

TRAIL EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this _____ day of _____, 20____ by and between _____ and _____ (hereinafter referred to as "Owner(s) of Parcel") of _____ and the **TOWN OF DRYDEN** (hereinafter referred to as "Town"), a municipal corporation of the State of New York, with offices at 93 East Main Street, Dryden, New York 13053.

WHEREAS, Owner(s) of Parcel are the owners in fee simple of certain real property (hereinafter referred to as the "Parcel") consisting of approximately _____ acres on _____ Road in the Town of Dryden, Tompkins County, State of New York, currently designated as tax parcel number _____, as more particularly described in a deed dated _____, and recorded _____ in Liber _____ of Deeds at page _____ in the Tompkins County Clerk's Office, and shown on a survey map entitled "_____, Town of Dryden, Tompkins County, New York" prepared by _____, dated _____ and filed in the Tompkins County Clerk's Office on _____ as _____; and

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

WHEREAS, Town desires to create a recreational trail (the "Trail") for non-vehicular use by the public within a certain abandoned railroad property, as more fully set forth in an instrument dated April 12, 1982, and recorded April 19, 1982 in Liber 588 of Deeds at page 546 in the Tompkins County Clerk's Office, a portion of which crosses the Parcel, which Trail is intended to enhance local and regional hiking, bicycling and recreational opportunities for the general public by providing an attractive and scenic section of a local trail; and

WHEREAS, Owner(s) of Parcel desire to grant to Town an easement across that portion of the Parcel consisting of said abandoned railroad property (the "Easement Area") as shown on the above-referenced survey map, for Town to improve and/or maintain the Trail, and Town desires to accept said easement; and

WHEREAS, currently the same Easement Area is subject to a permanent easement granted to the Town for the installation and maintenance of sewer and water lines and other public utility purposes as more particularly set forth in an instrument dated April 20, 1982, and recorded April 21, 1982 in Liber 588 of Deeds at page 630 in the Tompkins County Clerk's Office;

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

1. Grant of Easement to Town for Trail: Owner(s) of Parcel hereby grant, transfer, and convey to Town, for the benefit of the public.
 - a. A perpetual easement and right-of-way for non-vehicular ingress, egress, and access by the public over and across the Easement Area.
 - b. A perpetual easement and right-of-way for vehicular and non-vehicular ingress, egress, and access by Town for construction, maintenance and emergencies over and across the Easement Area.
2. Purposes, Conditions, Restrictions, Reserved Rights.
 - a. The easement to Town for the Trail is established for recreational and commuting trail purposes, such as, but not limited to, walking, running, skiing, snowshoeing, bicycling, horseback riding, bird watching, nature study, and the use of electric-assist bicycles and power-driven mobility devices by persons who have mobility impairments.
 - b. The Trail may be located anywhere within the Easement Area, at the Town's sole discretion, and may be indicated by standard markings, including within the Parcel.
 - c. Owner(s) of Parcel have the same rights accorded to the general public for use of the Trail.
 - d. Owner(s) of Parcel may remove or exclude from the Parcel any Persons who are (i) in locations other than the Trail or Trail facilities or (ii) engaged in non-permitted Trail uses.
 - e. Owner(s) of Parcel must not construct, install or maintain any facility or improvement within the Easement Area that is incompatible with the purposes of the Trail described above in 2.a., and/or that impedes public use of the Trail, and/or that is inconsistent with the existing Town easement for sewer and water lines in the same Easement Area.
 - f. Town may mow, trim brush and branches, grade and improve the Easement Area, including the application of gravel, crushed stone, cinders, stone dust and/or asphalt; the construction, installation, repair and/or replacement of bridges, culverts, pipes, railings, fences, gates, barriers to control access, vegetative screening, and interpretive signs. All costs of maintenance of the Trail and/or the Easement Area will be borne by Town except to the extent necessary to repair damage caused by Owner(s) of Parcel.
 - g. Installation and maintenance by Town of the following Special Trail Facilities require prior written consent of Owner(s) of Parcel: Parking areas (at roadway intersections), kiosks, bicycle racks, picnic tables and benches. Special Trail Facilities to be installed by Town and agreed to by

Owner(s) of Parcel as of the Easement Date are listed in Schedule A (if any) attached to this document entitled "Special Conditions to Trail Easement."

- h. No person is permitted to charge a fee for access to the Trail or use of Trail facilities.
 - i. Right to Suspend Trail Use. Town or its designee, in its sole discretion, shall have the right to suspend public use of the Easement Area from time to time.
 - j. The special conditions, if any, attached hereto in Schedule A are made a part of this instrument as if more fully set forth herein.
3. Easement Runs with Land, Successors and Assigns. This easement shall bind and run with title to the Parcel forever, and shall inure to the benefit of Town and Town's successors and assigns; provided, however, that any successor or assignee of the Town must be a federal, state or local government corporation or a Not-For-Profit Corporation qualified under the laws of New York State to hold such easements; and further provided that Town may terminate this Easement as provided under Paragraph 5 below.
4. Hold Harmless, Indemnification of Owner(s) of Parcel. Town agrees to defend, indemnify and hold harmless Owner(s) of Parcel from any claims, suits, actions or proceedings for any cause of action arising out of any negligent act or omissions of Town with respect to the easement herein granted, and from any claims, suits, actions or proceedings for any cause of action claimed or brought by any person using the Easement Area, except for intentional or negligent acts of Owner(s) of Parcel.
5. Termination/Modification. In the event that Town determines that the Easement Area is no longer needed or desirable across the Parcel, Town may terminate said easement by written instrument duly signed by Town and acknowledged, and recorded in the Tompkins County Clerk's Office. This Easement may only be modified or amended by written instrument executed by the parties (or their successors in interest) and recorded in the Tompkins County Clerk's Office.
6. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of New York.
7. Dispute Resolution. It is possible that in the future the parties may have disagreements with one another concerning the interpretation of this Easement Agreement, or concerning modification of provisions of this Easement Agreement. Notwithstanding this, the parties wish to not resort to litigation before reasonable non-court alternatives have first been attempted. The parties agree, therefore, to try to resolve any disputes that may arise in the future as set forth below, except in the case of urgent or emergency situations which would reasonably prevent such resolutions or make them impracticable:

- a. As a first step in resolving future differences, if any, the parties first will attempt in good faith to confer with one another orally.
- b. If speaking with one another is unsuccessful, then as the second step the parties will try to achieve resolution in writing, with each of them to present to the other a proposed modification to and/or implementation of this easement agreement.
- c. If there is no resolution at the end of the second step, as a third step the parties agree to participate in mediation or Collaborative Law negotiations to resolve the dispute. Both parties agree to participate in mediation or Collaborative Law negotiations in good faith and to attend at least three mediation or negotiation sessions prior to resorting to litigation.
- d. If there is no resolution at the third step, either party may commence contested court proceedings. It is the intent and commitment of the parties to make diligent efforts to avoid court proceedings and resolve disputes by agreement.

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

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

Town of Dryden

_____ By: _____
 _____ **JASON M. LEIFER,**
TOWN SUPERVISOR

STATE OF NEW YORK)
 COUNTY OF TOMPKINS) ss.:

On the _____ day of _____ in the year 20____ before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the persons upon behalf of

whom the individuals acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF TOMPKINS) ss.:

On the ____ day of _____ in the year 20____ before me, the undersigned, a Notary Public in and for said State, personally appeared **JASON M. LEIFER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the persons upon behalf of whom the individuals acted, executed the instrument.

Notary Public

Schedule A

Special Conditions to Trail Easement

Special Trail Facilities to be installed by Town and agreed to by Owner(s) of Parcel: