

MEMORANDUM OF UNDERSTANDING

Between the Town of East Montpelier and East Montpelier Trails, Inc.

This Memorandum of Understanding (“MOU”) is entered into by and between the Town of East Montpelier, a Vermont municipal corporation (“Town”), and East Montpelier Trails, Inc., a Vermont nonprofit corporation (“EMTI”), collectively referred to as the “Parties.”

1. Purpose

This MOU is intended to clarify and allocate the respective authorities and responsibilities of the Town and EMTI with respect to that certain Right of Way and Public Access Easement for Recreational Trail granted by Land Care Agri. Services, LLC, dated _____, to be recorded in the Town of East Montpelier Land Records (the “Easement”). This MOU is intended to be consistent with, and supplemental to, the Easement and shall not be construed to amend or supersede the Easement.

2. Roles Under the Easement

Under the Easement, EMTI is designated as the Primary Holder and the Town is designated as the Secondary Holder. EMTI shall serve as the sole entity responsible for routine stewardship and administration of the Easement unless and until a Triggering Event, as defined in the Easement, occurs. The Town’s role as Secondary Holder is to provide a long-term backstop to ensure the permanency and enforceability of public access, without assuming routine operational responsibilities.

3. EMTI Responsibilities (Pre-Triggering Event)

Prior to the occurrence of a Triggering Event, EMTI shall have exclusive responsibility for the routine monitoring and inspection of the Corridor, the construction, maintenance, repair, and management of the Trail, vegetation management within the Corridor, management of public use including temporary closures, communication and coordination with the Owner, response to complaints, conflicts, or misuse, and the initiation and conduct of enforcement actions as necessary. EMTI shall serve as the primary point of contact for the public and the Owner with respect to matters arising under the Easement and shall perform these responsibilities in accordance with the Easement and applicable law.

4. Town Responsibilities (Pre-Triggering Event)

Prior to a Triggering Event, the Town shall have no affirmative obligation to monitor, manage, maintain, repair, or enforce the Easement. The Town shall not be required to inspect the Corridor and shall not be responsible for trail conditions, maintenance, or public safety. During this period, the Town’s role is limited to maintaining its legal status as Secondary Holder and receiving notice as provided in this MOU.

5. Notice and Coordination

EMTI shall provide written notice to the Town of any material dispute with the Owner regarding the Easement, any alleged violation that may reasonably require enforcement action, any intent to initiate arbitration or litigation under the Easement, and any circumstance that may constitute or lead to a Triggering Event. Routine operational matters need not be reported to the Town.

6. Costs, Insurance, and Indemnification

Prior to a Triggering Event, EMTI shall bear all costs associated with its responsibilities under the Easement, including enforcement and arbitration costs and any reasonable attorneys' fees and costs incurred by the Town arising from its status as Secondary Holder, as provided in the Easement. EMTI shall maintain general liability insurance covering its trail-related activities and shall name the Town as an additional insured in amounts reasonably acceptable to the Town. EMTI shall indemnify and hold harmless the Town from claims arising out of EMTI's acts or omissions in connection with the Easement and Trail, except to the extent caused by the Town's own negligence or willful misconduct.

7. Triggering Event and Post-Triggering Event Role

Upon the occurrence of a Triggering Event as defined in the Easement, EMTI shall promptly notify the Town in writing. Following a Triggering Event, the Town may, but shall not be obligated to, assume such responsibilities as it deems reasonably necessary to protect the Easement and public access thereunder. Any assumption of responsibilities by the Town shall be prospective only and shall not include liability for acts or omissions of EMTI occurring prior to the Triggering Event. To the extent permitted by law and the Easement, the Town may elect to delegate or transfer stewardship responsibilities to another qualified entity.

8. Term and Termination

This MOU shall remain in effect for so long as the Easement remains in force, unless earlier terminated by mutual written agreement of the Parties. Termination of this MOU shall not affect the Easement or the Town's status as Secondary Holder.

9. No Third-Party Beneficiaries

This MOU is solely for the benefit of the Parties and creates no rights in any third party, including the Owner or members of the public.

10. Governing Law

This MOU shall be governed by and construed in accordance with the laws of the State of Vermont.

11. Authority

Each Party represents that it has the authority to enter into this MOU and that execution has been duly authorized.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding as of the dates set forth below.

TOWN OF EAST MONTPELIER

By: _____
Selectboard Chair, Duly Authorized
Date: _____

EAST MONTPELIER TRAILS, INC.

By: _____
President, Duly Authorized
Date: _____

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