

150
3/20/08

**AMENDED
RESOLUTION 3:19 - # 3 OF 2008**

WHEREAS, the Town Board, by resolution subject to a permissive referendum, established a capital reserve fund for acquisition of development of rights for open space preservation by local law dated the 18th day of October, 2006; and

WHEREAS, the Town has heretofore adopted a local law authorizing the expenditure of \$150,000.00, which was subject to a permissive referendum; and

WHEREAS, a petition seeking a permissive referendum was not filed, and

WHEREAS, the Town subsequently received a notice of a gift in the sum of \$159,000.00 from Vassar College to be used in the Town's sole and absolute discretion; and

WHEREAS, the Town Board by resolution dated December 20, 2006 allocated \$109,000.00 of the anticipated gift to the Capital Reserve Fund (A230) heretofore created for Financing the Acquisition of Developmental Rights of Open Space Preservation, and the balance was retained in the gift and donation account; and

WHEREAS, the gift of \$159,000.00 was actually received by the Town of Poughkeepsie on April 26, 2007; and

WHEREAS, \$109,000.00 of the said donation was placed in the Capital Reserve Fund (A230); and

WHEREAS, the balance of said monies (\$50,000.00) was retained in the Gift and Donations Account (A1315-2705) of which there is currently \$8,500.00 left as a result of the expenditure of \$41,500.00 for the solar energy project; and

WHEREAS, as of the date of this resolution the monies in the Capital Reserve Fund have earned at least \$6,441.20 in interest; and

WHEREAS, the Town is entitled to credit of \$15,000.00 for monies heretofore paid on April 4, 2006, pursuant to a local law in 2005; and

WHEREAS, the Town wishes to acquire a new conservation easement on said properties for a total payment of \$150,000, which has a balance of due of \$135,000.00; and

WHEREAS, currently available to fund the payment are the following monies:

1. \$109,000.00 in the Capital Reserve Fund;
2. \$6,441.20 in interest on the Capital Reserve Fund;
3. \$8,500.00 in the Gifts and Donation Account which is part of the original donation from Vassar College.
4. The balance from a payment from David Kaminski, which was placed in Account # 1315.2660 (Sale of Real Property).

WHEREAS, said monies are for the acquisition of developmental rights as set forth in a conservation easement for property owned by Young Morse Historic Site (Locust Grove) consisting of 2 parcels of land, one of which is 22 acres and bearing grid number 6061-04-901110 acquired in April 2007 and a second parcel consisting of 7 acres of land bearing grid number 6161-03-020050 acquired August 2006, which coupled with the original payment of \$15,000 will total \$150,000; now therefore

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby transfer to the Capital Reserve Fund the sum of \$8,500.00 from the Gift and Donations Account, which is part of the original donation from Vassar College, and a sum not to exceed \$15,000.00 from a payment by David Kaminski, which was placed in Account # 1315.2660, Sale of Real Property; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Poughkeepsie does hereby set the 23rd day of April, 2008, as and for the date of a public hearing to

consider the adoption of a local law for the payment of \$135,000.00 (the balance due) for the acquisition of the developmental rights as set forth in a conservation easement to be approved by the Town Board, which monies will be obtained as herein above set forth; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby declare itself to be Lead Agency under the New York State Environmental Quality Review Act in regard to this action and does classify said action as a Type II Action; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby refer the proposed action including but not limited to the Conservation Easement to the Town of Poughkeepsie Planning Board for an advisory opinion and the County of Dutchess Planning Department for its review of said easement.

Dated: March 14th 2008

Moved By: Stephen Krakower

Seconded By: Mike Cifone

Ayes 7 Nays 0

TDM/meh

t-3/14/08

m-3/19/08

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Councilman Baisley
Councilman Seminara
Councilman Conte
Councilman Cifone
Councilman Krakower
Councilman Tancredi
Supervisor Myers

AYE

NAY

CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT, made this ____ day of 200__ between YOUNG-MORSE HISTORIC SITE, with offices at 2683 South Road, Poughkeepsie, New York 12601 ("Grantor"), and THE PEOPLE OF THE STATE OF NEW YORK, acting by and through their COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION, having an address at Empire State Plaza, Agency Building One, Albany, New York 12238 ("Grantee").

WITNESSETH:

WHEREAS, the Landowner is the owner in fee of 2 parcels of real property (the "Protected Property") described in Exhibit "A" attached hereto and incorporated by reference:

The Protected Property consists of two parcels, one parcel consisting of 7.2 +/- acres with a cottage, and the second parcel consisting of 22 +/- acres with a gatehouse and stable, located on Route 9 in the Town of Poughkeepsie, Dutchess County, New York.

WHEREAS, the Dutchess Land Conservancy is the grantee of a conservation easement on the 22 acre parcel, Grid No. 6061-04-901110, which provides for its "limited development," allowing for future development of a structure with a total impervious surface of 30,000 square feet an additional 18,000 square feet for parking; and

WHEREAS, the Protected Property possesses significant recreational, scenic, and open space features and values that are worthy of protection in perpetuity; and

WHEREAS, the State of New York, the Grantee, has awarded the Grantor a grant under the provisions of the Environmental Protection Act in connection with EPF Grant No. 540580 for the acquisition of the Protected Property; and

WHEREAS, the Dutchess County Open Space Matching Grant Program ("County") and the Town of Poughkeepsie ("Town") have made contributions to help fund the purchase of a fee interest in the Property by the Young-Morse Historic Site, and

WHEREAS, Grantor is, as of the date hereof, with the granting of this Conservation Easement, confirming its commitment to develop, maintain, operate and provide for the public's use and enjoyment a PARK PROJECT as defined in 9 NYCRR 439.2m and 441.4b; and is agreeing to construct, develop, preserve and operate a park on the Protected Property as required in 9 NYCRR 441.4b; and

WHEREAS, the Protected Property will be used as a public park for passive recreation purposes which will include facilities to allow its enjoyment as a passive park among other amenities; and

WHEREAS, Grantor has agreed to place restrictions on the Protected Property as part of its transaction with Grantee, while retaining the use of the Protected Property as a public park as defined above; and

WHEREAS, the State of New York has enacted Article 49, Title 3 of the Environmental Conservation Law (as the same may be amended, "Article 49") to provide for the limitation and restriction of development, management and use of real property by Conservation Easement;

NOW, THEREFORE, in consideration of the facts above recited and of the mutual covenants, terms, conditions and restrictions herein contained and other good and valuable consideration, Grantor does hereby grant and convey to Grantee, its successors and assigns forever, a Conservation Easement pursuant to Article 49, in perpetuity consisting of the terms, covenants and obligations on Grantor's part to be observed and performed and Grantee's rights to monitor and enforce same, all as hereinafter set forth, over and across the Protected Property (the "Easement").

1. Purpose. The purpose of this Easement is to grant to Grantee certain rights to restrict the use and development of the Protected Property to protect in perpetuity the use of the Protected Property for the purpose of passive public recreational use by the general public, as defined herein, and through such protection, enhance, preserve and protect said Park for the use and enjoyment of the public. FOR THE PURPOSES OF THIS EASEMENT, THE TERM "PASSIVE PUBLIC RECREATIONAL USE" REFERS TO A RANGE OF OUTDOOR ACTIVITIES COMPATIBLE WITH PRESERVING NATURAL RESOURCE FUNCTIONS SUCH AS WILDLIFE HABITAT AND WATERSHED PROTECTION. PASSIVE RECREATIONAL ACTIVITIES ARE GENERALLY NON-ORGANIZED, NON-MOTORIZED ACTIVITIES INCLUDING BUT NOT LIMITED TO WALKING, PICNICKING, HIKING, AND BIRD WATCHING. "PASSIVE RECREATION" DOES NOT INCLUDE OBTRUSIVE ACTIVITIES THAT HAVE SIGNIFICANT ADVERSE IMPACTS TO NATURAL OR OPEN SPACE VALUES. PASSIVE RECREATION ALSO DOES NOT INCLUDE ORGANIZED SPORTS FACILITIES SUCH AS BASEBALL DIAMONDS, GOLF COURSES, DRIVING RANGES, FOOTBALL FIELDS, SOCCER FIELDS, TENNIS COURTS, OR SWIMMING POOLS.

