

## **GRANT OF DEVELOPMENT RIGHTS, CONSERVATION RESTRICTIONS, and PUBLIC ACCESS EASEMENT**

KNOW ALL PERSONS BY THESE PRESENTS that **THE TRUST FOR PUBLIC LAND**, a non-profit corporation organized under the laws of the State of California authorized to do business in Vermont as The Trust for Public Land, Inc., with a place of business in Montpelier, Washington County, Vermont, on behalf of itself and its successors and assigns (hereinafter "Grantor"), pursuant to Title 10 V.S.A. Chapters 34 and 155 and in consideration of the payment of Ten Dollars and other valuable consideration paid to its full satisfaction, does freely give, grant, sell, convey and confirm unto the **VERMONT LAND TRUST, INC.**, a non-profit corporation organized under the laws of the State of Vermont, with its principal offices in Montpelier, Vermont, and the **VERMONT HOUSING AND CONSERVATION BOARD**, a public instrumentality of the State of Vermont with its offices in Montpelier, Vermont, and their respective successors and assigns (collectively known hereinafter as the "Grantees") as tenants in common, forever, the development rights, perpetual conservation easement restrictions, public access easement and easement for monitoring access (all as more particularly set forth below) in a certain tract of land (hereinafter "Protected Property") situated in the Town of Williston, Chittenden County, State of Vermont, the Protected Property being more particularly described in Schedule A attached hereto and incorporated herein, but this conveyance shall become effective only upon the conveyance by Grantor to the Town of Williston Vermont, of the underlying fee interest in the Protected Property.

The development rights hereby conveyed to Grantees shall include all development rights except those specifically reserved by Grantor herein and those reasonably required to carry out the permitted uses of the Protected Property as herein described. The development rights, perpetual conservation easement restrictions, and public access easement hereby conveyed to Grantees consist of covenants on the part of Grantor to do or refrain from doing, severally and collectively, the various acts set forth below. It is hereby acknowledged that the development rights, perpetual conservation easement restrictions, public access easement and easement for monitoring access shall constitute a servitude upon and shall run with the land, but only upon the Protected Property's conveyance to the Town of Williston, Vermont, as aforesaid.

### **I. Purposes of this Grant and Management Plan**

#### A. Statement of Purposes

1. Grantor and Grantees acknowledge the objective of ensuring the availability of the Protected Property for public use and enjoyment, including, but not limited to, educational, recreational and other appropriate community activities and, to that end, the purposes of this Grant (hereinafter referred to as "the Purposes of this Grant") are as follows:
  - a. To conserve productive forestland, wildlife habitats, biological diversity, natural

communities, riparian buffers, wetlands, soil productivity, water quality and native flora and fauna on the Protected Property and the ecological processes that sustain these natural resource values as they exist on the date of this instrument and as they may evolve in the future;

- b. To provide for non-motorized, non-commercial recreational, educational and other appropriate community uses on the Protected Property;
- c. To conserve open space values, and scenic resources associated with the Protected Property for present and future generations; and
- d. To require that management of the Protected Property be guided by a public management planning process.

2. Recognizing that conservation of productive forestland is included in the purposes of this Grant, and that both the resource values of the Protected Property and responsible forest management standards will evolve over time, the forest management objectives of this Grant are to:

- a. Manage forest stands for long rotations which maximize the opportunity for the production of maple sap and/or for harvesting, sustained over time, high quality sawlogs while maintaining a healthy and biologically diverse forest. Grantor and Grantees acknowledge that site limitations, biological factors and public uses may preclude the production of high quality sawlogs, and further that the production of a variety of forest products can be consistent with the goal of producing high quality sawlogs and/or maple sap.
- b. Conduct all sugaring and/or forest management and harvesting activities (including the establishment, maintenance, and reclamation of log landings and skid roads) using the best available management practices in order to prevent soil erosion and to protect water quality.

3. To promote that the Protected Property will be owned in perpetuity by the State of Vermont, a municipality, or other qualified organization, as defined in Chapter 34 or Chapter 155, Title 10 V.S.A.; or such other entity approved by the Grantees.

4. These purposes will be advanced by conserving the Protected Property because it possesses the following attributes:

- a. it is predominantly forested and is available for long-term sustainable management for the production of forest products;
- b. it has 1,502 feet of frontage on Governor Chittenden Road, a public highway with scenic vistas;

- c. it has 18 acres of prime agricultural soils and 176 acres of statewide agricultural soils;
- d. it is traversed by 3,870 feet of streams, including headwater tributaries of the Winooski River that, with wooded buffers and natural flow, provide an array of ecological benefits including maintaining water quality and providing corridors for species movement;
- e. it has open, shrub, and forested wetlands, including areas of beaver-influenced Cattail Marsh and Shallow Emergent Marsh, and seepage wetlands including seepage forest and a Hemlock-Balsam Fir-Black Ash Seepage Swamp;
- f. it has a vernal pool, an uncommon natural community in Vermont, providing high-quality amphibian breeding habitat;
- g. it has additional wetland, upland, and riparian habitat for wildlife;
- h. it is suitable for numerous recreational, cultural, and educational uses, including approximately 20 miles of trails, approximately 2.5 miles of said trails are ADA accessible; and,
- i. it is adjacent to the University of Vermont's 83-acre Talcott Forest.

Grantor and Grantees recognize the Purposes of this Grant and share the common goal of conserving these values of the Protected Property by the conveyance of conservation restrictions, development rights and public access easement to prevent the use or development of the Protected Property for any purpose or in any manner which would conflict with the Purposes of this Grant. Grantees accept such conservation restrictions, development rights and public access easement in order to conserve these values for present and future generations.

