing with the Comptroller of the City, a certified copy of the resolution designating him to receive the money and upon his signing a receipt therefor, which shall read substantially as follows:-

"Received from the City of New York, The sum of ----- Dollars, being the ----- payment agreed to be made, by it under and by virtue of the covenants of the agreement entered into by and between the City and The Ulster and Delaware Railroad Company under date of June -----, 1911.

THE ULSTER AND DELAWARE RAILROAD COMPANY,
By -----

Said receipt to be dated, and the payment to be designated as first, second, third, or fourth payment, as the case may be,

IN WITNESS WHEREOF, The Ulster and Delaware Railroad Company, party of the first part, has caused its corporate seal to be hereunto affixed and this agreement to be executed by its proper officers duly authorized thereunto, and the City of New York, party of the second part, has caused its corporate seal to be hereunto affixed and similarly signed by its proper officers, and the said parties hereto have thus executed this agreement in quadruplicate, one part of which is to remain with the party of the first part, another with the party of the second part, a third to be filed with the Comptroller of the City of New York, and a fourth to be filed with the Board of Water Supply of the City of New York.

THE ULSTER AND DELAWARE RAILROAD COMPANY,

Secretary.

By, -----
President.

(Cor. Seal) THE ULSTER AND DELAWARE RAILROAD COMPANY,

By Samuel D. Coykendall,
President,

Henry C. Sloop,
Secretary,

THE CITY OF NEW YORK,

(Cor. Seal) By Board of Water Supply,
Chas. Strauss,
President.

Charles E. Chadwick,
Commissioners.

John T. Galvin

(Cor/ Seal) By the Board of Estimate and Apportionment,
W. J. Gaynor,
Mayor.
Wm. A. Prendergast,
Comptroller,
Joseph Haug,
Secretary,

Attent,
R. J. Scully,
City Clerk.

STATE OF NEW YORK, SS:
COUNTY OF ULSTER,

On this 10th day of June, 1911, before me, personally came,

-----SAMUEL D. COYKENDALL,-----

to me personally known and known to me to be the President of The Ulster and Delaware Railroad Company, the corporation described in and which executed the foregoing instrument, and

-----HENRY C. SLOOP,-----

to me personally known and known to me to be the Secretary of said corporation, who being by me severally duly sworn, did say, each for himself, as follows:-

The said Samuel D. Coykendall, that he resides at the City of Kingston, in said County and State, and is such President of the Ulster and Delaware Railroad Company, and the said Henry C. Sloop, that he resides at the City of Kingston, in said County, and State, and is such Secretary of The Ulster and Delaware Railroad Company, and that I know the corporate seal of said corporation; the seal affixed to the foregoing instrument is such corporate seal, and it was so affixed by order of the Board of Directors of said corporation, and by the like order I signed thereto my name and official designation.

C. J. Heitzman,
Notary Public,
Title.

In and for Ulster County.

STATE OF NEW YORK, SS:
ULSTER COUNTY CLERK'S OFFICE,

I, JOHN D. FRATISHER, Clerk of the County of Ulster, and also Clerk of the Supreme Court, in and for said County, being a Court of Record, Do Hereby Certify, that

-----C. J. HEITZMAN,-----

whose name is subscribed to the certificate of the proof or acknowledgment of the annexed

instrument and thereon written, was, at the time of taking such proof and acknowledgment, a Notary Public, in and for said County, dwelling in said County, duly commissioned and sworn, and authorized by the laws of said State to take the acknowledgments and proofs of deeds or conveyances, for lands, tenements or hereditaments in said State and County. And further, that I am well acquainted with the handwriting of such Notary Public, and verily believe that the signature to said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court and County, the 18 day of June, 1911.

(Seal) John D. Fratcher,
Clerk of Ulster County.

THE CITY, COUNTY AND STATE OF NEW YORK, SS:

On the 18th day of June, 1911, before me, personally came,

-----CHARLES STRAUSS,-----

on the 18th day of June, 1911

-----CHARLES N. CHADWICK,-----

on the 18th day of June 1911,

-----JOHN T. GALVIN,-----

to me known and known to me to be the Commissioners of the Board of Water Supply of the City of New York, the persons described in and who, as such Commissioners, executed the foregoing instrument, and they severally acknowledged to me that they executed the same, as such Commissioners, for the purposes therein mentioned.

Dated the 18th day of June, 1911.

(Seal) J. M. Millette,
Notary Public, Kings Co.,
Certificate filed in New York Co.
Title.

STATE OF NEW YORK, SS: No. 41804,
COUNTY OF NEW YORK,

I, WILLIAM F. SCHNEIDER, Clerk of the County of New York, and also Clerk of the Supreme Court, for the said County, the same being a Court of Record, Do Hereby Certify, That

-----J. M. S. MILLETTE,-----

has filed in the Clerk's Office of the County of New York, a certified copy of his appointment, and qualification as Notary Public, for the County of Kings, with his autograph signature, and was at the time of taking the proof or acknowledgment of the annexed instrument, duly authorized to take the same. And further, that I am well acquainted with the handwriting of such Notary, and believe the signature to the said certificate of proof or acknowledgment to be genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, the 17 day of Apr. 1913.

(Seal) Wm. F. Schneider,
Clerk.

THE CITY, COUNTY AND STATE OF NEW YORK, SS:

On the 16th day of June, 1911, before me, personally came,

-----WILLIAM J. GAYNOR,-----

Mayor, of the City of New York, on the 16th day of June, 1911,

-----WILLIAM A. PRENDERGAST,-----

Comptroller of the City of New York, on the 16th day of June, 1911,

-----JOSEPH HAAG,-----

Secretary of the Board of Estimate and Apportionment of the City of New York, to me known and known to me to be the Mayor, Comptroller, and Secretary of the Board of Estimate and Apportionment, of the City of New York, respectively, the persons described in and who, as such Mayor, Comptroller, Secretary of the Board of Estimate and Apportionment, respectively, executed the foregoing instrument, and they severally acknowledged to me that they executed the same, as such Mayor, Comptroller, and Secretary of the Board of Estimate and Apportionment, respectively, for the purposes therein mentioned.

Dated Sixteenth day of June, 1911,

(Seal) George H. Dyer,
Notary Public (SS)
For New York County.

STATE OF NEW YORK, SS: No. 73800.
COUNTY OF NEW YORK,

I, WILLIAM F. SCHNEIDER, Clerk of the County of New York, and also Clerk of the Supreme Court for the said County, the same being a Court of Record, Do Hereby Certify, That

-----GEORGE H. DYER,-----

whose name is subscribed to the Certificate of the Proof or Acknowledgment, of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a Notary Public, in and for the County of New York, dwelling in the said County, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

Exhibit D

USRA, *Proposed Interim Abandonment of Part of Branch*, 39 Fed. Reg. 30,212 (Aug. 21, 1974)

39 Fed. Reg. 30212
Notices
UNITED STATES RAILWAY ASSOCIATION

PENN CENTRAL TRANSPORTATION CO.

Proposed Interim Abandonment of Part of Branch
August 21, 1974

The Trustees in Bankruptcy of the Penn Central Transportation Company ("Penn Central") propose to abandon the **Catskill Mountain Branch**, a line of railroad in Delaware, Schoharie, and Ulster Counties, **New York**, and have made a request to the United States Railway Association ("USRA") for the authorization required for that purpose under section 304(f) of the Regional **Rail** Organization Act of 1973 ("the Act"), Pub. L. 93-236.



39 FR 30212

End of Document

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Exhibit E

Deed of Trail Easement dated Aug. 23, 2017

Ulster County
Nina Postupack
County Clerk
Kingston, NY 12401



60 2017 00012539

Volm-6202 Pg-241

Instrument Number: 2017- 00012539

As

D14 - Easement

Recorded On: August 28, 2017

Parties: NEW YORK CITY

To

ULSTER COUNTY

Billable Pages: 27

Recorded By: COUNTY ATTORNEY

Num Of Pages: 27

Comment:

**** Examined and Charged as Follows: ****

D14 - Easement	0.00	Tax Affidavit TP 584	0.00
Recording Charge:	0.00		
	Amount	Consideration Amount	RS#/CS#
Tax-Transfer	0.00	0.00	493
ULSTER COUNTY			
		Basic	0.00
		Local	0.00
		Additional	0.00
Tax Charge:	0.00	Special Additional	0.00
		Transfer	0.00

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Record and Return To:

Document Number: 2017- 00012539

ULSTER COUNTY ATTORNEY

Receipt Number: 1594573

PO BOX 1800

Recorded Date/Time: August 28, 2017 12:07:25P

KINGSTON NY 12402

Book-Vol/Pg: Bk-D VI-6202 Pg-241

Cashier / Station: s smar / Cashier Station 6



Nina Postupack

Nina Postupack Ulster County Clerk

DEED OF TRAIL EASEMENT

THIS DEED OF EASEMENT, (this "Trail Easement"), made this 23rd day of August, 2017, between the **City of New York**, (the "City"), acting by and through the New York City Department of Environmental Protection ("DEP"), a municipal corporation of the State of New York with its principal offices at 59-17 Junction Boulevard, Flushing New York 11373 (the City and DEP as "Grantor"), and the **County of Ulster** (the "County"), a municipal corporation and a county of the State of New York with its principal offices at 244 Fair Street, Kingston, New York 12401 (as "Grantee").

WHEREAS, the Grantor is the owner in fee of certain real property located in the Towns of Olive, Hurley, and Woodstock, County of Ulster, State of New York which lands are indicated on the Ulster County Tax Map as Section 38.4, Block 3, Lot 47, Section 45.2, Block 1, Lot 1, Section 37.2, Block 4, Lot 65, Section 37.4, Block 2, Lot 1, Section 38.1, Block 3, Lot 36 and Section 38.4, Block 6, Lot 1, (the "Property"); and

WHEREAS, DEP operates and maintains the New York City water supply system and is charged with the responsibility of protecting the waters and lands that comprise the system, including the Property, from contamination that threatens the purity of the drinking water supply within the New York City Watershed; and

WHEREAS, the County is the current owner and successor in interest of an easement for railroad purposes, dated June 15, 1911, and recorded in the Office of the Ulster County Clerk under Liber 443 of Deeds, Page 58, and acquired by the County by Quitclaim deed, dated July 24, 1979, recorded at the Ulster County Clerk's Office on August 10, 1979

2017-026725

under Liber 1414 and Page 933, (the "Railroad Easement"), along the Ulster & Delaware Railroad corridor running approximately 11.5 miles through the Property; and

WHEREAS, the City and the County entered into a Memorandum of Agreement ("MOA") on June 16, 2015, outlining the terms and conditions under which the County would construct a recreational multi-use trail, the Ashokan Rail Trail ("ART"); and

WHEREAS, in furtherance of this objective, the City agrees to grant to the County an easement for trail purposes for the County to construct, operate, maintain and repair the recreational multi-use trail situated within the land encumbered by the Railroad Easement on, over and through the Property as more particularly depicted and set forth on that certain map entitled "Boundary Survey and Existing Conditions of the Ashokan Trail Easement," last revised on June 6, 2017, prepared by Brook & Brooks, PC, which map is intended to be filed in the Ulster County Clerk's Office immediately prior to the recording of this Deed of Trail Easement, being more accurately described in the metes and bounds attached hereto as Exhibit A and made a part hereof (the "Trail Easement"), which Trail Easement is intended to be, and shall constitute, a separate and distinct easement from, and shall not alter, modify or extinguish the Railroad Easement; and

WHEREAS, the ART shall be a trail accessible and open to the public contained within a portion of the Trail Easement, and said ART shall be limited to an approximate width of twenty two (22) feet, eleven (11) feet on both sides from the centerline of the trail, in accordance with the final design plans of the ART, as approved by the City and the County; and

WHEREAS, the property within the Trail Easement that is outside the boundaries of the ART shall be off limits to the public unless they have permission to engage in recreational

activities pursuant to the terms of a DEP Access Permit or reserved to the County for only construction, operation, maintenance and repair of the ART; and

WHEREAS, the County and the City have determined it to be desirable and necessary for the Grantee to enter the Trail Easement with workers, materials and equipment to construct, operate, maintain and repair the ART while protecting the New York City drinking water supply from contamination; and

WHEREAS, in view of the foregoing, the County has determined it to be desirable and necessary and has requested that the City grant a permanent Trail Easement to the County authorizing it to enter upon the Property in order to construct, operate, maintain and repair the ART; and

WHEREAS, Grantor and Grantee acknowledge that the Property to be encumbered by this Trail Easement remains encumbered by and subject to the Railroad Easement and further desire to set forth the terms and conditions by which this Trail Easement, and the rights and obligations of the parties hereunder, shall cease and terminate in the event rail use or service is reactivated for railroad purposes.

NOW, THEREFORE, in consideration of ten dollars (\$10.00), receipt of which is hereby acknowledged, and of the promises and of the mutual covenants and agreements set forth herein, and of the undertakings of each party to the other, the Grantor and its successors and assigns hereby grants, conveys and releases to Grantee and its successors and assigns, a permanent Trail Easement running with the land i) for so long as public trail use is not discontinued by Grantee or ii) until such time that rail use or service is reactivated on the Railroad Easement and subject to the following terms, conditions and limitations:

1. The purpose of the Trail Easement is to allow the County to design, construct, operate, maintain and repair the ART, including necessary appurtenances and facilities, in accordance with the approved Operations and Maintenance Plan ("O&M Plan") for so long as the ART is operated for trail use and made available to the public by the County. The County, through its employees, agents, contractors, subcontractors, and/or consultants, shall be responsible for the operation and maintenance of the ART and associated facilities, including culverts, bridges, benches, and interpretive and directional signage, with the exception of trailheads, which are to be designed, constructed, maintained and operated by DEP.

2. The Trail Easement, on, over and through the Property is depicted and set forth on that certain map entitled "Boundary Survey and Existing Conditions of the Ashokan Trail Easement," last revised on June 6, 2017, prepared by Brook & Brooks, PC, which map is intended to be filed in the Ulster County Clerk's Office immediately prior to the recording of this Deed of Trail Easement, being more accurately described in the metes and bounds attached hereto as Exhibit A and made a part hereof.

3. The ART shall be limited to an approximate width of twenty two (22) feet, eleven (11) feet from the centerline of the trail, in accordance with the final design plans approved by the City and County. The ART will be open for public access and use from sunrise to sunset, no fees shall be charged for its use, and public users will not be required to obtain an Access Permit from the DEP. Permitted ART uses shall include walking, running, bicycling, nature study, cross country skiing, snowshoeing and other non-motorized recreational uses as may be mutually agreed upon by the parties. Non permitted uses include horseback riding and operation of drones by the public on or over the Trail Easement. Unless otherwise approved by DEP, motorized vehicles are prohibited with the exception of mobility devices by persons with

disabilities, emergency vehicles, and vehicles for security and maintenance purposes in accordance with the O&M Plan. DEP shall be authorized to use motorized vehicles where necessary for the operation and maintenance of the water supply system.