2. Prohibited Uses and Practices. The following uses and practices are inconsistent with the purpose of this Easement and shall be prohibited upon or within the Protected Property, except to the extent permitted by Paragraph 4 hereof:

- (a) Any commercial, industrial or residential uses of the Protected Property, except as expressly permitted herein.
- (b) The division or subdivision of the Protected Property.
- (c) The construction, erection, maintenance or replacement of any buildings, roads, roadways, signs (other than informational or directional signs), billboards, satellite dishes, fences, docks or other structures or improvements of any kind or nature whatsoever on or over the Protected Property except solely the Permitted Improvements (as defined in subparagraph 4(a) hereof).
- (d) The dumping or storage of ashes, trash, waste, garbage and sawdust on any portion of the Protected Property, except such storage of the aforementioned material as may be normally and reasonably incidental to uses permitted

hereunder. No chemical wastes or other hazardous waste materials may be dumped or stored on the protected property.

- (e) Dredging, mining, excavation, filling or other use of the Protected Property, which is detrimental to drainage, water quality, flood control or the fish and wildlife attributes of the Protected Property; subject, however, to Grantor's right to build, install, maintain, repair and replace the Permitted Improvements in accordance with the provisions hereof and all applicable laws and governmental regulations.
- (f) Disturbances of the Protected Property's surface topography, including but not limited to filling, excavation, grading, removal of topsoil, sand, gravel, rocks or minerals, or changing of the topography of the land in any manner except as may be reasonably necessary for the construction, erection, installation, maintenance or replacement of any of the Permitted Improvements in accordance with the terms hereof or as may be normally and reasonably incidental to any of the uses of the Protected Property expressly permitted hereby.
- (g) The use of toxic chemicals, including, without limitation, pesticides and herbicides, on the Protected Property, except in connection with interior operation and maintenance of the Permitted Improvements or as permitted by the Office of Parks, Recreation and Historic Preservation ("OPRHP") and the Department of Environmental Conservation ("DEC") or any other governmental agency having jurisdiction over the Protected Property and in accordance with all applicable governmental laws and regulations.
- (h) Except as may be required for emergency purposes or for necessary management actions of Grantee or Grantor or for the construction and maintenance of the Permitted Improvements and permitted residential use of the Protected Property pursuant to Paragraph 4 hereof, the use of off-road motorized vehicles, including, without limitation, automobiles, all-terrain vehicles and motorcycles.
- (i) No cutting or removal of trees on the Property shall be permitted except to: (1) Remove those trees and limbs which are dead, fallen, diseased or dangerous; (2) Construct and/or maintain hiking trails; (3) Provide for the construction and/or maintenance of parking areas, buildings and structures permitted under this Conservation Easement; (4) Maintain and manage habitat areas; (5) Enhance the overall diversity of native plants species; (6) Provide control of exotic or new plant species; (7) Support the ecological health and biodiversity of the Property; (8) Maintain the scenic and natural character of the Property; (9) Maintain the pond; and/or as otherwise permitted in writing by the Grantee in its sole discretion to further and maintain the purposes of this Conservation Easement.
- (j) active recreational facilities, including but not limited to baseball diamonds, golf courses, driving ranges, football fields, soccer fields, tennis courts, or swimming pools.

3. Affirmative Rights Conveyed.

- (a) Grantee and its duly authorized representatives shall have the right to enter the Protected Property at reasonable times, for inspection purposes as contained in Paragraph 6.
- (b) Grantee shall have the right to review and approve any plans for development, construction or installation of structures or improvements on the Protected Property. Such approval shall not be unreasonably withheld.

4. Retained Rights of Grantor. Subject to the purpose and provisions of this Easement, including, without limitation, the provisions of Paragraphs 2 and 3 hereof, Grantor reserves and retains all customary rights of ownership in the Protected Property, to the extent such rights are exercised in a manner which is not inconsistent with the use of the premises as a passive public park, including, but not limited to:

- (a) The right to renovate repair and maintain the following existing trails and carriage roads, structures and facilities, as Permitted Improvements, in order to enhance the premises for use as a public park:
 - (1) existing roads, existing trails and carriage roads, drainage ways, and structures, including a 900 sq. ft. cottage, a 1,500 sq. ft. gatehouse and a 2,600 sq. ft. stable, may be restored and repaired, reconstructed or replaced at their same dimensions and locations.
- (b) The right to maintain and continue the residential use of existing buildings as residences for caretakers, security officers and other persons employed in connection with Young-Morse Historic Site.
- (c) The right to construct install and maintain the following Permitted Improvements as enhancements to the Protected Property for use as a public park:
 - (1) Ancillary improvements, including utilities, benches, restrooms, storage facilities, railings, fences, gates, drainage ways, boardwalks, gazebos, viewing platforms, observation blinds, bridges, nesting boxes, kiosks, and/or informational and directional signs which are reasonably necessary to the use and enjoyment of the premises as a public park;
 - (2) Subject to approval by the Grantee, as evidenced by a letter signed by the Commissioner or her delegate, additional recreational, cultural and support facilities consistent with the use and enjoyment of the Protected Property as a public park for passive recreation.

The construction, repair and maintenance of any Permitted Improvement shall be undertaken in a way which mitigates, to the greatest extent practicable, any effects on any stream, wetland, pond, lake or other body of water located within 100 feet of such improvement.

- (d) The right to manage and improve the land and vegetation by landscaping, including planting, cultivation, trimming and removal of grass, trees, shrubs and flowers for the purpose of enhancing the Protected Property as a public park.

5. Public Access. There shall be public access to the Protected Property, except that access to those areas customarily used for administrative, maintenance, safety and public health purposes may be restricted. Grantor may promulgate rules and regulations regarding hours of use for the public.

6. Inspection. Grantee and its duly authorized agents, employees and representatives shall have the right to enter the Protected Property upon reasonable notice to Grantor, at such times during normal business hours and in such manner as will not unreasonably interfere with Grantor's use of the Protected Property in accordance with this Easement, to examine and inspect the Protected Property to ensure there are no violations, breaches or defaults of any term, provision, covenant or obligation on Grantor's part to be observed or performed under this Easement.

7. Enforcement Rights of Grantee. The Grantee has the right to enforce this Conservation Easement at law or in equity, including, without limitation, pursuant to the provisions of Article 49, against any or all of the owners of the Property or any part thereof. If there is a violation, or threatened violation, of this Conservation Easement, the Grantee shall notify the party in violation or threatening the violation, who shall, in the case of an existing violation, promptly cure the violation by (a) ceasing the same or (b) restoring the Property to the condition before such violation, or (c) both, or, in the case of a threatened violation, refrain from the activity that would result in the violation. If a violation continues for more than 30 days after notice is given without the Grantee taking steps to cure the same, or at any time if the violation or a threatened violation threatens immediate and irreparable harm to the resource values of the Property that this Conservation Easement is intended to protect, the Grantee may seek immediate injunctive relief and shall have the right, but not the obligation, to correct it by direct action as well as by pursuing all available remedies at law or in equity. If a violation is determined to have occurred, the Landowner shall reimburse the Grantee for all expenses including reasonable attorneys' fees, incurred in enforcing this Conservation Easement and curing the violation. Failure to enforce any restriction or covenant herein contained shall in no event be deemed a waiver of a right to do so thereafter as to the same violation or breach or as to one occurring prior or subsequent thereto.

8. Third Party Right of Enforcement. The Grantee hereby conveys to the Town and to the County third party enforcement rights for this easement. The Town and the County agree that they shall exercise those third party enforcement rights and indicate acceptance of that responsibility by signing this easement. The Town and the County have the right to enforce this Conservation Easement at law or in equity, including, without limitation, pursuant to the provisions of Article 49, Title 3 of the Environmental Conservation Law, against any or all of the owners of the Property or any part thereof. If there is a violation, or threatened violation, of this Conservation Easement, the Town and/or the County shall notify the Grantee and the party in violation or threatening the violation, who shall, in the case of an existing violation, promptly cure the violation by (a) ceasing the same or (b) restoring the Protected Property to the condition before such violation, or (c) both, or, in the case of a threatened violation, refrain from the activity that would result in the violation. If a violation continues for more than 30 days after notice is given without the Landowner taking steps to cure the same, or at any time if the violation or a threatened violation threatens immediate and irreparable harm to the

resource values of the Property that this Conservation Easement is intended to protect, the Town and/or the County may seek immediate injunctive relief and shall have the right, but not the obligation, to correct it by direct action as well as by pursuing all available remedies at law or in equity. If a violation is determined to have occurred, the Landowner shall reimburse the Town and/or the County for all expenses including reasonable attorneys fees, incurred in enforcing this Conservation Easement and curing the violation. Failure to enforce any restriction or covenant herein contained shall in no event be deemed a waiver of a right to do so thereafter as to the same violation or breach or as to one occurring prior or subsequent thereto. The Grantee, the Town and the County will make every effort to coordinate their enforcement of this easement.

9. Grant in Perpetuity.

(a) The provisions of this Easement shall run with and be a burden upon the Protected Property in perpetuity and shall be binding on Grantor and Grantee and their respective successors and assigns, and any party entitled to possession or use of the Protected Property while such party is entitled to such possession or use. Any successor or assign of Grantee shall be a qualified organization within the meaning of Article 49 of the Environmental Conservation Law and shall expressly assume the obligation to carry out the conservation purpose for which this Easement is granted and the other obligations of Grantee hereunder.

(b) If Grantee or any successor or assign ceases or fails (i) to enforce this Easement, (ii) to exist, or (iii) to be a Qualified Organization, and upon the occurrence of such event, fails to assign all its rights and interest in the Protected Property, and delegate all its responsibilities under this Easement to a Qualified Organization, then the rights and interest of Grantee under this Easement shall be vested in another Qualified Organization in accordance with a cy pres proceeding of a court of competent jurisdiction.

10. Amendment. This Easement can be modified only in accordance with the common and statutory law of the State of New York applicable to the modification of easements or covenants running with the land. Grantor and Grantee recognize that circumstances could arise which would justify the modification of certain of the restrictions contained in this Easement including requirements imposed on Grantor pursuant to licensing procedures or any authorized governmental licensing or permitting agency. To this end, Grantee and Grantor shall mutually have the right, in their sole discretion, to agree to amendments to this Easement which are not inconsistent with the purpose of the Easement provided, however, that the parties shall have no right or power to agree to any amendments hereto that would result in this Easement failing to qualify as a valid conservation easement under Article 49, any regulation issued pursuant thereto, and provided further that Grantee shall agree to the modification of this Easement to conform to such licensing procedures or any other authorized governmental licensing or permitting agency.

11. Notice. All notices required by this instrument must be in writing, and must be personally delivered or deposited in a mail receptacle maintained by the United States Postal Service. A mailed notice must be contained in an accurately addressed, sealed envelope, marked for delivery by first class registered or certified mail, with sufficient

prepaid postage affixed and with return receipt requested. Notices to Grantor and Grantee shall be addressed to their respective addresses as set forth above, or to such other addresses as they may designate by notice given in accordance with this Paragraph and to either of their attorneys as they may from time to time designate by notice given in accordance with this Paragraph. Notice shall be deemed given and received as of the date of its personal delivery or the date of its mailing in accordance with this Paragraph.

12. Cooperation Agreement. Grantor and Grantee agree to cooperate to comply with the provisions of Article 49, and the Regulations promulgated pursuant thereto, so that this Easement will qualify, as a perpetual conservation restriction, thereunder.

13. Indemnification. Grantor agrees that neither Grantee, the Town nor the County have any affirmative obligation relating to maintenance of the Property. Grantor further agrees that neither Grantee, the County nor the Town have any responsibility relating to costs, claims or liability arising from personal injury, accidents, negligence, or damage to Property resulting from public or private use of the Property allowed by, arising out of, or resulting from this Easement. Grantor shall indemnify, hold harmless, defend and reimburse the Grantee, the Town and the County from and against any and all claims, actions, suits, damages, liabilities, penalties, costs or expenses, including reasonable attorneys' fees, of any kind or nature whatsoever on account of injuries to or death of any person or damage to any property arising out of Grantee's ownership of this Conservation Easement, and out of the third party enforcement right held by the Town and the County in this Conservation Easement. No party will be indemnified for any negligent acts it commits.

14. Grantor's Title. Grantor represents and warrants to Grantee (a) that Grantor is seized of the Protected Property in fee simple, and (b) that Grantor possesses full corporate right and authority to grant and convey this Easement pursuant to this instrument.

15. Grantee's Representations. Grantee represents and warrants that Grantee is a Qualified Organization.

16. Further Conveyance By Grantor.

(a) The Grantor shall not sell, lease, exchange, or donate the project to any entity other than a State agency, local government or other qualifying tax-exempt not-for-profit corporation which will operate and maintain the project for passive, recreation or conservation purposes.

(b) The Grantor shall not sell, dispose or use the facilities acquired hereunder for other than public park purposes without the prior written approval of the Commissioner, and the express authority of an act of the Legislature as provided in 9 NYCRR 441.5.

(c) The Grantor shall not restrict the use of or access to this project by non-residents of the municipality or impose a fee for such use without prior written approval of the Commissioner of Parks, Recreation and Historic Preservation.

17. Miscellaneous.

(a) This Easement shall be binding on the parties and their respective successors and assigns. The terms "Grantor" and "Grantee", wherever used herein, and any pronouns used in place thereof, shall mean and include their respective successors and assigns.

(b) If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

(c) In enforcing its rights hereunder with respect to a breach, default or violation of this Easement, Grantee shall take into account the reasonableness of requiring Grantor to cure the same and the time required to restore the Protected Property under the relevant circumstances, including but not limited to the season of the year and the accessibility of the protected Property to Grantor.

(d) All captions set forth herein are for convenience of reference only, and shall in no event be construed to limit, enlarge or modify any substantive provision of this Easement.

(e) References herein to specific actions required or permitted to be undertaken by OPRHP hereunder shall in no way be deemed to waive or limit the regulatory authority or jurisdiction which OPRHP otherwise have or shall have (independently of the provisions of this Easement).

18. Baseline Data. In order to establish the present uses and condition of the Protected Property so as to be able to properly monitor its future uses and condition and assure compliance with the terms hereof, Grantor will make available to Grantee, the Town and the County existing documentation in its possession of the natural condition of the Protected Property. The aforementioned documentation shall constitute an inventory of the Protected Property's relevant features and conditions (the "Baseline Data"). The Baseline Data shall be kept on file at Grantee's, the Town's and the County's offices and shall be accessible to Grantor upon reasonable notice during normal business hours. The parties acknowledge and agree that in the event a controversy arises with respect to the nature and extent of the present uses or condition of the Protected Property, the parties shall not be foreclosed from utilizing all other relevant or material documents, surveys, reports, and other evidence to assist in the resolution of the controversy. To the extent Grantor and Grantee have initialed the Baseline Data, such Baseline Data shall be presumed to be a correct depiction of the Protected Property as of the date hereof.

19. Extinguishment. If a subsequent unexpected change in the conditions surrounding the Property make impossible the fulfillment of the conservation purposes of this Conservation Easement, and if the restrictions are extinguished by judicial proceeding, then, upon any subsequent sale, exchange or involuntary conversion by the Landowner, the Grantee, the Town and the County shall be entitled to that portion of the proceeds from that transaction equal to the proportionate value of their contribution to the total purchase price of the two parcels of property constituting the Protected Property by the Landowner in 2006 and 2007, as provided immediately below, with Young-Morse

Historic Site entitled to the remainder of the proceeds. For such purpose, the Landowner and the Grantee agree that the conveyance of this conservation easement to the Grantee gives rise to a property right immediately vested in the County and the Town, with a fair market value that is as provided herein. The Grantee has provided approximately 20% of the purchase price and the County and the Town of Poughkeepsie have each provided approximately 10%. The County's share has been provided through the Dutchess County Partnership For Manageable Growth/Open Space and Farmland Protection Matching Grant Program, and the Grantee's share is being provided by the New York State Office of Parks, Recreation and Historic Preservation, through a grant from the New York State Environmental Protection Fund. These percentages are exclusive of miscellaneous related acquisition expenses. The total purchase price paid by the Landowner for the Property was \$1,455,000. This provision is made with respect to the County in consideration of the County's grant award herein and with respect to the Town, in consideration of its funding. Provided further however, in the event of extinguishment of the conservation easement and legislative approval for the resale of the Property, the Town of Poughkeepsie and the County shall meet promptly thereafter to consult and cooperate to identify and acquire a substitute parcel(s) located within the Town including that part of the Town located within the Village of Wappingers Falls. All of the funds received by the parties as a result of the extinguishment and resale of the property shall be devoted to such acquisition(s). The parcel(s) shall be open to the public and maintained as a Park thereafter, subject to a successor conservation easement(s) with equally restrictive terms and conditions as contained herein including this extinguishment provision.

20. Dutchess County. Any references herein to the County are to Dutchess County, a municipal corporation of the State of New York with offices presently at 22 Market Street, Poughkeepsie, NY 12601. Any notice necessary or convenient hereunder shall be directed in writing to the Dutchess County Attorney and the Dutchess County Commissioner of Planning and Development, or their successors.

21. The Town of Poughkeepsie. Any references herein to the Town are to the Town of Poughkeepsie, a municipal corporation with offices at 1 Overcrocker Road, Poughkeepsie, New York, 12603. Any notice necessary or convenient hereunder shall be directed in writing to its Supervisor.

IN WITNESS WHEREOF, Grantor has executed and delivered this Deed of Conservation Easement as of the date first set forth above.

GRANTOR:

YOUNG-MORSE HISTORIC SITE

By: _____

Name:

Title:

Acknowledged and Accepted:

GRANTEE:

THE PEOPLE OF THE STATE OF NEW YORK,

Acting through their Commissioner of Parks, Recreation and Historic Preservation

By: _____

Name:

Title:

THIRD PARTY ENFORCEMENT:

THE TOWN OF POUGHKEEPSIE

By: _____

Name:

Title:

COUNTY OF DUTCHESS

By: _____

Name:

Title:

Department of Law Approval

Date:

GRANTOR

STATE OF NEW YORK)

)ss.:

COUNTY OF)

On the ____ day of _____ in the year 2008 before me, the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

STATE OF NEW YORK)

)ss.:

COUNTY OF)

On the ____ day of _____ in the year 2008 before me, the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

THIRD PARTY ENFORCEMENT

STATE OF NEW YORK)

)ss.:

COUNTY OF)

On the ____ day of _____ in the year 2008 before me, the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW YORK)

)ss.:

TOWN OF POUGHKEEPSIE)

On the ____ day of _____ in the year 2008 before me, the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

ALL that certain plot, piece or parcel of land situate lying and being in the Town of Poughkeepsie, County of Dutchess and State of New York, bounded and described as follows:

BEGINNING at the northeasterly corner of the herein described parcel, said point being on the westerly bounds of U.S. Route 9 and said point being an angle point in the lands now or formerly of South Clover Properties, Inc., as described in Liber 1797 of deeds at page 896; thence along the westerly bounds of U.S. Route 9, South 12 deg. 51' 55" West 150.69 feet and South 14 deg. 56' 24" West 614.42 feet to the southeasterly corner of the herein described parcel, said point being the northeasterly corner of the lands now or formerly of the Young-Morse Historic Site, as described in Liber 1553 of deeds at Page 483; thence along the division line between the herein described parcel and said lands now or formerly of the Young-Morse Historic Site, North 71 deg. 24' 20" West 177.31 feet, North 71 deg. 33' 20" West 239.82 feet and North 73 deg. 09' 20" West 30.00 feet to the southwesterly corner of the herein described parcel, said point being the southeasterly corner of the lands now or formerly of the Young-Morse Historic Site, as conveyed by deed dated September 26, 2005; thence along said lands of the Young-Morse Historic Site and also along the lands of South Clover Properties, Inc. North 14 deg. 41' 40" East 646.66 feet to the northwesterly corner of the herein described parcel; thence continuing along the division line between the herein described parcel and said lands now or formerly of South Clover Properties, Inc., South 86 deg. 42' 10" East 452.94 feet to the point or place of BEGINNING.

ALSO conveying to the grantee a right of way upon, over and across a strip of land 50 feet in width along the entire northerly line for access to and egress from the premises herein described to and from the Albany Post Road until such time as such strip of land is dedicated to the Town of Poughkeepsie and accepted as a public highway as conveyed in the deed from William H. Howell to Nathan L. Reifler, dated October 25, 1954, and recorded in the Dutchess County Clerk's Office in Liber 873 of Deeds at Page 86.

JSW
HB

SCHEDULE A.