B. Management Plans.

Grantor will, from time-to-time develop comprehensive management plans, including updates, revisions and amendments, for the Protected Property (hereinafter "Management Plans"). The Management Plans shall:

1. Provide for the use and management of the Protected Property in a fashion which is consistent with and advances the Purposes of this Grant; and
2. At a minimum, the Management Plans shall include the provisions required under this Grant, identify actions necessary to accomplish the following and shall appropriately

balance all the resource attributes of and human uses for the Protected Property, and shall:

- a. identify the objectives for the community forest;
- b. provide for the permitted uses as set forth in Section III below, and reasonable regulation of those of such uses set forth in Section III(1) – (11) below, including identifying and addressing the management needs of those recreational uses that may need special or more intensive management focus;
- c. provide for public access and meaningful recreational links to private and public lands;
- d. include a forest management plan approved by Grantees in accordance with Section I(C), below, if the Grantor proposes to harvest timber or commercial non-timber forest products;
- e. provide a plan for road, sign, trail and sanitary facility use that has minimal impact on water quality and plant, wildlife and aquatic habitat resources and historic and cultural features;
- f. provide for the sustainable use of fish and wildlife resources;
- g. provide for the identification and protection of natural communities, plant, wildlife and aquatic habitat and other ecologically sensitive or important areas;
- h. provide for use by the University of Vermont and local school outdoor educational programs;
- i. provide for the construction and use of any minor recreational structures and any other structures permitted under this Grant;
- j. provide, as necessary, for any proposed use of the Vernal Pool Ecological Protection Zone, Wetland Protection Zone and Riparian Buffer Zone consistent with Sections V, VI and VII, below;
- k. Include or allow for a license or management agreement approved by Grantees in accordance with Section III(10) below, if the Grantor proposes to have all or some of the permitted uses described in Section III conducted, operated or managed by a qualified holder or qualified organization or other non-profit entity; and

3. Otherwise be consistent with this Grant.

Prior to the final adoption of each Management Plan, including updates, revisions and amendments, Grantor shall, in consultation with Grantees: (a) secure appropriate public input from the general public, (b) develop the Management Plans in a timely and responsive manner, and (c) provide Grantees with a draft of each such Management Plan for its review and approval prior to adoption as well as a copy of each final adopted Management Plan. Grantees' approval of the Management Plans shall not be unreasonably withheld or conditioned if such Plans are consistent with the terms of this Grant.

C. Forest Management Plan.

Grantor shall not harvest timber, wood products, commercial non-timber forest products, or establish and operate a maple sugaring operation without first developing a forest management plan. Said forest management plan and any updates, amendments or other changes thereto (collectively "the Forestry Plan") shall be submitted to Grantees for their approval prior to any forest management activity. Grantees' approval of the Forestry Plan shall not be unreasonably withheld or conditioned, if the Forestry Plan has been approved by a professional forester and if the Forestry Plan is consistent with the Purposes of this Grant. Grantees may rely upon the advice and recommendations of such foresters, wildlife experts, conservation biologists or other experts as Grantees may select to determine whether the Forestry Plan is consistent with the Purposes of this Grant. The Forestry Plan shall be consistent with the Purposes of this Grant and shall include at least the following elements (except that those elements of the Forestry Plan which do not change need not be re-submitted in updates or amendments to the Forestry Plan):

1. Grantor's forest management objectives;
2. An appropriately scaled, accurate map indicating such items as forest stands, streams and wetlands, and major access routes (truck roads, landings and major skid trails);
3. Forest stand ("treatment unit") descriptions (forest types, stocking levels before and after harvesting, soils, topography, stand quality, site class, insect and disease occurrence, previous management history, and prescribed silvicultural treatment including harvest schedules);
4. Description of any sugaring operation, including how management will account for impacts on species diversity and ecosystem health, and impacts on wildlife movement and public access;
5. Plant and wildlife considerations (identification of known significant habitats and management recommendations);
6. Aesthetic and recreational considerations (impact on viewsheds from public

roads, trails and places);

7. Historic and cultural resource considerations (identification of known resources and associated management recommendations);
8. Management practices to be applied within Riparian Buffer Zones, established in Section VII below, which may include but are not limited to shading, accumulation of coarse woody debris, harvest timing, water crossings and erosion controls;
9. Management practices to be applied within the Vernal Pool EPZ, established in Section V, which may include but are not limited to shading, accumulation of coarse woody debris, harvest timing, water crossings and erosion controls;
10. If applicable, management practices to be applied within the WPZ in accordance with the goals and requirements of Section VI below; and

The Forestry Plan shall be updated at least once every ten (10) years (or at such other intervals as Grantor and Grantees may mutually agree) if Grantor intends to harvest timber or other wood products. Amendments to the Forestry Plan shall be required in the event that Grantor proposes a treatment not included in the Forestry Plan, but no such amendment shall be required for any change in timing or sequence of treatments if such change does not vary more than five years from the prescription schedule set forth in the Forestry Plan as approved by Grantees. In the event that any treatment unit is substantially damaged by natural causes such as insect infestation, disease, ice, fire, or wind, Grantor may elect to conduct an alternative treatment in which event Grantor shall submit an amendment to the Forestry Plan for Grantees' approval prior to conducting any alternative treatment.

Disapproval by Grantees of a Forestry Plan proposing a heavy cut (as defined below) shall not be deemed unreasonable. Grantees, however, may approve a Forestry Plan or an amendment thereto proposing a heavy cut in its discretion if consistent with the Purposes of this Grant, including for the following purposes:

1. To release an established understory;
2. To permit the planting of different species of trees or the establishment or re-establishment of a field, orchard, or pasture;
3. Wildlife management; or
4. To promote natural regeneration.

"Heavy cut" shall mean the harvesting of wood products below the "C-Line" or minimum stocking level on the Protected Property as determined by applying the protocol set forth in the current U.S. Department of Agriculture, Forest Service Silvicultural Guidelines for the Northeast or by applying a similar, successor standard approved by Grantees.

## **II. Restricted Uses of the Protected Property**

1. The Protected Property shall be used for educational, forestry, non-motorized, non-commercial recreation, habitat conservation, natural area, and open space purposes only, except as otherwise specifically permitted under this Grant. Agricultural activities are permitted on that portion of the Protected Property in an existing cleared state. Agricultural activities on the forested portion of the Protected Property may occur only with the prior written approval of the Grantees which may be given, denied or conditioned in Grantees' sole discretion. No residential, industrial or mining activities shall be permitted. No commercial activities shall be permitted except as otherwise permitted under this Grant. No buildings, structures, or appurtenant facility or improvements shall be constructed, created, erected or moved onto the Protected Property, except as specifically permitted in both Section III below and the Management Plans.

2. No rights-of-way, easements of ingress or egress, driveways, roads, or utility lines or easements shall be constructed, developed or maintained into, on, over, under, or across the Protected Property without the prior written permission of Grantees, except as otherwise specifically permitted under this Grant, and as appear of record prior to the date of this Grant. Grantees may grant such permission (with or without conditions) if in their reasonable discretion they determine that any such easement or improvement is consistent with the Purposes of this Grant. Grantor shall not convey use restrictions on, the Protected Property without the prior written permission of the Grantees which shall not be unreasonably withheld or conditioned if consistent with the Purposes of this Grant and the restrictions herein.