4. In accordance with the O&M Plan, the ART may be made available for County-authorized public events and activities, including fundraising walks, for which the County must obtain prior approval from DEP. The County shall be responsible for ensuring that such County-authorized public events comply with the terms of this Deed of Trail Easement.

5. For so long as public trail use continues in operation, Grantee, and its agents, employees and contractors shall, at its own expense, have the right to enter upon the Trail Easement for such time as Grantee deems may be reasonably necessary to perform maintenance and repair of the trail (the "Trail Work"), provided such work is performed in accordance with the O&M Plan and subject to the terms and conditions of paragraph 6 below.

(a) Subject to paragraph 5b below, Grantee may enter the Trail Easement without notice to Grantor for routine operation and maintenance including, but not limited to, surface repairs, mowing, clean up, drainage maintenance, fencing repairs and hazard tree removal.

(b) Prior to entering the Trail Easement for non-routine maintenance activities, including, but not limited to, excavation, import or export of fill on the Property or other construction related activities, Grantee shall provide reasonable notice to Grantor of no less than 30 days except in cases of emergency, and shall obtain prior written approval from Grantor for non-routine maintenance to be performed on the ART, such Grantor approvals not to be unreasonably withheld.

6. On each occasion that Grantee has conducted Trail Work requiring ground disturbance, the impacted property shall be restored to its previous condition as soon as is practicable. Site restoration and the schedule thereof may include, but is not limited to, regrading, seeding, mulching and sediment and erosion control of the disturbed area and shall be subject to review and approval by Grantor. Specifically the County shall only use native plants when planting along the Trail Easement.

7. Grantee must maintain equipment brought on site in proper working order to avoid spills and leaks. In the event of a spill to the environment or concern for degradation to the New York City water supply, the spill must be ceased immediately and contained, as much as possible, and as safe to do so. DEP shall be notified of any spill immediately and, if not practically feasible, at a minimum within twenty-four (24) hours of the incident.

8. The Property within which the Trail Easement is located currently allows for public recreational uses such as hunting and fishing. Grantee acknowledges that these uses and activities are occurring on lands adjacent to the ART and that they are compatible with trail usage. Grantee also acknowledges that DEP from time to time will conduct projects in connection with water supply infrastructure, natural resources and timber harvesting. DEP reserves the right to temporarily limit public access to sections of the ART consistent with these compatible activities with prior reasonable notice to the County, but in no event less than thirty (30) days unless otherwise agreed to in writing, except in cases of emergency.

9. In accordance with the O&M Plan, as approved by the DEP and County, which the parties may amend by mutual written consent, the County shall be responsible to operate and maintain the ART. The County shall comply with the terms and conditions contained in the O&M Plan. The County may delegate its responsibility under the O&M Plan with approval from the DEP.

10. The City shall be responsible for all costs associated with any relocation or reconstruction of the Ashokan Rail Trail resulting from the failure of DEP infrastructure or from DEP activities, including reconstruction of dikes, overpasses, bridges, culverts, roadways, or other DEP facilities that require the temporary closure and/or rebuilding of portions of the ART.

11. In accordance with the Security Cooperative Agreement ("Security Plan"), as approved by the DEP and County, which the parties may amend by mutual written consent, the DEP and County shall share responsibility for safety and security along the ART and at trailheads. The County shall comply with the terms and conditions contained in the Security Plan. The County may delegate its responsibility under the Security Plan with prior approval from the DEP. Since the City is the owner of the Property, it reserves the right to delegate DEP's responsibility under the Security Plan without approval from the County.

12. The City reserves the right to temporarily shut down or modify access to the ART, including trailheads and other access points, for security and water supply purposes for such time as necessary to protect public health and safety. Such temporary shutdown shall be for the minimum time reasonably necessary to ensure the protection of the water supply and public health.

13. The County shall have a right of access for purposes of accessing, operating and maintaining the ART over and upon the three (3) public trailheads to be designed, constructed, operated, maintained and repaired by DEP.

14. Except as otherwise specified herein, the grant of this Trail Easement is made subject to all rights, covenants, conditions, easements, and other restrictions of record and shall not impair, abrogate, or otherwise affect any rights that persons other than the City may have to use the Property pursuant to such rights covenants, easements or other matters of record.

15. This Trail Easement and exercise by Grantee of its rights hereunder (including, but not limited to, at Grantee's option, the removal of tracks, ties and/or other

railroad infrastructure) shall not alter, modify, or extinguish the Railroad Easement or any right of Grantee's pursuant thereto.

16. Grantee shall have the right to reactivate, or permit the reactivation of, rail use or service for railroad purposes within the Railroad Easement by providing written notice to Grantor of its intent to terminate this Trail Easement, whereupon the parties agree to execute and record an instrument to effectuate such termination.

17. The grant of this Trail Easement is authorized by the New York City Administrative Code, Title 4, Chapter 1, 4-106(9) which specifically requires the forfeiture to the City of such property or interest conveyed herein in the event that the Grantee is in breach of any covenant specified herein to be determined by a court of competent jurisdiction. Grantee shall be provided reasonable notice to cure any condition of breach to avoid the pursuit of legal remedies by the City.

18. The County shall be solely responsible for promptly identifying and eliminating trail hazards such as potholes, erosion and hazard trees as necessary within the Trail Easement. If the City observes a trail hazard, it shall endeavor to provide notice to the County. If the County fails to remove and/or cure such trail hazard in a timely manner after the City notice, the City reserves the right to remove and/or cure such trail hazard and to temporarily close sections of the ART and trailheads to accomplish this purpose. The City shall be entitled to compensation from the County for costs and expenditures to remove and/or cure such conditions on behalf of the County and the City shall not be liable for removing or curing such condition under Section 30 of this Trail Easement. The County shall not be responsible for hazardous conditions on the Property which resulted from or are created by DEP operations or infrastructure, which shall be remedied in a timely manner by DEP at its cost.

19. The City and the County reserve the right to temporarily shut down access to the Trail Easement and trailheads for maintenance, emergencies, security considerations, water supply purposes, and/or to protect the health and safety of the public and the water supply. Such suspensions by either party shall not be deemed as discontinuation of public trail use by Grantee, subject to termination of this Trail Easement.

20. The County shall only be able to convey this Trail Easement to a third party for purposes of operating and maintaining the ART as a public trail with the prior written consent of the City. In the event the County contemplates no longer operating the ART or conveying this Trail Easement to a third party for purposes of operating and maintaining the ART as a public trail, the City shall have a Right of First Refusal to acquire it for one (1) dollar; provided, however, that the City shall not have any such Right of First Refusal if Grantee terminates this Trail Easement pursuant to Section 16 hereof. The County shall provide the City with notice of its intent to convey the Trail Easement, and the City shall provide the County with notice of its election to exercise this right within sixty (60) days of the County's notice, whereupon the County shall discontinue any and all action to convey this Trail Easement. Any conveyance of this Trail Easement pursuant to this section to any third party or to the City, as the case may be, shall be subject to the terms, covenants and conditions of this Trail Easement, including but not limited to, the right of the County at any time thereafter to terminate this Trail Easement pursuant to Section 16 hereof, which right shall survive any conveyance and be exercisable by the County (notwithstanding that the County would no longer be a part to this Trail Easement) and remain in full force and effect from and after any conveyance to any third party or the City, as the case may be, and thereafter.