ALL that tract or parcel of land, situate in the Town of Poughkeepsie, County of Dutchess and State of New York, bounded and described as follows:

BEGINNING at a set stone on the westerly side of the highway leading from Poughkeepsie to Wappingers Falls, known as New York State Route 9, at the southeasterly corner of the herein described premises, and the northeasterly corner of lands now or formerly of John Tai and Gertrude Tai, and running thence N 5 degrees E 461.3 feet along the westerly side of said highway, to a stone post marking the southeasterly corner of lands of the Poughkeepsie Rural Cemetery; thence N 86 degrees 57 minutes W along a row of iron posts 755 feet to the northerly side of a large white oak tree; thence N 75 degrees 57 minutes W along a row of iron pins set in the rocks along the southerly line of said Cemetery 1,011.67 feet to an iron rod driven in the ground at the northeasterly corner of lands conveyed by Elise Kinkead to Huguenot Historical Society of New Paltz, New York, Inc., by deed dated December 16, 1977 and recorded in the office of the Clerk of Dutchess County in Liber 1473 of Deeds at Page 219, thence along the easterly bounds of said lands conveyed to the said Huguenot Historical Society S 15 degrees 12 minutes 34 seconds W 509.71 feet to a concrete monument set in the northwesterly corner of lands conveyed by Elise Kinkead to The Young-Morse Historical Site by deed dated December 31, 1980 and recorded in the office of the Clerk of Dutchess County in Liber 1552 of Deeds at Page 404, thence along the northerly bounds of said parcel conveyed to The Young-Morse Historic site S 64 degrees 49 minutes 16 seconds E 381.1 feet to a point and S 83 degrees 23 minutes 42 seconds E 533.17 feet to a point, thence S 84 degrees 02 minutes 48 seconds E 937.70 feet along lands now or formerly of Tai to the point or place of beginning containing 21.22 acres, more or less.

BEING a portion of the premises conveyed to Minnie F. Dobson by deed from Edward M. Stillman as referee, dated October 25, 1907, and recorded October 26, 1907, in the Dutchess County Clerk's Office in Liber 355 of Deeds at page 523 and conveyed by the said Minnie F. Dobson to Kinkead by deed dated May 9, 1909, and recorded in the Office of the Clerk of Dutchess County in Liber 357 of Deeds at page 517.

AND being a portion of the premises conveyed by Arthur Dobson to Kinkead by deed dated September 8, 1934, and recorded in the Office of the Clerk of Dutchess County in Liber 541 of deeds at page 86.

SUBJECT to the right of way for ingress and egress granted by Elise H. Kinkead as aforesaid to the Young-Morse Historical Site by an addendum to the aforesaid deed which encumbers a strip of land 50 feet in width (containing 1.25 acres) extending westerly from New York Route 9 along lands now or formerly of Tai upon lands of the Estate of Elise Kinkead.

The premises are more recently described in Schedule B annexed hereto.

Schedule A Description

Underwriter No. RF 277-18

Title Number 0610040281

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ALL that certain plot, piece or parcel of land situate lying and being in the Town of Poughkeepsie, County of Dutchess and State of New York, bounded and described as follows:

BEGINNING at a point at the westerly side of New York State Route 9, said point marked by the southeast corner of a stone post and being the northeasterly corner of the herein described parcel, said point also marks the southeasterly corner of lands of Poughkeepsie Rural Cemetery as described in Liber 384 of Deeds at page 435; thence along the westerly side of New York State Route 9, South 02 deg. 32' 51" East 114.71 feet, South 04 deg. 50' 00" West 188.20 feet and South 07 deg. 51' West 154.50 feet to the southeasterly corner of the herein described parcel; thence along lands of South Clover Properties, Inc. described in Liber 1797 of Deeds at page 896, following the mean line of wire fence remains, North 84 deg. 00' 37" West 973.70 feet to a steel pin found; thence along lands of Young-Morse Historical Site described in Liber 1552 of Deeds at Page 407 North 83 deg. 30' 53" West 533.17 feet to remains of a concrete monument found, North 64 deg. 56' 27" West 381.10 feet to the remains of a concrete monument found and North 15 deg. 12' 34" East 509.71 feet to a steel pin found at the northwesterly corner of the herein described parcel; thence along the lands of Poughkeepsie Rural Cemetery, South 74 deg. 00' 29" East 1037.03 feet and South 84 deg. 18' 30" East 748.30 feet to the point or place of BEGINNING.

SUBJECT to the right of way for ingress and egress granted by Elise H. Kinkead which encumbers a strip of land 50 feet in width extending westerly from New York Route 9 along lands now or formerly of Tai upon lands of the Estate of Elise Kinkead.