3. Except as allowed under Section III below, there shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Protected Property; provided, however, that Grantor may erect and maintain reasonable signs including but not limited to signs indicating that the Protected Property was conserved with the assistance of The Trust for Public Land, the name of the Protected Property and its ownership by Grantor, boundary markers, directional signs, memorial plaques, informational and interpretive signs, and signs limiting access or use (subject to the limitations of Section IV, below). Grantees may erect and maintain signs designating the Protected Property as land under the protection of Grantees, with the prior written permission of Grantor.

4. The placement, collection or storage of trash, human, hazardous or toxic waste, or any other unsightly, harmful or offensive material on the Protected Property shall not be permitted except at such locations, if any, and in such a manner as shall be approved in advance in writing by Grantees and shall be consistent with the Grant and the Management Plans. The temporary storage of trash generated on the Protected Property in receptacles for periodic off-site disposal, shall be permitted without such prior written approval.

5. There shall be no disturbance of the surface, including but not limited to filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of the topography of the land in any manner, except as may be reasonably necessary to carry out the uses permitted on the Protected Property under this Grant. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted.

6. Grantor shall not give, grant, sell, convey, subdivide, partition, convey in separate parcels, transfer, mortgage, pledge, lease or otherwise encumber the Protected Property without the prior written approval of Grantees which approval may be granted, denied or conditioned - including the condition that the Protected Property be sold for only nominal consideration - in the Grantees' sole discretion. Grantor's conveyance of the Protected Property to the Town of Willison, Vermont, subject to this Grant, is permitted.

7. There shall be no operation of motor vehicles on the Protected Property except for uses specifically reserved in Section III below, such as agriculture, wildlife and forest management, education, trail construction, grooming and maintenance, and for safety or emergency purposes, and for snowmobiling as provided in Section III(1), below. However, Grantor may permit motorized personal assistive mobility devices for use by persons with mobility disabilities on the Protected Property if consistent with the Purposes of this Grant, and as may be required by 42 U.S.C. §35.137.

8. There shall be no manipulation of natural watercourses, marshes, wetlands or other water bodies, nor shall there be activities conducted on the Protected Property which would be detrimental to water quality, or which could alter natural water level or flow, except as reasonably necessary to carry out the uses permitted on the Protected Property under this Grant. The construction of ponds or reservoirs shall be permitted only upon the prior written approval of Grantees, which approval shall not be unreasonably withheld or conditioned, provided that such pond or reservoir is located in a manner which is consistent with the Purposes of this Grant.

9. No use shall be made of the Protected Property, and no activity thereon shall be permitted which, in the reasonable opinion of Grantees, is not or is not likely to be consistent with the Purposes of this Grant. Grantor and Grantees acknowledge that, in view of the perpetual nature of this Grant, they are unable to foresee all potential future land uses, future technologies, and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Grant. Grantees, therefore, in their sole discretion, may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Grant, or (b) alterations in existing uses or structures, are consistent with the Purposes of this Grant.

### **III. Permitted Uses of the Protected Property.**

Notwithstanding the foregoing, or anything elsewhere in this instrument, Grantor (which shall include, for purposes Section III(12) below, the Grantor in the McCullough Deed as defined in Schedule A hereto), its successors and assigns shall have the right to make the following uses of the Protected Property:

1. The right to use the Protected Property for all types of non-commercial, non-motorized recreational purposes (including, but not limited to, bird-watching, cross-country

skiing, sledding, hiking, hunting, snowshoeing, trapping, walking and wildlife observation) consistent with the Purposes of this Grant and the Management Plans. Use of the Protected Property for snowmobiling, and for non-motorized, mechanized recreation such as mountain biking and by animals capable of transporting humans (including, but not limited to, horses) may be permitted in the discretion of Grantor if such uses are regulated in the Management Plans and are not inconsistent with the Purposes of this Grant and are consistent with Sections V, VI, and VII below. Notwithstanding the foregoing, the right to use all or portions of the existing trail, pathway and roadway network, as it may be improved and/or expanded as provided in Section III(5), below (collectively the "Trail Network"), for non-motorized, mechanized recreation, including mountain biking shall be allowed, provided such use is regulated under the Management Plans to ensure compatibility with other permitted uses and is not inconsistent with the Purposes of this Grant. Retail sales incidental to and in support of permitted uses are permitted, provided they are regulated reasonably under the Management Plans.

2. The right to use and maintain existing unforested areas for agricultural use and to establish, maintain and use fields, orchards and pastures for agricultural uses approved under Section II(1), above, recreational, scenic or open space purposes and/or for the purpose of maintaining or enhancing wildlife habitat, plant habitat or scenic vistas or values on the Protected Property, provided that the initial forest clearing activity required to establish such fields, orchards, pastures, wildlife habitats, plant habitats, and/or scenic vistas is only upon the prior written approval of Grantees, which they may grant—with or without conditions—if they determine, in their sole discretion, that any such use would be consistent with the Purposes of this Grant, is otherwise consistent with the provisions of this Grant, is a component of the Management Plans, and is consistent with Sections V, VI, and VII below.

3. The right to perform forest management activities, including maple-sugaring, the harvest of timber, other wood products and commercial non-timber forest products, provided that:

- a) all such activities are conducted in accordance with an approved Forestry Plan meeting the requirements of Section I above;
- b) all such activities are conducted under the supervision of a professional forester holding a current Vermont forester license, or a forester or other land manager whose education, experience and qualifications are otherwise approved in advance by Grantee (hereinafter "Professional Forester"); and
- c) any maple sugaring operations shall meet or exceed the standards outlined in Sugarbush Management Standards and Tapping Guidelines for Forestland in Use Value Appraisal (adopted in 2014) or successor guidelines as determined by the Grantee.

During any road construction, maintenance or harvesting and skidding of forest products, or activities associated with sugarbush management, Grantor shall at a minimum employ the applicable practices recommended in the publication "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont," a Vermont Department of Forests, Parks and Recreation publication dated October 22, 2016 (hereafter "AMPs"), or such successor standard approved by Grantee.

Nothing in this clause shall be interpreted to require Grantor to harvest a treatment unit (as defined in Section V, below), but only to require that any such harvest be conducted in accordance with the Forest Management Plan or the Amended Forest Management Plan should Grantor elect to harvest.

4. The right to construct, maintain, repair, renovate, replace, enlarge, rebuild, and use sugaring buildings, together with necessary access drives and utilities exclusively for agricultural, silvicultural and educational uses normally associated with a sugaring operation, on the Protected Property; provided, however, that (a) the structures are used exclusively for maple sugaring using maple sap collected on the Protected Property and related educational purposes, and (b) any new construction, other than normal maintenance and repair, has been approved in writing in advance by Grantees. Grantees' approval may include designation of a "complex" (meaning an area or areas of the Protected Property within which certain structures are or shall be grouped together) surrounding the structure and shall not otherwise be unreasonably withheld or conditioned; provided, however, that the structure or other improvement is located in a manner which is consistent with the Purposes of this Grant and is consistent with Sections V, VI, and VII below. Grantor shall not deem unreasonable a condition by Grantees that certain structures must be located within a complex which may be designated in the future as provided in this Section III.

5. The right to maintain, repair, improve and replace the Trail Network, together with the right to clear, construct, repair, improve, maintain and replace new trails, provided that the location, use and construction of such new trails are consistent with the Purposes of this Grant, Sections V, VI, and VII below, and are provided for in the Management Plans.

6. The right to conduct temporary community and public entertainment events and competitions on the Protected Property, including concerts, fairs and celebrations, together with the right to erect tents and other temporary structures for such events, and event and event sponsorship signage and banners; provided that such events shall not result in the clearing of any forested areas and provided further that such events are consistent with the Purposes of this Grant and the Management Plan.

7. The right to use, maintain and repair the existing unpaved parking area depicted as "Gravel Parking" on the Survey (as defined in Schedule A hereto) as well as the right to construct, maintain, repair and use new unpaved parking lots on the Protected Property, including associated access drives and utilities, together with the right to construct improvements normally

associated with a parking lot. Grantor shall first obtain the prior written approval of Grantees for the location and size of such new unpaved parking lots on the Protected Property, which approval shall not be unreasonably withheld nor conditioned, provided that such location and use shall be consistent with the Management Plans and the Purposes of this Grant.

8. The right to construct, maintain, repair and replace (i) temporary "yurt" and similar tent type structures, and (ii) other permanent or temporary structures, drives and utilities reasonably necessary to support the uses permitted by this Grant (including structures of reasonable size and style to support public outdoor recreation and/or public outdoor education and/or agricultural uses allowed under Sections II(1) and III(2), above); provided that such structures comply with the requirements of this Section III(8) and the number, size and location of such structures, drives and utilities are consistent with the Purposes of this Grant, Sections V, VI, and VII below, and are as provided for in the Management Plan.

9. The right to charge members of the public reasonable fees for admission to and use of the Protected Property, provided that such fees are collected only for community and public recreation, education or entertainment programs and events on the Protected Property (including, but not limited to, children's activities, competitions, concerts, fairs and celebrations) or such fees as are reasonably necessary to support Grantor's management of the Protected Property. The right to charge organizations reasonable fees for recreational use of a portion of the Protected Property provided that such use does not unreasonably interfere with the access of the general public to the Protected Property. Fees shall not be based on place of residency. All fees charged for admission to or use of the Protected Property shall be consistent with the Purposes of this Grant, especially that of public access, Sections V, VI, and VII below, and shall be provided for in the Management Plan.

10. The right to authorize the temporary commercial or non-commercial use of the Protected Property for recreational (including competition events), private social, community entertainment, educational, agricultural, forestry, or research purposes, provided that any such authorization (i) does not unreasonably interfere with the access of the general public to the Protected Property, (ii) authorizes only uses of or actions on the Protected Property that are not inconsistent with the Purposes of this Grant, and (iii) are provided for in the Management Plan. Included herein is the right, by license, by management agreement, or other instrument, to provide for the conducting, operation, and management of the permitted uses described in this Section III by one or more qualified holders or qualified organizations, as defined in Chapter 34 or Chapter 155 Title 10 V.S.A., or other non-profit entities, provided such license, agreement or other instrument is a component of the approved Management Plans.

11. The right to use, maintain, repair and replace the existing system of outdoor lighting for night time use of the Trail Network and the Gravel Parking area, together with the right to install, maintain, repair and replace new outdoor lighting for night time use of the Trail Network, additional approved parking areas, and structures authorized under Section III(8) above, provided that such new lighting is not inconsistent with the Purposes of this Grant, Sections V, VI, and VII below, and is as provided for in the Management Plan.

12. The right of the Grantor in the McCullough Deed (as defined in Schedule A hereto), and its successor and assigns, to exercise the Reserved Rights (as defined in Schedule A hereto) on the Protected Property, and to use the Protected Property for such Reserved Rights.

#### **IV. Public Access.**

Subject to Section III(9), above, Grantor covenants and agrees that the Protected Property shall be available to the general public for all types of non-commercial, non-motorized, non-mechanized dispersed recreational and educational purposes (including, but not limited to, bird-watching, cross-country skiing, sledding, fishing, hiking, hunting, snowshoeing, swimming, trapping, walking and wildlife observation) consistent with the Purposes of this Grant. Notwithstanding the foregoing, Grantor may limit or restrict public access to the Protected Property to assure compliance with the requirements of this Grant, to protect natural habitats, or to protect the public health or safety (including, but not limited to, the right to permit, regulate or prohibit fishing, hunting and trapping). If Grantees approve a conveyance of the Protected Property, then Grantees may also require that a separate Grant of Public Access Easement also be conveyed to Grantees in a form approved by Grantees.

#### **V. Vernal Pool Ecological Protection Zone.**

The Vernal Pool Ecological Protection Zone consists of one (1) vernal pool and the area around it which is described below and generally depicted as "EPZ Primary Zone" and "EPZ Secondary Zone" on the Catamount Community Forest Plan (together hereinafter referred to as "the EPZ"). The purpose and goal of the EPZ are to provide and maintain high quality amphibian habitat, including critical breeding habitat ("the Goals"), by promoting and maintaining high levels of shade and coarse woody debris. The Grantees, in their sole discretion, may release from the provisions of this Section V all or a portion of the EPZ if the Grantees determine that it ceases to function in a way that meets the Goals, or if the Grantees determine that new scientific knowledge indicates that the limitations and restrictions of this Section are no longer necessary to meet the Goals.

The EPZ Primary Zone shall be subject to the following limitations and restrictions which shall supersede the provisions of Sections II, III and I(C) of this Grant to the extent these limitations and restrictions are inconsistent with those sections:

EPZ Primary Zone: Each vernal pool and the area within its surrounding 100-foot radius as measured from each pool's edges is the Primary Zone of the EPZ. There shall be no agricultural activity within the EPZ Primary Zone other than the collection of maple sap for maple sugaring operations which may be approved or conditioned by Grantees in their sole discretion. No new structures, land disturbance or improvements, with the exception of pedestrian trails as provided for in Section III(5) above, shall be permitted within the EPZ Primary Zone. Within the EPZ Primary Zone there shall be no removal of standing timber or downed wood or disturbance to the pool's hydrology. The only forest management activities which may take place within the

EPZ Primary Zone, after first receiving the written approval of the Grantees, which may be granted, conditioned or denied in Grantees' sole discretion, shall be the control of exotic species and activities that enhance amphibian habitat. Any existing structures, roads and log landings may remain but only in their current locations and shall not be altered, expanded or improved beyond their current condition, but relocation may be permitted with the prior written approval of Grantees, which approval may be granted, conditioned or denied in Grantees' sole discretion. New roads for timber harvest may be approved within the EPZ Primary Zone by the Grantees if in their sole discretion they determine that there is no other location that can practically meet the same purpose.

In the event a total prohibition against harvesting and limitations upon forest management activities within the EPZ Primary Zone affects the eligibility of the EPZ Primary Zone for enrollment in the State of Vermont's Use Value Appraisal program, or similar successor program, then those foregoing restrictions which affect such eligibility shall not apply and, instead, only such minimal harvesting and other forest management activities as are required to maintain such eligibility shall be permitted within the EPZ Primary Zone.

The EPZ Secondary Zone shall be subject to the following additional element of the forest management plan required under Section I(C) of this Grant:

EPZ Secondary Zone: The Secondary Zone of the EPZ is the forested area lying within an additional 500-foot zone outward from each Primary Zone, as depicted on the Catamount Community Forest Plan. Within the EPZ Secondary Zone firewood may be harvested as permitted under Section III(2), above. Other timber harvesting is permitted but amphibian habitat needs, such as coarse woody debris and shade, shall be addressed in the preparation of forest management plans which shall explicitly state what prescriptions have been imposed to protect and enhance amphibian habitat.

## **VI. Wetland Protection Zone.**

The Protected Property includes certain lands containing and buffering wetlands hereby made subject to special protections to protect the water quality and the ecological processes associated with such wetlands. Such wetlands are herein designated as the "Wetland Protection Zone" or "WPZ". The WPZ is more particularly described as two areas, the first being a complex of beaver-influenced open and shrub wetlands, and the second being a Hemlock-Balsam Fir-Black Ash Seepage Swamp and is generally depicted as "WPZ" on the Catamount Community Forest Conservation Plan. The boundaries of the WPZ may be changed from time to time by mutual agreement of Grantor and Grantees, as established by and depicted on a new Conservation Plan signed by Grantor and Grantees and maintained on file with Grantee VLT.

Within the WPZ, the goals, prescriptions, and restrictions of this Section VI are in addition to the provisions of Sections II, III and I(C) of this Grant, and where inconsistent, the provisions of this

Section VI shall control.

Within the WPZ the following shall apply:

1. Protection or restoration of the ecological functions of the wetland natural communities, as well as the natural communities that naturally develop in the future in the WPZ, and the ecological processes that sustain them, shall be Grantor's and Grantees' highest priority.
2. All management activities, including without limitation forest management and ecological management, shall focus on the goals of a) maintaining or restoring soil integrity, natural hydrology, and water quality, and b) maintaining the natural structure and species composition of the natural communities present or communities that may develop naturally over time, informed by the best current ecological science.
3. There shall be no agricultural activities (including without limitation the grazing or pasturing of animals), except as may be approved by Grantees in their sole discretion.
4. All forest management activities shall be conducted pursuant to a forest management plan that is consistent with the Purposes of this Grant and this Section VI. Without limiting the foregoing, the installation of new roads and trails shall require Grantees' prior written approval.

In the context of acting under this Section VI, Grantors and Grantees may confer about what constitutes the best available ecological science; provided that, Grantees' interpretation thereof shall control.

## **VII. Riparian Buffer Zone.**

The Protected Property includes certain lands and premises lying on either side of perennial streams which shall be subject to special protections as set forth herein to protect the water quality of such waterways and the ecological health of the natural systems associated with such waterways. Notwithstanding anything to the contrary contained in this Section VII, in the event that Grantor conveys a grant of conservation buffer easement, river corridor easement or a similar set of restrictions protecting water quality, riparian habitat and river function ("Buffer Easement") to Grantee VLT, then such Buffer Easement shall control and the terms of this Section VII shall no longer be in effect so long as such Buffer Easement remains in full force and effect. The location of and the restrictions applicable to these areas are as follows:

Those areas on the Protected Property lying within fifty feet (50') of the top of the banks of perennial streams, creeks and rivers, as those waters may move from time to time, and also including any land located between the said tops of banks and the low water marks of such waterways, shall be designated as Riparian Buffer Zones (hereinafter "RBZ"). The location of the RBZ as of the date of this Grant is generally depicted on the Catamount Community

Forest Conservation Plan, described in Schedule A attached hereto. Within the RBZ, the goals, prescriptions and restrictions of this Section VII are in addition to the provisions of Sections II, III and I(C), and where inconsistent, the provisions of this Section VII shall supersede the provisions of Sections II, III and I(C).

Specifically, the principal goal for management within the RBZ is the establishment and maintenance of high quality buffers that provide an array of ecological benefits including, but not limited to:

- (i) buffering aquatic and wetland plants and animals from disturbance;
- (ii) preventing wetland and water-quality degradation;
- (iii) providing important plant and animal habitat; and
- (iv) providing organic matter, nutrients, and structure to aquatic systems.

Any management or use of the RBZ shall be conducted in a manner designed to protect soil integrity and minimize erosion, shall incorporate up-to-date ecological knowledge and management practices, and shall be consistent with the principal goal detailed above. Without limiting the foregoing, any forest management activities within the RBZ (including without limitation the installation of new roads and trails) shall require Grantees' prior approval.

There shall be no agricultural activities (including without limitation the grazing or pasturing of animals) within the RBZ, except as may be approved in Grantees' sole discretion.

#### **VIII. Enforcement of the Restrictions.**

Grantees shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantees may make periodic inspection of all or any portion of the Protected Property and for such inspection and enforcement purposes, Grantees shall have the right of reasonable access to the Protected Property including easements for monitoring access as more particularly described in Schedule A attached hereto and a part hereof. In the event that Grantees become aware of an event or circumstance of non-compliance with the terms and conditions herein set forth, Grantees shall give notice to Grantor of such event or circumstance of non-compliance by hand or by certified mail, return receipt requested, and demand corrective action by Grantor sufficient to abate such event or circumstance of non-compliance and restore the Protected Property to its previous condition. In the event there has been an event or circumstance of non-compliance which is corrected through negotiation and voluntary compliance but which has caused Grantees to incur extraordinary costs, including staff time, in investigating the non-compliance and securing its correction, Grantor shall at Grantees' request reimburse Grantees all such costs incurred in investigating the non-compliance and in securing its correction.

Failure by Grantor to cause discontinuance, abatement or such other corrective action as may be reasonably demanded by Grantees within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle Grantees to bring an action in a court of competent jurisdiction to enforce this Grant and to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by Grantees to corrective action on the Protected Property, if necessary. If the court determines that Grantor has failed to comply with this Grant, Grantor shall reimburse Grantees for any reasonable costs of enforcement, including court costs and reasonable attorneys' fees, in addition to any other payments ordered by such court. In the event that one of the Grantees initiates litigation and the court determines that Grantor has not failed to comply with this Grant and that such Grantee has initiated litigation without reasonable cause or in bad faith, then such Grantee shall reimburse Grantor for any reasonable costs of defending such action, including court costs and reasonable attorneys' fees. The parties to this Grant specifically acknowledge that events and circumstances of non-compliance constitute immediate and irreparable injury, loss and damage to the Protected Property and accordingly entitle Grantees to such equitable relief, including but not limited to injunctive relief and ex parte relief, as the Court deems just.

The remedies described herein are in addition to, and not in limitation of, any other remedies available to Grantees at law, in equity, or through administrative proceedings. No delay or omission by Grantees in the exercise of any right or remedy upon any breach of Grantor shall impair Grantees' rights or remedies or be construed as a waiver. Nothing in this enforcement section shall be construed as imposing a liability upon a prior owner of the Protected Property, when the event or circumstance of non-compliance occurred after said prior owner's ownership or control of the Protected Property has terminated.

#### **IX. Miscellaneous Provisions.**

1. Where Grantor is required, as a result of this Grant, to obtain the prior written approval of Grantees before commencing an activity or act, and where Grantees have designated in writing one of the other Grantees herein or another organization or entity which shall have the authority to grant such approval, the approval of said designee shall be deemed to be the approval of Grantees. Grantor shall reimburse Grantees or Grantees' designee for all extraordinary costs, including staff time, incurred in reviewing the proposed action requiring Grantees' approval; but not to include those costs which are expected and routine in scope. When Grantees have authorized a proposed action requiring approval under this Grant, Grantees shall, upon request, provide Grantor with a written certification in recordable form memorializing said approval.

2. While title is herein conveyed to Grantees as tenants in common, the rights and interests described in this Grant, including enforcement of the conservation easement and restrictions, may be exercised by Grantees collectively, or by any single Grantee individually,

provided that court enforcement action by a single Grantee shall foreclose action on the same issue(s) by the other Grantees who shall be bound by the final determination.

3. It is hereby agreed that the construction of any buildings, structures or improvements, or any use of the land otherwise permitted under this Grant, shall be in accordance with all applicable ordinances, statutes and regulations of the Town of Williston and the State of Vermont.

4. Grantees shall convey, transfer or assign the development rights, public access easement, and conservation easement and restrictions conveyed by Grantor herein only to a State agency, municipality, or qualified holder or qualified organization, as defined in Chapter 34 or Chapter 155 Title 10 V.S.A., in accordance with the laws of the State of Vermont and the regulations established by the Internal Revenue Service governing such transfers.

5. In the event the development rights or conservation restrictions conveyed to Grantees herein are extinguished by eminent domain or other judicial proceeding, Grantees shall be entitled to any proceeds which pertain to the extinguishment of Grantees' rights and interests. Any proceeds from extinguishment shall be allocated between Grantor and Grantees using a ratio based upon the relative value of the development rights and conservation restrictions, and the value of the fee interest in the Protected Property, as determined by a qualified appraisal obtained at the direction of either Grantor or Grantees in the year of extinguishment. Grantees shall use any such proceeds to preserve undeveloped and open space land in order to protect the aesthetic, cultural, educational, scientific, and natural resources of the state through non-regulatory means.

6. Without limiting the restrictions contained in Section II(6) of this Grant, in any deed or lease conveying an interest in all or part of the Protected Property, Grantor shall make reference to the conservation easement, restrictions, and obligations described herein and shall indicate that this easement and restrictions are binding upon all successors in interest in the Protected Property in perpetuity. Grantor shall also notify Grantees of the name(s) and address(es) of Grantor's successor(s) in interest.

7. The term "Grantor" shall include the successors and assigns of the original Grantor, The Trust For Public Land. The term "Grantees" shall include the respective successors and assigns of the original Grantees, Vermont Land Trust, Inc. and Vermont Housing and Conservation Board.

8. Any signs erected on the Protected Property which mention funding sources shall include the Vermont Housing and Conservation Board, The Trust for Public Land, and the U.S. Forest Service through the Community Forest and Open Space Conservation Program.

9. Grantor and Grantees recognize that rare and unexpected circumstances

could arise that justify amendment of certain of the terms, covenants or restrictions contained in this Grant. To this end, this Grant may be amended only by mutual agreement of Grantor and Grantees; provided that Grantees determine in their sole discretion that such amendment furthers or does not materially detract from the Purposes of this Grant. Amendments shall be in writing, signed by both Grantor and Grantees, and shall be recorded in the Town of Williston Land Records. Notwithstanding the foregoing, Grantor and Grantees have no right or power to agree to any amendment that would limit the term of the Grant, or adversely affect the qualification of this Grant or the status of Grantee under applicable laws, including without limitation Title 10 V.S.A. Chapters 34 and 155, Section 170(h) and 501(c)(3) of the Internal Revenue Code, as amended, and regulations issued pursuant thereto.

INVALIDATION of any provision hereof shall not affect any other provision of this Grant.

TO HAVE AND TO HOLD said granted development rights, conservation easement and restrictions, public access easement and easement for monitoring access, with all the privileges and appurtenances thereof, to the said Grantees, VERMONT HOUSING AND CONSERVATION BOARD, and VERMONT LAND TRUST, INC., their respective successors and assigns, to their own use and behoof forever, and the said Grantor, THE TRUST FOR PUBLIC LAND, on behalf of itself and its successors and assigns, does covenant with the said Grantees, their successors and assigns, that until the ensembling of these presents, it is the sole owner of the premises and has good right and title to convey the same in the manner aforesaid, that the premises are free from every encumbrance, except those of record, not intending hereby to reinstate any interest or right terminated or superseded by this Grant, operation of law, abandonment of 27 V.S.A. Ch. 5, Subch. 7; and it hereby engages to warrant and defend the same against all lawful claims whatever, except as aforesaid.

I, \_\_\_\_\_, duly authorized agent of the The Trust for Public Land, have executed this Grant on this \_\_\_\_ day of \_\_\_\_\_, 2018.

THE TRUST FOR PUBLIC LAND

By: \_\_\_\_\_  
Its Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF \_\_\_\_\_, SS.

At \_\_\_\_\_, Vermont, on this \_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared \_\_\_\_\_, duly authorized agent of the Trust for Public Land, and he/she acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed, and the free act and deed of the Trust for Public Land.

Before me,

\_\_\_\_\_  
Notary Public

My Commission Expires: 02/10/2019

Approved by the VERMONT LAND TRUST, INC.:

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Its Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF \_\_\_\_\_, SS.

At \_\_\_\_\_, Vermont, on this \_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared Richard F. Peterson, Jr., duly authorized agent of the Vermont Land Trust, Inc., and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed, and the free act and deed of the Vermont Land Trust, Inc.

Before me,

\_\_\_\_\_  
Notary Public  
My Commission Expires: 02/10/2019

Approved by the VERMONT HOUSING AND CONSERVATION BOARD:

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Its Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF \_\_\_\_\_, SS.

At \_\_\_\_\_, Vermont, on this \_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared \_\_\_\_\_, duly authorized agent of the \_\_\_\_\_, and he/she acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed, and the free act and deed of the Vermont Housing and Conservation Board.

Before me,

\_\_\_\_\_  
Notary Public  
My Commission Expires: 02/10/2019

**SCHEDULE A  
PROTECTED PROPERTY**

Being all and the same lands and premises, including all buildings and improvements thereon (herein "Protected Property"), conveyed to Grantor, The Trust for Public Land by:

**I. McCullough/Trust for Public Land, Inc. Deed.**

Warranty Deed of Lucy and Jim McCullough, LLC dated the date hereof, and to be recorded prior to this instrument in the Williston, Vermont Land Records (the "McCullough Deed"). The lands and premises conveyed by the McCullough Deed are more particularly described as being 283.48 acres, more or less, north of Governor Chittenden Road, and 92.11 acres, more or less, south of Governor Chittenden Road depicted as Lot 2 and Lot 1, respectively, on the survey entitled "Plat of Lands of Lucy & Jim McCullough, LLC, 592 Governor Chittenden Road, Williston, Vermont" Sheets 1 and 2, dated October 30, 2017, revised to December 5, 2017, prepared by Trudell Consulting Engineers, to be recorded contemporaneously herewith in the Williston Map Records ("the Survey").

Provided, however, that the "Protected Property" shall not include, and excluded from the description of Protected Property are, the rights reserved in the McCullough Deed (described therein and referred to in this Grant as "Reserved Rights"), upon the terms and conditions set forth therein, the description of such Reserved Rights in the McCullough Deed being incorporated herein by reference.

Meaning and intending to include in this description of the Protected Property all of the land with any buildings and improvements thereon described in the McCullough Deed lying on both sides of Town Highway #14 (also known as Governor Chittenden Road), in the Town of Williston, Vermont, and generally described as containing 375.59 acres, more or less, except for the Reserved Rights described in the preceding paragraph.

Reference may be made to the above described deed and Survey and to their records, and to the deeds and records referred to therein, in further aid of this description.

**EASEMENT FOR PUBLIC ACCESS AND MONITORING**

In addition, Grantor does freely give, grant, sell, convey and confirm unto Grantees, and their successors and assigns, forever, two (2) non-exclusive, perpetual and separately assignable easements for a right-of-way for pedestrian and vehicular access to the Protected Property from Governor Chittenden Road on and over Lot 3 and Lot 5; said easements being twenty feet (20') in width and depicted as "20' Pedestrian Path Easement" on the Survey and as "ROW" on the Catamount Community Forest Conservation Plan, subject to the applicable Reserved Rights as provided in the McCullough Deed. Being a portion of the lands and premises conveyed to the Grantor in the McCullough Deed.

Such access shall also be for the purposes of monitoring and enforcement by Grantees in connection with this Grant. The access rights conveyed herein are in addition to, not in lieu of, the covenants and restrictions otherwise conveyed by this Grant.

Reference may be made to the above described deed and record, and to the deeds and records referred to therein, in further aid of this description.

## **II. Page/Trust for Public Land Deed.**

Warranty Deed of Stephen Page and Deborah Page, dated \_\_\_\_\_, 2018 and to be recorded prior to this instrument in the Williston Land Records ("the Page Deed"). The lands and premises conveyed by the Page Deed are more particularly described as being 17.27 acres, more or less, situated northerly of but without frontage on Governor Chittenden Road and depicted as "Area 'A' to be Annexed from Page to The Trust for Public Lands 17.27 Acres" on a survey entitled "Boundary Line Adjustment Plat, Lucy & Jim McCullough, LLC and Stephen & Deborah Page, 592 & 841 Governor Chittenden Road, Williston, Vermont" dated February 22, 2018, prepared by Trudell Consulting Engineers, to be recorded contemporaneously herewith in the Williston Map Records (the "Page Property").

Reference may be made to the above described deed and record, and to the deeds and records referred to therein, in further aid of this description.

**NOTICE: Unless otherwise expressly indicated, the descriptions in this Schedule A and in any subsequent Schedules are not based on a survey or subdivision plat.** The Grantor and Grantee have used their best efforts to depict the approximate boundaries of the Protected Property and any excluded parcels, complexes or special treatment areas on a plan entitled "Vermont Land Trust – Catamount Community Forest Property Town of Williston, Chittenden Co., VT, \_\_\_\_\_, 2018" signed by the Grantor and Grantee (referred to throughout this Grant and its Schedules as the "Catamount Community Forest Conservation Plan". The Catamount Community Forest Conservation Plan is based upon Vermont Base Map digital orthophotos and other information available to Grantee at the time of the Plan's preparation. The Catamount Community Forest Conservation Plan is kept by Grantee in its Stewardship Office. **The Catamount Community Forest Conservation Plan is not a survey and must not be used as a survey or for any conveyance or subdivision of the land depicted thereon.**

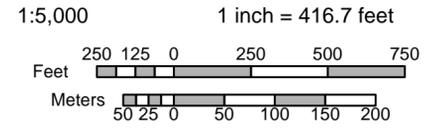
Grantor and Grantee do not intend to imply any limitation on the area of land included in the above descriptions, should a survey determine that additional land is also encumbered by the Grant. If, in the future, the Grantor or Grantee shall prepare a survey of the Protected Property, of any portion thereof, or of any excluded lands, and that survey is accepted by the other party or confirmed by a court, the descriptions in the survey shall control.

**Vermont Land Trust**  
**Catamount Community**  
**Forest Property**  
**Town of Williston**  
**Chittenden Co., VT**

May 2018

VLT Project #400322

The Catamount Community Forest Property Conservation Plan is based on the following State of Vermont Base Map 1:5000 orthophoto(s):  
 French Hill, #108212, 2013;  
 North Williston, #108216, 2013



Reference(s):  
 The boundaries of the Protected Property are based on surveys entitled:  
 "Plat of Lands of Lucy & Jim McCullough, LLC, 592 Governor Chittenden Road, Williston, Vermont" by Mark A. Day, originally dated 10/30/2017, revised 12/5/2017  
 "Boundary Line Adjustment Plat, Jucy & Jim McCullough, LLC 592 Governor Chittenden Road, Williston, Vermont" by Mark A. Day, dated 6/6/2016  
 "Boundary Line Adjustment Plat, Lucy & Jim McCullough, LLC and Stephen & Deborah Page, 592 & 841 Governor Chittenden Road, Williston, Vermont" by Mark A. Day, dated 2/22/2018

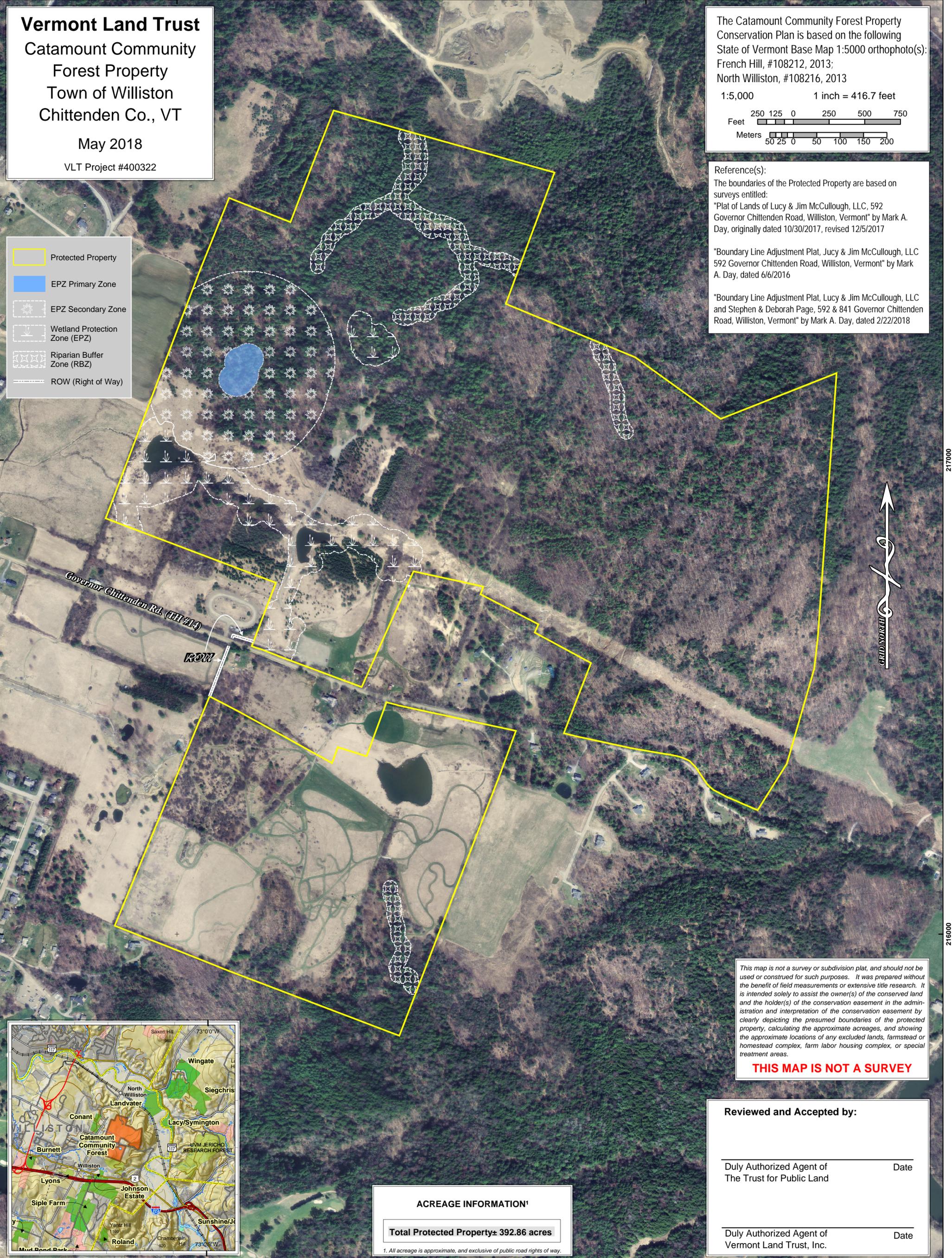
- Protected Property
- EPZ Primary Zone
- EPZ Secondary Zone
- Wetland Protection Zone (EPZ)
- Riparian Buffer Zone (RBZ)
- ROW (Right of Way)

217000

217000

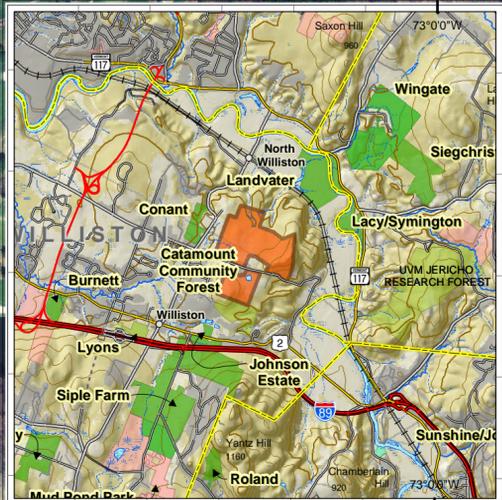
216000

216000



*This map is not a survey or subdivision plat, and should not be used or construed for such purposes. It was prepared without the benefit of field measurements or extensive title research. It is intended solely to assist the owner(s) of the conserved land and the holder(s) of the conservation easement in the administration and interpretation of the conservation easement by clearly depicting the presumed boundaries of the protected property, calculating the approximate acreages, and showing the approximate locations of any excluded lands, farmstead or homestead complex, farm labor housing complex, or special treatment areas.*

**THIS MAP IS NOT A SURVEY**



**ACREAGE INFORMATION<sup>1</sup>**

**Total Protected Property± 392.86 acres**

1. All acreage is approximate, and exclusive of public road rights of way.

**Reviewed and Accepted by:**

\_\_\_\_\_  
 Duly Authorized Agent of The Trust for Public Land      Date

\_\_\_\_\_  
 Duly Authorized Agent of Vermont Land Trust, Inc.      Date