

LICENSE

The **CITY OF CONCORD**, a municipal corporation with a principal place of business at 41 Green Street, Concord, New Hampshire 03301 (“City”), hereby grants to **RICHARD LANK**, in his capacity as the owner of real property located at 102 Sewalls Falls Road (“Licensee”), a license for the purpose of landscaping, across a portion of the abutting City owned rights of way known as Sewalls Falls Road as depicted on a License Plan attached as Exhibit A.

This license is subject to the following conditions:

1. In consideration of the City permitting the use of the City’s rights of way for the limited purpose of landscaping, the Licensee agrees to indemnify, hold harmless, and defend the City from any and all liability arising out of or incident to its use of the City’s property. It is agreed that during the period of time that this License remains in effect, Licensee, at its sole cost and expense and for the mutual benefit of the Licensee and the City, shall furnish the City a Certificate of Insurance confirming that Licensee has in force general liability insurance, naming the City as an additional insured, in an amount not less than \$1,000,000 per incident or occurrence and an aggregate of \$2,000,000. The evidence of insurance filed with the City shall be renewed annually and include a statement by the carrier that thirty (30) days’ notice will be given to the City before cancellation of coverage.

2. Licensee acknowledges that all rights granted and implied by this License are limited to a non-exclusive right to use the surface of said property for landscaping and shall be subordinate to the City’s use of said property. Licensee shall not at any time, use or permit the use of the licensed area in any manner that will interfere with or impair the primary use or operation of the roadway or the traffic control system.

3. Licensee shall comply with all local, state, and federal laws, rules, regulations, and ordinances in conjunction with its use of the licensed property, and shall ensure the landscaping located in the City’s rights-of-way are compliant with Exhibit A. Licensee agrees that no commercial or industrial activities whatsoever shall be permitted upon on the licensed property. Specifically prohibited uses include (but are not limited to) advertising signs or displays, merchandise storage or exhibition and promotional activities. Licensee also agrees that it is not permitted to install any electrical systems on the licensed property. Licensee agrees that the Licensed Area shall not be used in a manner that impairs or interferes with the City’s underground infrastructure or intersection sight lines. The City and Licensee acknowledge and

agree that the Licensee will place irrigation systems on the licensed property and that such systems are at Licensee's sole risk, and that the City shall have no responsibilities or obligations with respect to such systems. Licensee shall have the right to maintain, repair and replace the irrigation systems on the licensed property.

4. Licensee agrees to assume all risk of damage to the landscaping and other property of Licensee or any property under the control or custody of Licensee while upon the City owned property for landscaping, which includes but is not limited to damage caused or contributed the construction, reconstruction, operation, maintenance, repair or other improvements on the roadway or traffic system by the City. The Licensee agrees to indemnify and hold harmless the City from any damages arising from the termination of this agreement and/or claims that might occur to the landscaping resulting from erosion, water damage, or any other occurrence which may arise.

5. The City shall have the right to temporarily suspend or to limit the use of the licensed area during such period of time the City determines that such suspension is necessary in the interest of public safety or for the operation or maintenance of the roadway and its traffic control system. Should such suspension or limitation be necessary, the City shall provide Licensee fifteen (15) days' notice in writing except in cases of emergency repairs. Upon completion of any works by the City within such real property, the City shall restore the ground surface to its pre-existing grade if possible, but shall not be in any manner responsible for damage to the landscaping.

6. The City of Concord or Licensee may terminate this License in writing to the other party or its agent(s) at any time and for any reason. Upon termination of said license by the City, the City shall have authority to remove the landscaping as deemed necessary. It is understood and agreed between the parties that upon any revocation or other termination of this license, Licensee shall have no claim whatsoever upon the City for reimbursement of any of Licensee's costs in exercise the license rights set forth in this agreement. In the event that Licensee terminates the license, it shall be responsible for returning the licensed area to its current condition.

7. This license is granted to Richard Lank as the owner of 102 Sewalls Fall Road exclusively and no rights shall be transferred or assigned unless the written consent of the City is

first secured. Any change of ownership of the 102 Sewalls Falls Road parcel, will require the successor to obtain a new license from the City of Concord.

8. This License shall be enforceable in the Courts of Merrimack County, New Hampshire, to which both parties submit for jurisdiction.

9. This grant is made to the Licensee by the City Manager on behalf of the City of Concord by a vote of authorization of the Concord City Council on _____.

CITY OF CONCORD

Date

By: _____
Thomas J. Aspell, Jr.
City Manager
Duly Authorized

Richard Lank accepts this license and the terms contained therein.

Date

By: _____
Richard Lank