

OPTION TO PURCHASE

On this 8th day of July, 2011 the undersigned **Raymond E. Banks, of 38 Buzzell Hill Road in the Town of Weare, New Hampshire 03281, as Trustee of Alma Shmid Revocable Trust, executed on December 12, 2000** (the "Seller") for consideration of the payment of good and valuable consideration paid by **The Russell Piscataquog River Watershed Foundation**, a New Hampshire non-profit corporation having a principal place of business at P.O. Box 206, New Boston, New Hampshire 03070 (the "Buyer"), the receipt and sufficiency of which is hereby acknowledged by Seller, hereby grants to the Buyer the option to purchase 129.8 acres of land with all improvements and permits associated with, on the south side of East Road, in the Town of Weare, State of New Hampshire, 03281 (the "Land"). This land is part of existing tax lots 203/93, 203/93.1 and 408/123 and is further described in "*Lot Line Adjustment & Subdivision Plan, Dahlberg Land Services, Inc. and dated December 6, 2010*" as 408-123, 129.8 acres. Attached hereto as Schedule A is a color-coded portion of the said Plan. The yellow highlighted perimeter depicts the 129.8 acre parcel comprising the Land, the green highlighted parcel is to be annexed to be part of the said 129.8 acre parcel, and the orange highlighted parcel is to be retained by the Seller.

NOW, THEREFORE, for good and valuable consideration and for the mutual covenants contained herein, the parties hereby agree as follows:

1. **GRANT OF OPTION.** For the sum of Five Hundred Dollars (\$500) the Seller grants to the Buyer the exclusive right and Option ("Option") to purchase the Land (in its entirety, and not less than its entirety) upon the terms and conditions as set forth herein. The Option Term begins on the date of this agreement and expires on March 31, 2013.
2. **EXERCISE OF OPTION.** The Buyer may exercise its exclusive right to purchase the Land pursuant to the Option, at any time during the Option Term, by giving written notice thereof to the Seller, or in the alternative, by making payment of the balance of the Purchase Price. The Buyer also has full right to assign this Option, in part or whole, to a qualified conservation organization (sometimes referred to herein as a "land trust") and/or the Town of Weare. The Buyer has expressed its expectation that it shall assign its rights under this contract in part to the Town of Weare and in part to a qualified conservation organization, who, collectively, will become the buyer and complete the purchase of the Land (in its entirety, and not less than its entirety); some of which will be for Open Space uses and some of which will be excavated for aggregate deposits.
3. **DUE DILIGENCE of Buyer.** The Buyer will commence promptly following the date of this Option Agreement to take all necessary and appropriate action so that within three hundred days (300) of signing of this Option Agreement (hereinafter referred to as the "due diligence period"), the Buyer shall complete the following Due Diligence tasks and objectives at its own expense:

- (a) Inspection of the Conservation Land Area, including but not limited to, title search, environmental review, hazardous waste inspection, aggregate evaluation and testing, timber assessment;
- (b) Successful support, as demonstrated by affirmative vote(s), from appropriate Town of Weare boards needed to accept the assignment of the appropriate rights under this contract;
- (c) Successful support, as demonstrated by board vote, and from a land trust/qualified conservation organization; as may be applicable; and
- (d) Obtain the specific written and binding commitment of a qualified conservation organization(s) that will purchase specific rights to the land (i.e., conservation easements) on approximately 120 acres of land, establish a purchase price allocation as between the qualified conservation organization, agreed to by said qualified conservation organization, and tentatively accepted by the Town of Weare, subject to all final approvals required.

During the due diligence period, the Buyer shall have the duty to keep the Seller reasonably apprised of the Buyer's progress in pursuing its due diligence tasks and objectives; including (without limitation) periodic status reports on the Town of Weare's interest and support for this entire transaction and the commitments of the qualified conservation organization(s) being solicited to participate in this transaction.

- 4. DUE DILIGENCE of Seller. From the date of this agreement, the Seller will cooperate with the Buyer such that within three hundred days (300) of the signing of this Option Agreement, the parties can complete the following tasks (the costs of which will be borne by the Buyer)
 - (a) Completion of Lot Line Adjustment and Subdivision, as proposed in:
"Lot Line Adjustment & Subdivision Plan, Dahlberg Land Services, Inc. and dated December 6, 2010;"
 - (b) Approval of Variance needed to complete Subdivision, as proposed in:
"Lot Line Adjustment & Subdivision Plan, Dahlberg Land Services, Inc. and dated December 6, 2010;"
 - (c) Completion of boundary survey of Land and existing gravel pit permit boundary limits; and
 - (e) Preparation of all documents necessary for transfer of state gravel permit to town of Weare.