21. All notices, requests, and/or approvals required by this Trail Easement shall be in writing and shall be delivered by first class mail addressed to the parties as shown below or at such other addresses as such parties may designate in writing:

To DEP: New York City Department of Environmental Protection
71 Smith Avenue
Kingston, New York 12401
Attn: Natural Resources Division
Fax: (845) 338-1296 Phone: (845) 340-7207

With a copy to: New York City Department of Environmental Protection
59-17 Junction Boulevard, 19th Floor
Flushing, New York 11373
Attn: General Counsel
Fax: (718) 595-6543 Phone: (718) 595-6555

To the County: Ulster County Executive
P.O. Box 1800
Kingston, New York 12402-1800
Fax: (845) 334-5724 Phone: (845) 340-3800

With a copy to: County Attorney
P.O. Box 1800
Kingston, New York 12402-1800
Fax: (845) 340-3691 Phone: (845) 340-3685

22. This Trail Easement shall be non-exclusive, run with the land and shall be binding upon and inure to the benefit of Grantee, Grantor and their heirs successors and assigns.

23. This Trail Easement may not be modified, altered, amended, or extinguished except by written instrument signed and executed by both parties hereto and recorded in the Ulster County Clerk's Office.

24. The ART shall be constructed, operated and maintained in compliance with and all activity within the Trail Easement shall be governed by and construed in accordance with all applicable local, state and federal laws and regulations, including, without limitation, the

Rules and Regulations for the Protection From Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources ("Watershed Regulations") and the New York State Public Health Law. Any and all activity within the ART shall not endanger, injure, or pollute any property or water supply of the City.

25. The County, through its employees, agents, contractors, subcontractors, and/or consultants, shall construct the ART, including but not limited to the construction of bridges, culverts and other infrastructure, in accordance with the approved design. Such construction shall include, but not be limited to (i) materials other than those deemed impervious under the Watershed Regulations for the trail surface unless otherwise mutually agreed upon and (ii) the use of barriers such as fencing or guardrail as necessary, such as at causeways, to ensure the safety of the public.

26. The County, through its employees, agents, contractors, subcontractors, and/or consultants, shall be responsible for all trash and litter removal along the ART, including but not limited to the proper disposal of any rail ties, tracks or equipment for rail use, which may not be stored or disposed of on the Property.

27. The grant of this Trail Easement is specifically conditioned upon the construction of the ART in accordance with the design of the trail approved by the City. Any modifications to the design shall be approved by the City, the same of which shall not be withheld unreasonably. For the avoidance of doubt, the purpose of the City's approvals is to ensure that the design of the trail minimizes the likelihood that trail use and construction of the trail will interfere with the purity and safety of the City water supply.

28. The ART or sections thereof shall be open to the public only upon completed design and construction of the same. The County shall provide written certification of the completed compliance in accordance with the design and construction of the ART.

29. In the event that the County fails to complete construction of the ART and/or fails to operate and maintain the ART in accordance with the O&M Plan, the City shall have no obligation to operate and maintain the ART.

30. The parties shall mutually and reciprocally indemnify each other and their respective officials, officers, employees, agents, contractors and subcontractors and save each other harmless from any liability, damage, claims, demands, costs or losses to the extent arising directly or indirectly out of their officials', officers', employees', agents', contractors' or subcontractors' respective acts or omissions pursuant to this Trail Easement, provided however, that: (1) County's indemnification of City extends solely to County's administration and authorization of activities, and transactions funded with DEP Funds; and (2) in no event or instance shall County have any liability, under any circumstance(s), for lawsuits, property damage, or any other injury suffered by trail users, property owners or anyone else as a result of, or in any way related to or caused, directly or indirectly, by City's acts, omissions, obligations and/or responsibilities related to this Trail Easement; and (3) in no event or instance shall the City have any liability, under any circumstance(s) for lawsuits, property damage, or any other injury suffered by trail users, including injuries suffered by trail users or anyone else due to the design or the trail, notwithstanding the City's approval of the design pursuant to Section 27, property owners or anyone else as a result of, or in any way related to or caused, directly or indirectly, by County's acts, omissions, obligations and/or responsibilities related to this Trail Easement.

31. The provisions of this Trail Easement are severable and if any court of competent jurisdiction shall render a judgment that any provision hereof is null or void, the effect of said judgment shall be limited to the nullified or voided provision of this Trail Easement and the remaining provisions shall continue in full force and effect.
32. This Trail Easement shall not be in full force and effect until fully executed by both Grantor and Grantee.

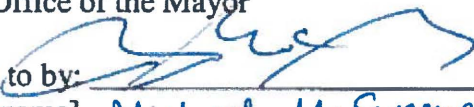
IN WITNESS WHEREOF, the parties have caused this Trail Easement to be executed by their duly authorized representatives as of the date first above written.

THE CITY OF NEW YORK

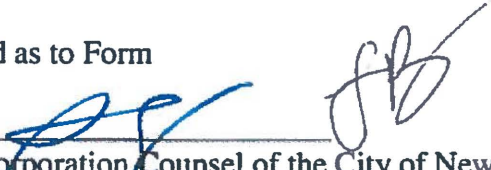
Dated: 7/19/17

By: 
[name] Anthony Shorris
Deputy Mayor
Office of the Mayor

Dated: 7/19/17

Attested to by: 
[name] Michael McSweeney
City Clerk

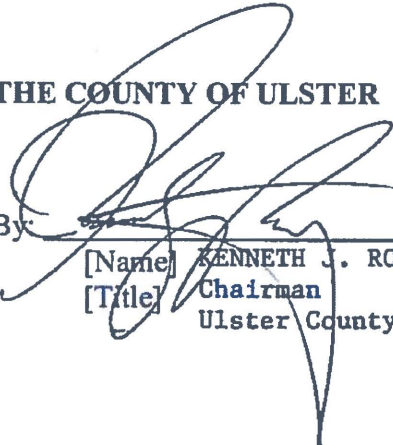
Approved as to Form


Acting Corporation Counsel of the City of New York

Dated: 6/2/2017

THE COUNTY OF ULSTER

Dated: 8-23-17

By: 
[Name] KENNETH J. RONK, JR.
[Title] Chairman
Ulster County Legislature

Approved As To Form And Certified
As To Legal Authority


[Name] BEATRICE HAVRANEK, ESQ.
[Title] Ulster County Attorney
Dated: 08/23/2017

RECORD AND RETURN:

ULSTER COUNTY ATTORNEY
P.O. BOX 1800
KINGSTON NY 12402

ACKNOWLEDGEMENTS

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

On this 19th day of July, 2017, before me personally came Anthony Siorris personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and by his/her/their signatures(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Josephine Miranda
NOTARY PUBLIC



STATE OF NEW YORK)

: SS.:

COUNTY OF New York)

On this 19th day of July, 2017, before me personally came Michael McEweeney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and by his/her/their signatures(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument

Lilia Dwyer
NOTARY PUBLIC

LILIA DWYER
Commissioner of Deeds
City of New York No. 3-7093
Certificate Filed in New York County
Commission Expires Feb. 01, 2018

STATE OF NEW YORK)

: SS.:

COUNTY OF ULSTER)

On this 23rd day of August, 2017, before me personally came Kenneth J. Ronk, Jr. personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and by his/her/their signatures(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Beatrice Hauranek
NOTARY PUBLIC

BEATRICE HAVRANEK
NOTARY PUBLIC - STATE OF NEW YORK
Registration No. 02HA5024263
Qualified in Ulster County
Commission Expires March 7, 2018

SCHEDULE A
(Metes and Bounds Description of the Trail Easement)

+
**DESCRIPTIVE BOUNDARY
OF TRAIL EASEMENT
TO BE CONVEYED BY
NEW YORK CITY
TO
ULSTER COUNTY**

ALL THAT PIECE OR PARCEL OF LAND situate lying and being in the Town of Olive, the Town of Hurley and the Town of Woodstock in the County of Ulster and State of New York, being the railroad bed of the Ulster and Delaware Railroad as it runs through the Ashokan Reservoir lands of the City of New York as shown on a map entitled "Boundary Survey and Existing Conditions of a portion of the Ashokan Rail Trail" dated June and July 2014 last revised June 6, 2017 prepared by Brooks & Brooks Land Surveyors, P.C. , said map to be filed in the Ulster County Clerk's Office, said easement being approximately 11.5 miles in length and being more particularly bounded and described as follows;

Tax Map Section Block and Lots

Town of Olive	45.2-1-1, portion of
Town of Hurley	37.4-2-1, portion of
	37.2-4-65, portion of
	38.1-3-36, portion of
	38.4-6-1, portion of
Town of Woodstock	38.4-3-47 portion of
	38.4-3-50 portion of

BEGINNING at a point in the north bounds of New York State Route 28A and runs thence from said point of beginning along said bounds South 86°05'08" East 83.00 feet;

thence crossing said New York State Route 28 A, crossing the Esopus Creek through said lands of New York City South 03°54'52" West 1,934.70 feet;

thence continuing through said lands of New York City the following one hundred twenty seven courses and distances:

- 1) along a curve to the left having a radius of 3,224.17 feet, a central angle of 21°05'10", a chord bearing of South 06°36'47" East and a chord distance of 1,179.87 feet for an arc length of 1,186.56 feet;
- 2) South 25°57'33" East 205.53 feet,
- 3) South 20°48'38" East 1,091.98 feet,
- 4) South 27°56'08" East 201.56 feet,
- 5) South 20°48'38" East 800.00 feet,
- 6) South 40°05'43" East 302.79 feet,
- 7) on a curve to the left having a radius of 2,664.93 feet, a central angle of 14°17'06", a chord bearing of South 27°56'13" East and a distance of 662.71 feet for an arc distance of 664.43 feet,
- 8) South 00°50'26" East 236.68 feet,

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- 9) along a curve to the left having a radius of 2,804.93 feet, a central angle of $06^{\circ}38'32''$, a chord bearing of South $42^{\circ}24'02''$ East and a distance of 324.98 feet an arc distance of 325.17 feet,

- 10) South $45^{\circ}44'13''$ East 467.88 feet,
11) South $59^{\circ}29'52''$ East 1,008.96 feet,
12) along a curve to the right having a radius of 1,732.69 feet, a central angle of $27^{\circ}24'58''$, a chord bearing of South $32^{\circ}02'49''$ East and a distance of 821.21 feet for an arc distance of 829.10 feet,
13) South $18^{\circ}18'53''$ East 467.03 feet,
14) South $29^{\circ}56'11''$ East 457.58 feet,
15) South $41^{\circ}36'42''$ East 672.28 feet,
16) South $48^{\circ}25'04''$ East 1,089.13 feet,
17) South $65^{\circ}33'04''$ East 779.95 feet,
18) North $51^{\circ}40'02''$ East 232.69 feet,
19) North $64^{\circ}04'51''$ East 83.59 feet,
20) on a curve to the right having a radius of 183.00 feet, a central angle of $32^{\circ}52'53''$, a chord of North $80^{\circ}31'18''$ East 103.59 feet and an arc distance of 105.02 feet,
21) South $83^{\circ}02'16''$ East 52.00 feet,
22) on a curve to the left having a radius of 54.00 feet, a central angle of $62^{\circ}16'47''$, a chord of North $65^{\circ}49'33''$ East 55.85 feet and an arc distance of 58.70 feet,
23) North $34^{\circ}41'02''$ East 109.75 feet,
24) North $33^{\circ}48'44''$ East 103.61 feet,
25) North $34^{\circ}32'16''$ East 103.86 feet,
26) on a curve to the right having a radius of 125.00 feet, a central angle of $76^{\circ}56'26''$, a chord of North $73^{\circ}00'29''$ East 155.53 feet and an arc distance of 167.86 feet,
27) South $68^{\circ}31'20''$ East 129.52 feet,
28) South $73^{\circ}32'42''$ East 158.75 feet,
29) South $79^{\circ}47'53''$ East 32.82 feet,
30) South $82^{\circ}57'07''$ East 68.28 feet,
31) South $66^{\circ}08'38''$ East 55.88 feet,
32) South $56^{\circ}53'00''$ East 87.26 feet,
33) on a curve to the left having a radius of 321.00 feet, a central angle of $22^{\circ}12'01''$, a chord of South $67^{\circ}59'00''$ East 123.60 feet and an arc distance of 124.38 feet,
34) South $79^{\circ}05'00''$ East 100.72 feet,
35) South $76^{\circ}35'36''$ East 96.61 feet to the south bounds of NYS Route 28
36) along said bounds South $55^{\circ}36'03''$ East 108.15 feet,
37) continuing through lands of The City of New York South $79^{\circ}54'34''$ West 48.96 feet,
38) North $89^{\circ}44'43''$ West 33.99 feet,
39) North $76^{\circ}35'36''$ West 118.15 feet,
40) North $79^{\circ}05'00''$ West 99.28 feet,
41) on a curve to the right having a radius of 387.00 feet, a central angle of $22^{\circ}12'00''$, a chord of North $67^{\circ}59'00''$ West 149.01 feet and an arc distance of 149.95 feet,
42) North $56^{\circ}53'00''$ West 81.92 feet,
43) North $66^{\circ}08'38''$ West 40.78 feet,
44) North $82^{\circ}57'07''$ West 60.34 feet,
45) North $79^{\circ}47'53''$ West 38.25 feet,

46) North $73^{\circ}32'42''$ West 165.25 feet,

47) North $68^{\circ}31'20''$ West 132.42 feet,

48) on a curve to the left having a radius of 59.00 feet, a central angle of $76^{\circ}56'40''$ a chord of South $73^{\circ}00'30''$ West 73.41 feet and an arc distance of 79.23 feet,

49) South $34^{\circ}32'16''$ West 103.44 feet,

50) South $33^{\circ}48'44''$ West 103.70 feet,

51) South $34^{\circ}41'02''$ West 110.25 feet,

52) on a curve to the right having radius of 120.00 feet, a central angle of $62^{\circ}16'43''$, a chord of South $65^{\circ}49'28''$ West 124.11 feet and an arc distance of 130.44 feet,

53) North $83^{\circ}02'16''$ West 52.00 feet,

54) on a curve to the left having a radius of 117.00 feet, a central angle of $32^{\circ}52'53''$, a chord of South $80^{\circ}31'17''$ West 66.23 feet and an arc distance of 67.15 feet,

55) South $64^{\circ}04'51''$ West 76.41 feet,

56) South $51^{\circ}40'02''$ West 191.57 feet,

57) South $65^{\circ}33'04''$ East 761.50 feet,

58) South $51^{\circ}30'54''$ East 412.31 feet,

59) South $65^{\circ}33'04''$ East 4,001.20 feet,

60) Along a curve to the left a radius of 5,629.65 feet, a central angle of $04^{\circ}57'40''$, a chord bearing of South $68^{\circ}01'36''$ East and a distance of 487.30 feet for an arc distance of 487.46 feet,

61) South $06^{\circ}47'08''$ East 33.40 feet,

62) South $71^{\circ}33'08''$ East 77.00 feet,

63) South $18^{\circ}24'52''$ West 20.71 feet,

64) along a curve to the left a radius of 5,679.65 feet, a central angle of $09^{\circ}02'31''$, a chord bearing of South $75^{\circ}57'29''$ East and a distance of 895.39 feet for an arc distance of 896.32 feet,

65) North $37^{\circ}46'52''$ East 28.40 feet,

66) along a curve to the left a radius of 5,654.65 feet, a central angle of $12^{\circ}55'08''$, a chord bearing of South $87^{\circ}04'29''$ East and a distance of 1,272.31 feet for an arc distance of 1,275.01 feet,

67) North $80^{\circ}07'47''$ East 296.44 feet,

68) Along a curve to the left a radius of 5,629.65 feet, a central angle of $11^{\circ}44'13''$, a chord bearing of North $77^{\circ}35'50''$ East and a distance of 1,151.21 feet for an arc distance of 1,153.23 feet, said last mentioned curve at a distance of 2.9 feet passes over a vertical T-rail monument with an "X" cut on top,

69) South $84^{\circ}17'30''$ East 48.78 feet,

70) along a curve to the left a radius of 5,649.65 feet, a central angle of $06^{\circ}48'40''$, a chord bearing of North $67^{\circ}52'17''$ East and a distance of 671.20 feet for an arc distance of 671.60 feet,

71) South $25^{\circ}32'03''$ East 40.00 feet,

72) along a curve to the left a radius of 5,689.65 feet, a central angle of $01^{\circ}35'49''$, a chord bearing of North $63^{\circ}40'02''$ East and a distance of 158.58 feet or an arc distance of 158.59 feet,

73) North $62^{\circ}51'54''$ East 3,140.30 feet, said last mentioned course at a distance of 3138.9 feet passes through a found vertical T-rail monument with an "X" cut on the top,

74) North $47^{\circ}13'22''$ East 311.54 feet, said last mentioned course at a distance of 310.3 feet passes through a found vertical T-rail monument with an "X" cut on the top,

- 75) North $62^{\circ}51'54''$ East 3,300.00 feet, said last mentioned course at a distance of 777.37 feet intersects the northwesterly corner of a permanent Highway Easement herein after described,
- 76) North $78^{\circ}30'26''$ East 311.54 feet, said last mentioned course at a distance of 177.18 feet intersects the southeast corner of said highway easement,
- 77) North $62^{\circ}51'54''$ East 2,500.00 feet,
- 78) North $57^{\circ}09'16''$ East 201.00 feet, to a found vertical T-rail monument with an "X" cut on the top,
- 79) North $62^{\circ}51'54''$ East 300.00 feet, to a found vertical T-rail monument with an "X" cut on the top,
- 80) North $69^{\circ}50'51''$ East 164.52 feet, to a found vertical T-rail monument with an "X" cut on the top,
- 81) On a curve to the left a radius of 5,689.65 feet, a central angle of $14^{\circ}35'13''$, a chord bearing of North $55^{\circ}34'31''$ East and a distance of 1,444.63 feet for an arc distance of 1,448.53 feet, said last mentioned curve crosses the town line between the Town of Olive and the Town of Hurley
- 82) North $48^{\circ}16'41''$ East 3,262.00 feet,
- 83) North $44^{\circ}40'21''$ East 219.71 feet,
- 84) On a curve to the right a radius of 3,879.83 feet, a radial line a central angle of $11^{\circ}52'10''$, a chord bearing of North $57^{\circ}26'52''$ East and a distance of 802.32 feet for an arc distance of 803.75 feet,
- 85) North $63^{\circ}23'16''$ East 508.71 feet,
- 86) North $67^{\circ}12'06''$ East 300.67 feet,
- 87) North $63^{\circ}23'16''$ East 502.10 feet,
- 88) along a curve to the left a radius of 5,689.65 feet, a central angle of $08^{\circ}58'44''$, a chord bearing of North $58^{\circ}54'07''$ East and a distance of 890.73 feet for an arc distance of 891.65 feet, to the southerly corner of a Permanent Highway Easement hereinafter described, the next four courses and distances being along the northwesterly bounds of said highway easement,
- 89) North $41^{\circ}50'42''$ East 696.68 feet,
- 90) On a curve to the right having a radius of 5,579.65 feet, a central angle of $01^{\circ}09'44''$, a chord bearing of North $46^{\circ}49'53''$ East and a distance of 113.16 feet for an arc distance of 113.18 feet,
- 91) North $46^{\circ}14'50''$ East 1,133.49 feet,
- 92) Along a curve to the right having a radius of 3,969.83 feet, a central angle of $07^{\circ}43'12''$, a chord bearing of North $50^{\circ}06'12''$ East and a distance of 534.72 feet for an arc distance of 535.13 feet, said last mentioned curve at a distance of 448.99 feet passes through the northerly corner of said highway easement,
- 93) North $33^{\circ}27'09''$ West 37.59 feet to the southeasterly edge of pavement of the New York State Route 28.
- 94) Along the edge of pavement North $48^{\circ}23'28''$ East 66.67 feet,
- 95) South $33^{\circ}27'09''$ East 44.62 feet,
- 96) Along a curve to the right having a radius of 3,969.83 feet, a central angle of $08^{\circ}34'37''$, a chord bearing of North $59^{\circ}12'30''$ East and a distance of 593.77 feet for an arc distance of 594.32 feet,
- 97) North $80^{\circ}10'35''$ East 422.27 feet, said last mentioned course at a distance of 2.1 feet passes through a found vertical T-rail monument with an "X" cut on the top, at a distance of 151.26 feet passes through the northwesterly corner of a highway drainage easement and at a distance of 251.78 feet passes through the northeasterly corner of said highway drainage easement,

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98) along a curve to the right having a radius of 3,869.83 feet, a central angle of $14^{\circ}36'04''$, a chord bearing of North $76^{\circ}47'51''$ East and a distance of 983.50 feet for an arc distance of 986.17 feet,

- 99) North $84^{\circ}06'06''$ East 1,726.60 feet,
- 100) North $76^{\circ}30'25''$ East 302.65 feet, said last mentioned course at a distance of 0.5 feet passes through a found vertical T-rail with a "X" cut on top,
- 101) North $84^{\circ}06'06''$ East 300.00 feet, to a found vertical T-rail monument with a "X" cut on the top,
- 102) South $88^{\circ}18'14''$ East 302.65 feet,
- 103) North $84^{\circ}06'06''$ East 838.20 feet,
- 104) along a curve to the right having a radius of 3,869.78 feet, a central angle of $23^{\circ}25'38''$, a chord bearing of South $84^{\circ}11'18''$ East and a distance of 1,571.29 feet for an arc distance of 1,582.28 feet, said last mentioned course at a distance of 1570.4 feet passes through a bolt set in a pile of stones,
- 105) South $77^{\circ}59'05''$ East 204.79 feet,
- 106) along a curve to the right having a radius of 3,894.78 feet, a central angle of $08^{\circ}08'37''$, a chord bearing of South $65^{\circ}24'11''$ East and a distance of 553.11 feet for an arc distance of 553.58 feet,
- 107) South $61^{\circ}19'43''$ East 626.70 feet,
- 108) South $57^{\circ}02'22''$ East 200.56 feet,
- 109) South $61^{\circ}19'43''$ East 610.90 feet,
- 110) along a curve to the left having a radius of 3,759.83 feet, a central angle of $15^{\circ}22'30''$, a chord bearing of South $69^{\circ}00'48''$ East and a distance of 1,005.91 feet for an arc distance of 1,008.93 feet,
- 111) South $76^{\circ}42'11''$ East 264.30 feet,
- 112) South $13^{\circ}17'49''$ West 10.00 feet,
- 113) South $76^{\circ}42'11''$ East 2,830.20 feet,
- 114) South $76^{\circ}42'11''$ East 870.50 feet,
- 115) North $82^{\circ}41'12''$ East 284.08 feet,
- 116) along a curve to the left having a radius of 2,714.79 feet, central angle of $12^{\circ}13'44''$, a chord bearing of South $82^{\circ}48'52''$ East and a distance of 578.33 feet for an arc distance of 579.42 feet,
- 117) South $88^{\circ}55'52''$ East 952.19 feet,
- 118) South $88^{\circ}55'52''$ East 269.60 feet,
- 119) thence through lands of the City of New York North $01^{\circ}08'55''$ East 425.93 feet to the south bounds of New York State Route 28;
- 120) thence along said highway bounds South $76^{\circ}48'59''$ East 67.48 feet to a found concrete highway monument, said last mentioned course at a distance of 2.18 feet passes over a found concrete highway monument,
- 121) South $01^{\circ}08'55''$ West 411.77 feet to the aforementioned northerly bounds of the trail easement marked by a found vertical T-rail monument with a "X" cut on top,
- 122) South $88^{\circ}55'52''$ East 81.70 feet,
- 123) along a curve to the right, crossing into the Town of Woodstock, having a radius of 1,582.68 feet, a central angle of $32^{\circ}04'29''$, a chord bearing of South $72^{\circ}53'54''$ East and a distance of 874.48 feet for an arc distance of 886.00 feet, to the west bounds of Basin Road,
- 124) Along the said bounds of said Basin Road South $14^{\circ}16'52''$ West 95.44 feet,
- 125) thence crossing said Basin Road along a curve to the right, having a radius of 1,492.68 feet, a central angle of $05^{\circ}15'33''$, a chord bearing of South $53^{\circ}02'49''$ East and a distance of 136.96 feet for an arc distance of 137.01 feet,

thence crossing said railroad at Mile Post 10, South 39°34'57" West 120.00 feet to a point in the southwesterly bounds of said railroad,

thence through said lands of the City of New York, along said southwesterly bounds of said railroad the following eighty five courses and distances:

- 1) Crossing said Basin Road on a curve to the left, having a radius of 1,372.68 feet, a central angle of 03°25'15", a chord bearing of North 52°07'40" West and a distance of 81.94 feet for an arc distance of 81.95 feet,
- 2) on a curve to the left, crossing into the Town of Hurley, having a radius of 1,372.68 feet, a central angle of 35°05'53", a chord bearing of North 71°23'14" West and a distance of 827.78 feet for an arc distance of 840.87 feet,
- 3) North 88°55'52" West 417.30 feet,
- 4) North 88°55'52" West 952.20 feet,
- 5) On a curve to the right having a radius of 2,924.79 feet, a central angle of 12°13'43", a chord bearing of North 82°48'52" West and a distance of 623.05 feet for an arc distance of 624.23 feet,
- 6) North 76°42'11" West 1,136.40 feet,
- 7) North 13°17'49" East 44.00 feet,
- 8) North 76°42'11" West 2,830.20 feet
- 9) South 13°17'49" West 34.00 feet
- 10) North 76°42'11" West 264.30 feet,
- 11) along a curve to the right having a radius of 3,869.83 feet, a central angle of 15°22'30", a chord bearing of North 69°00'48" West and a distance of 1,035.33 feet for an arc distance of 1,038.44 feet,
- 12) North 61°19'43" West 610.90 feet,
- 13) North 68°27'13" West 201.56 feet,
- 14) North 61°19'43" West 626.70 feet,
- 15) along a curve to the left having a radius of 3,744.78 feet, a central angle of 08°08'37", a chord bearing of North 65°24'11" West and a distance of 531.81 feet for an arc distance of 532.26 feet,
- 16) North 63°44'04" West 198.29 feet,
- 17) along a curve to the left having a radius of 3,769.78 feet, a central angle of 23°25'25", a chord bearing of North 84°11'12" West and a distance of 1,530.45 feet for an arc distance of 1,541.16 feet,
- 18) South 84°06'06" West 638.45 feet,
- 19) South 74°38'21" West 304.14 feet,
- 20) South 84°06'06" West 700.00 feet,
- 21) North 88°46'24" West 201.56 feet to a found vertical T-rail with an "X" cut on top, said last mentioned course at a distance of 0.5 feet passes through a found vertical T-rail monument with a "X" cut on the top,
- 22) South 84°06'06" West 1,200.00 feet,
- 23) North 88°46'24" West 201.56 feet, said last mentioned course at a distance of 199.9 feet passes through a found vertical T-rail with a "X" cut on top
- 24) South 84°06'06" West 226.60 feet,
- 25) along a curve to the left having a radius of 3,769.83 feet, a central angle of 13°06'04", a chord bearing of South 77°32'51" West and a distance of 860.12 feet for an arc distance of 861.99 feet,
- 26) South 55°11'40" West 202.33 feet, said last mentioned course at a distance of 201.2 feet passes through a found vertical T-rail with a "X" cut on top,

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- 27) along a curve to the left having a radius of 3,719.83 feet, a central angle of $12^{\circ}00'00''$, a chord bearing of South $61^{\circ}59'49''$ West and a distance of 777.66 feet for an arc distance of 779.08 feet,

said last mentioned curve at a distance of 776.7 feet passes through a found vertical T-rail with a "X" cut on top

- 28) South $63^{\circ}23'24''$ West 298.26 feet,
29) along a curve to the left having a radius of 3,769.83 feet, a central angle of $05^{\circ}15'16''$, a chord bearing of South $48^{\circ}52'11''$ West and a distance of 345.61 feet for an arc distance of 345.73 feet,
30) South $46^{\circ}14'50''$ West 1,133.50 feet,
31) along a curve to the right having a radius of 5,779.65 feet, a central angle of $17^{\circ}08'27''$, a chord bearing of South $54^{\circ}49'15''$ West and a distance of 1,722.64 feet for an arc distance of 1,729.08 feet,
32) South $63^{\circ}23'16''$ West 502.10 feet,
33) South $53^{\circ}55'31''$ West 304.14 feet, said last mentioned course at a distance of 302.4 feet passes through a found vertical T-rail with a cross cut in the top,
34) South $63^{\circ}23'16''$ West 508.69 feet,
35) along a curve to the left having a radius of 3,719.83 feet, a central angle of $15^{\circ}06'35''$, a chord bearing of South $55^{\circ}49'40''$ West and a distance of 978.13 feet for an arc distance of 980.97 feet,
36) South $48^{\circ}16'41''$ West 484.00 feet,
37) South $62^{\circ}18'51''$ West 206.16 feet,
38) South $48^{\circ}16'41''$ West 900.00 feet, to a found vertical T-rail monument with an "X" cut on the top,
39) South $41^{\circ}09'11''$ West 201.56 feet,
40) South $48^{\circ}16'41''$ West 1,478.00 feet,
41) South $53^{\circ}36'05''$ West 538.20 feet, crossing the line between the Town of Hurley and the Town of Olive, said last mentioned course at a distance of 0.5 feet passes through a found vertical T-rail monument with an "X" cut on the top,
42) on a curve to the right having a radius of 5,779.65 feet, a delta of $9^{\circ}16'01''$, a chord bearing of South $58^{\circ}14'07''$ West and a distance of 933.77 feet for an arc distance of 934.79 feet, said last mentioned course at a distance of 0.8 feet passes through a found vertical T-rail with an "X" cut on top,
43) South $54^{\circ}09'39''$ West 165.20 to a found vertical T-rail monument with an "X" cut on the top,
44) South $62^{\circ}51'54''$ West 300.00 feet, to a found vertical T-rail monument with an "X" cut on the top,
45) South $69^{\circ}59'52''$ West 201.50 feet,
46) South $62^{\circ}51'52''$ West 1,900.06 feet to a found vertical T-rail monument with an "X" cut on the top, said last mentioned course at a distance of 1.4 feet passes through a found vertical T-rail monument with an "X" cut on the top,
47) South $55^{\circ}44'24''$ West 201.56 feet,
48) South $62^{\circ}51'54''$ West 800.00 feet,
49) South $72^{\circ}47'28''$ West 203.04 feet,
50) South $62^{\circ}51'54''$ West 2,000.00 feet, said last mentioned course at a distance of 0.7 feet passes through a found vertical T-rail monument with an "X" cut on the top,
51) South $60^{\circ}00'09''$ West 400.50 feet, said last mentioned course at a distance of 1.1 feet passes through a found vertical T-rail monument with an "X" cut on top,
52) South $62^{\circ}51'54''$ West 600.00 feet,
53) South $66^{\circ}40'44''$ West 300.67 feet, said last mentioned course at a distance of 1.25 passes through a found vertical T-rail monument with a "X" cut on the top,
54) South $62^{\circ}51'54''$ West 1,700.00 feet,