With regard to these tasks, the Buyer is authorized to act on behalf of the Seller in working with the surveyor, Town personnel, and members of the various Town boards and committees.

5. PURCHASE OF OPTION & SALE OF LAND. For the sum of Five Hundred Dollars (\$500) paid to the Seller herewith, the Buyer (or its assigns) shall have the option to purchase the Land with all improvements and permits associated with in accordance with the following terms and conditions:

Purchase Price. The Purchase Price for the Land and all improvements and permits associated with, shall be Six Hundred Thousand Dollars (\$600,000) with the Option Contract deposit, of

Five Hundred Dollars \$500, credited toward Purchase Price: these funds will be obtained through municipal conservation funding from the Town of Weare Conservation Commission Land Use Change Tax Fund; a municipal bond measure; and other appropriate public and private sources. The Buyer's obligation to close under this agreement, should it elect to exercise its option under this agreement is contingent upon successful town approval vote of a bond measure at the March 2012 or March 2013 vote, with time being of the essence.

- (a) Closing Date. The Closing Date shall occur within One Hundred and Eighty (180) days of the date of the Buyer's exercise of the Option or upon payment of the balance of the Purchase price to Seller, through securing of Bond purchase, whichever shall first occur.
 - (b) Closing Costs. The Buyer and the Seller shall each bear their respective costs of closing in accordance with standard practice in the State of New Hampshire;
 - (c) Delivery of Deed. At the closing, the Seller or its agent will transfer and deliver title to and possession of the Land to the Buyer, its successor, assignee, or nominee, by a properly executed warranty deed conveying marketable title to the Land, free and clear of all mortgages, liens, attachments, leases, tenancies, or encumbrances of any kind or nature, together with all of the Seller's right, title, and interest in and to any streets, ways, or alleys adjoining or abutting thereon and all permitting and rights associated with active gravel pit on the Land.
 - (d) Assessments. If, at the time of the delivery of the deed, the Land or any part thereof shall be or shall have been affected by an assessment or assessments which are or may become payable in annual installments of which the first installment is then a charge or lien or has been paid, then, for the purposes of this Option, all the unpaid installments of any such assessment, including those which are to become due and payable after the delivery of the deed, shall be deemed to be due and payable and to be liens upon the Land Area and shall be paid and discharged by the Seller upon the delivery of the deed.
 - (e) Default by Buyer; Remedies of Seller. In the event the Buyer elects not to purchase the Land, notwithstanding its exercise of this Option, then the parties agree that the consideration paid shall be deemed reasonable liquidated damages due the Seller and the Buyer shall have no further liability to the Seller or anyone claiming from or under the Seller as a result of said election not to purchase.
6. TERMINATION OF OPTION. This Option shall terminate and be of no further effect without action by any party, upon the failure of Purchaser to exercise the Option on the terms and within the time periods set forth herein. Upon such termination this Agreement shall become absolutely null and void and neither party hereto shall have any other liability, obligation or duty herein under or pursuant to this Agreement. Additionally, the Seller may elect to terminate this agreement, with Buyer approval, which approval shall not be unreasonably withheld, if it appears that during the due diligence period that either the Town of

Weare or a qualified conservation organization have failed, individually or collectively, to show sufficient interest to make the purchase transaction contemplated by this a Option a likely outcome. No such early termination shall occur without the Seller giving the Buyer prior written notice of this problem and a reasonable opportunity to cure the same.

7. PRESERVATION OF PROPERTY. Seller agrees from now until Closing to prevent and refrain from any use of the Land that would adversely affect the Purposes of the proposed purchase for the town of Weare. This does NOT limit Sellers rights and use of gravel operation, as allowed under existing permit. Seller retains all rights, uses, and benefits of gravel operation and it is understood, by both Seller and Buyer, that the gravel operation will continue to operate as a commercial business, as allowed by existing permit, during term of contract.
8. MISCELLANEOUS.
 - (a) Execution by Both Parties. This Option Agreement shall not become effective and binding until fully executed by both the Seller and the Buyer.
 - (b) Notice. All notices, demands and/or consents provided for in this Agreement shall be in writing and shall be delivered to the parties hereto by hand or by United States Mail with postage pre-paid. Such notices shall be deemed to have been served on the date mailed, postage pre-paid.
 - (c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regards to the conflict of law principles thereof.
 - (d) Successors and Assigns. This Agreement shall apply to, inure to the benefit of and be binding upon and enforceable against the parties hereto and their respective heirs, successors, and or assigns.
 - (e) Time. Time is of the essence of this Agreement.
 - (f) Entire Agreement. This Agreement contains all of the terms, promises, covenants, conditions and representations made or entered into by or between the Seller and the Buyer and supersedes all prior discussions and agreements whether written or oral between such parties with respect to the Option and all other matters contained herein and constitutes the sole and entire agreement between the Seller and the Buyer with respect thereto. This Agreement may not be modified or amended unless such amendment is set forth in writing and executed by the Seller and the Buyer with the formalities hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under proper authority on the date first written above:

WITNESS:

The Russell Piscataquog River Watershed
Foundation

Barbara M Russell

By:

Gordon A. Russell
Gordon A. Russell, President

Barbara M Russell

By:

Ian B. McSweeney
Ian B. McSweeney, Director

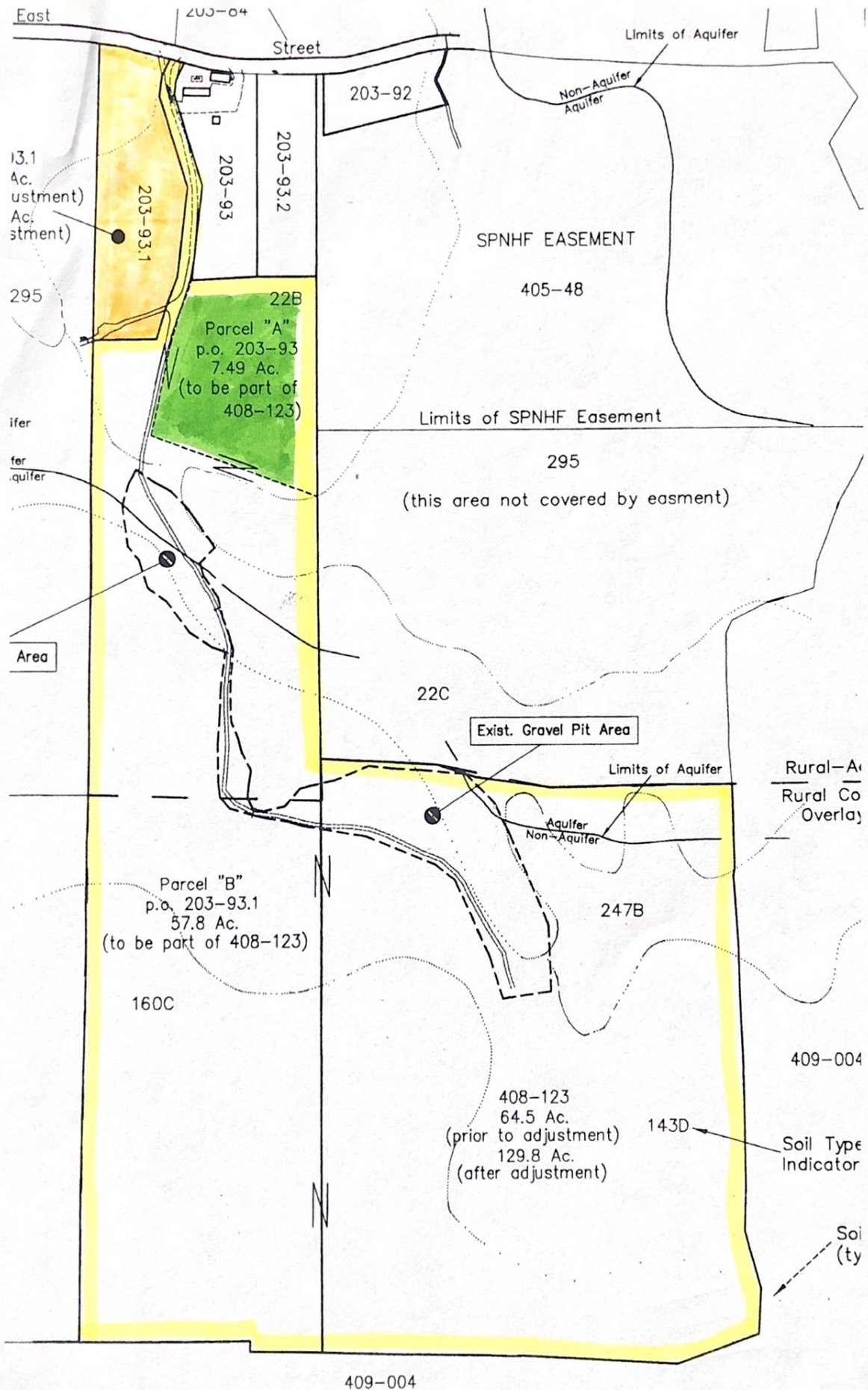
WITNESS:

The Alma Shmid Revocable Trust

Raymond E Banks
7/8/11

By:

Raymond E Banks
Raymond E. Banks, Trustee



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