- 55) South 57°09'16" West 201.00 feet,
56) South 62°51'54" West 1,240.30 feet,

- 57) South 43°22'11" West 172.94 feet, said last mentioned course of a distance of 1.1 feet passes through a vertical T-rail monument with an "X" cut in the top,
58) on a curve to the right having a radius of 5,849.65 feet, a central angle of 19°00'00", a chord bearing of South 73°57'57" West and a distance of 1,930.94 feet for an arc distance of 1,939.82 feet, said last mentioned curve at a distance of 1.8 feet passes through a found vertical T-rail monument with an "X" cut in the top,
59) North 87°34'12" West 307.81 feet, said last mentioned course at a distances of 1.1 feet and 305.2 feet passes through a found vertical T-rail monument with a "X" cut on top,
60) on a curve to the right having a radius of 5,809.65 feet, a central angle of 27°59'17", a chord bearing of North 79°32'25" West and a distance of 2,809.78 feet for an arc distance of 2,837.91 feet,
61) North 65°33'04" West 5,401.20 feet,
62) North 78°54'41" West 411.13 feet,
63) North 65°33'04" West 215.73 feet,
64) along a curve to the right having a radius of 3,039.93 feet, a central angle of 03°41'10", a chord bearing of North 63°41'55" West and a distance of 195.53 feet for an arc distance of 195.57 feet,
65) North 26°49'12" West 209.29 feet,
66) along a curve to the right having a radius of 1,975.80 feet, a central angle of 17°44'35", a chord bearing of North 55°01'10" West and a distance of 609.41 feet for an arc distance of 611.85 feet,
67) North 44°58'49" West 240.72 feet,
68) North 44°17'53" West 505.69 feet
69) along a curve to the right having a radius of 1,300.41 feet, a central angle of 18°13'51", a chord bearing of North 35°23'28" West and a distance of 412.03 feet for an arc distance of 413.78 feet,
70) North 48°45'56" West 114.10 feet,
71) along a curve to the right having a radius of 1,552.68 feet, a central angle of 10°42'07", a chord bearing of North 23°38'34" West and a distance of 289.60 feet for an arc distance of 290.02 feet,
72) North 18°18'53" West 466.85 feet,
73) along a curve to the left having a radius of 1,312.69 feet, a central angle of 27°25'19", a chord bearing of North 32°03'00" West and a distance of 622.28 feet for an arc distance of 628.26 feet,
74) North 35°36'44" West 284.43 feet,
75) North 45°44'13" West 700.00 feet,
76) North 44°15'47" East 10.00 feet,
77) North 45°44'13" West 467.92 feet,
78) along a curve to the right having a radius of 2,924.93 feet, a central angle of 24°55'32", a chord bearing of North 33°15'31" West and a distance of 1,262.44 feet for an arc distance of 1,272.45 feet,
79) North 28°46'40" West 288.59 feet,
80) North 20°48'38" West 800.00 feet,
81) North 13°41'08" West 201.56 feet,
82) North 20°48'38" West 1,092.02 feet,
83) North 12°15'07" West 213.41 feet,
84) along a curve to the right having a radius of 3,324.17 feet, a central angle of 15°16'24", a chord bearing of North 09°31'10" West and a distance of 883.50 feet for an distance of 886.12 feet,



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85) crossing the aforementioned Esopus Creek, North $03^{\circ}54'52''$ East 2,271.34 feet to the point of beginning.

CONTAINING Two hundred thirty and forty-one hundredths (230.41) acres.

BEARINGS are with reference to Grid North, New York East Zone, distances are referenced to horizontal ground, to obtain grid distances divide by a scale factor of 0.99988795375.

SUBJECT to overhead utility line easements as they now exist.

SUBJECT to all legally enforceable covenants, easements, restrictions, conditions and agreements of record.

SUBJECT to any right, title and interest the public and the City of New York may have in and to that portion of N.Y.S. Route 28A that is used for highway purposes.

SUBJECT to any right, title and interest the public and the City of New York may have in and to that portion of Reservoir Road that is used for highway purposes.

SUBJECT to the rights of the City of New York to access their lands over the existing woods roads crossing said trail easement.

SUBJECT to a Permanent Highway Easement for New York State Route 28 as shown on State Highway 47-5 map number 40 parcel 47 being bounded and described as follows;

BEGINNING at a point on the north boundary of the herein described rail trail easement distant 777.37 feet on a course of North $62^{\circ}51'54''$ East, along the north boundary of said trail easement from the terminus of course number 74 of said easement and runs thence along said north boundary North $62^{\circ}51'54''$ East 2522.63 feet;

thence continuing along said boundary North $78^{\circ}30'26''$ East 177.18 feet;

thence through said trail easement South $62^{\circ}39'33''$ West 2534.56 feet and South $82^{\circ}34'50''$ West 168.59 feet to the point of beginning.

SUBJECT to a permanent highway easement for New York State Route 28 as shown on State Highway 47-5 map 39 parcel 46 being bounded and described as follows;

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BEGINNING at a point in the north boundary of the herein described rail trail easement at the terminus of course number 88 and runs thence along the north boundary of said rail trail easement the following four courses and distances:

- 1) North $41^{\circ}50'42''$ East 696.68 feet,
- 2) On a curve to the right having a radius of 5579.65 feet a central angle of $01^{\circ}09'44''$ a chord of North $46^{\circ}49'53''$ East 113.16 feet for an arc distance of 113.16 feet,
- 3) North $46^{\circ}14'50''$ East 1133.49 feet and
- 4) On a curve to the right having a radius of 3969.83 feet a central angle of $49^{\circ}28'58''$ a chord of North $49^{\circ}28'58''$ East a distance of 448.75 feet for an arc distance of 448.99 feet;

thence through said rail trail easement the following two courses and distances:

- 1) South $46^{\circ}20'29''$ West 1060.05 feet and
- 2) South $45^{\circ}00'31''$ West 1329.57 feet to the point of beginning.

SUBJECT TO a permanent highway drainage easement for New York State Route 28 as shown on State Highway 47-5 map 38 parcel 45 being bounded and described as follows;

BEGINNING at a point in the north boundary of the herein described rail trail easement distant 151.26 feet along said rail trail boundary from the terminus of course number 52 of the herein described rail trail and runs thence along the north boundary of said rail trail easement North $80^{\circ}10'35''$ East 100.52 feet thence running through the herein described rail trail easement the following three courses and distances:

- 1) South $08^{\circ}41'01''$ East 9.00 feet,
- 2) South $63^{\circ}39'58''$ West 115.43 feet and
- 3) North $04^{\circ}03'42''$ East 43.06 feet to the point of beginning

BEING a portion of the premises described in agreement between the Ulster and Delaware Railroad Company and The City of New York dated June 15th 1911 and filed in the Ulster County Clerk's Office in Liber 443 of deeds at Page 59.