

CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM

DATE: July 23, 2020
TO: JULIET T.H. WALKER, PLANNING DIRECTOR
FROM: TREVOR P. MCCOURT, STAFF ATTORNEY *TPM*
RE: PLANNING BOARD AGENDA ITEM
185 EDMOND AVENUE DRAINAGE EASEMENT
FROM RYAN AND ADRIENNE CRESS

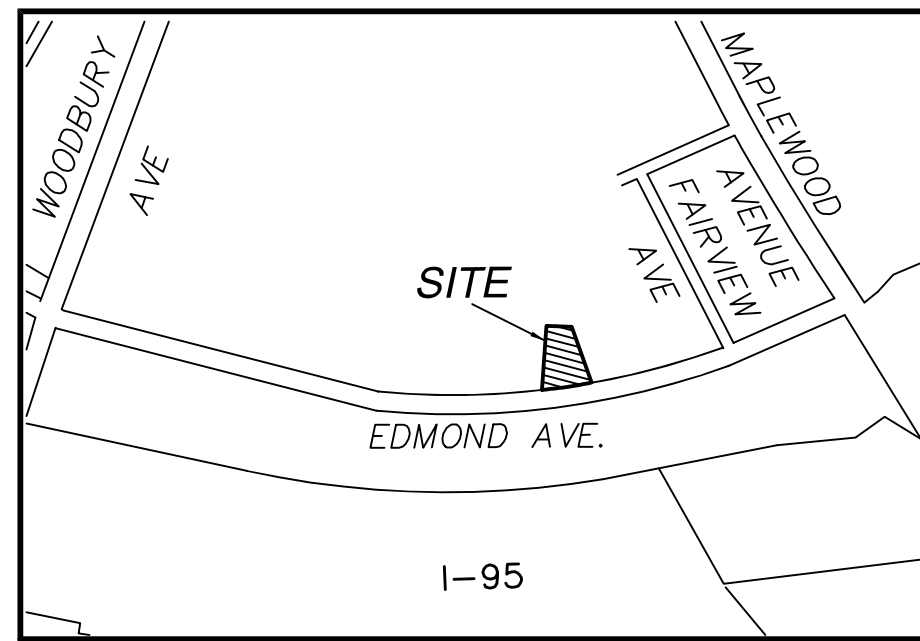
The Department of Public Works has been improving and replacing existing sewer drainage pipes in the City, including in and around Edmond Avenue. Over the course of completing these improvements, City surveyors discovered a portion of the drain line over the property located at 185 Edmond Avenue was not secured within an easement. In advance of improvements to the drain line, and in consideration of landscaping improvements on the property, Ryan and Adrienne Cress have agreed to convey an easement over 1,081 square feet of their property in order to clear chain of title.

The Legal Department has reviewed the form of the easement, and the final version is attached along with the Easement Plan.

Proposed Motion: Recommend that the City Council authorize the City Manager to accept a drainage easement over land at 185 Edmond Avenue from Ryan and Adrienne Cress (Tax Map 220 Lot 56).

Attachments

cc: Dave Desfosses, Project Manager
Robert P. Sullivan, City Attorney
Suzanne M. Woodland, Deputy City Attorney



LOCUS
(N.T.S.)

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	130.42	1120.92	6°39'59"	N 31°08'40" E	130.35
C2	335.08 (TIE)	1120.92	17°07'40"	N 19°12'51" E	333.83 (TIE)
C3	531.03 (TIE)	1120.92	27°08'37"	N 48°00'59" E	526.08 (TIE)

LINE	BEARING	DISTANCE
L1	N 66°43'10" W	8.70 (TIE)
L2	S 46°33'37" E	0.22 (TIE)
L3	N 41°29'10" E	33.50 (TIE)
L4	N 46°52'36" E	56.59 (TIE)

220-35
HONG B. &
MYOUNG S. KIM
65 ONYX LANE
PORTSMOUTH, NH 03801
5394/1787

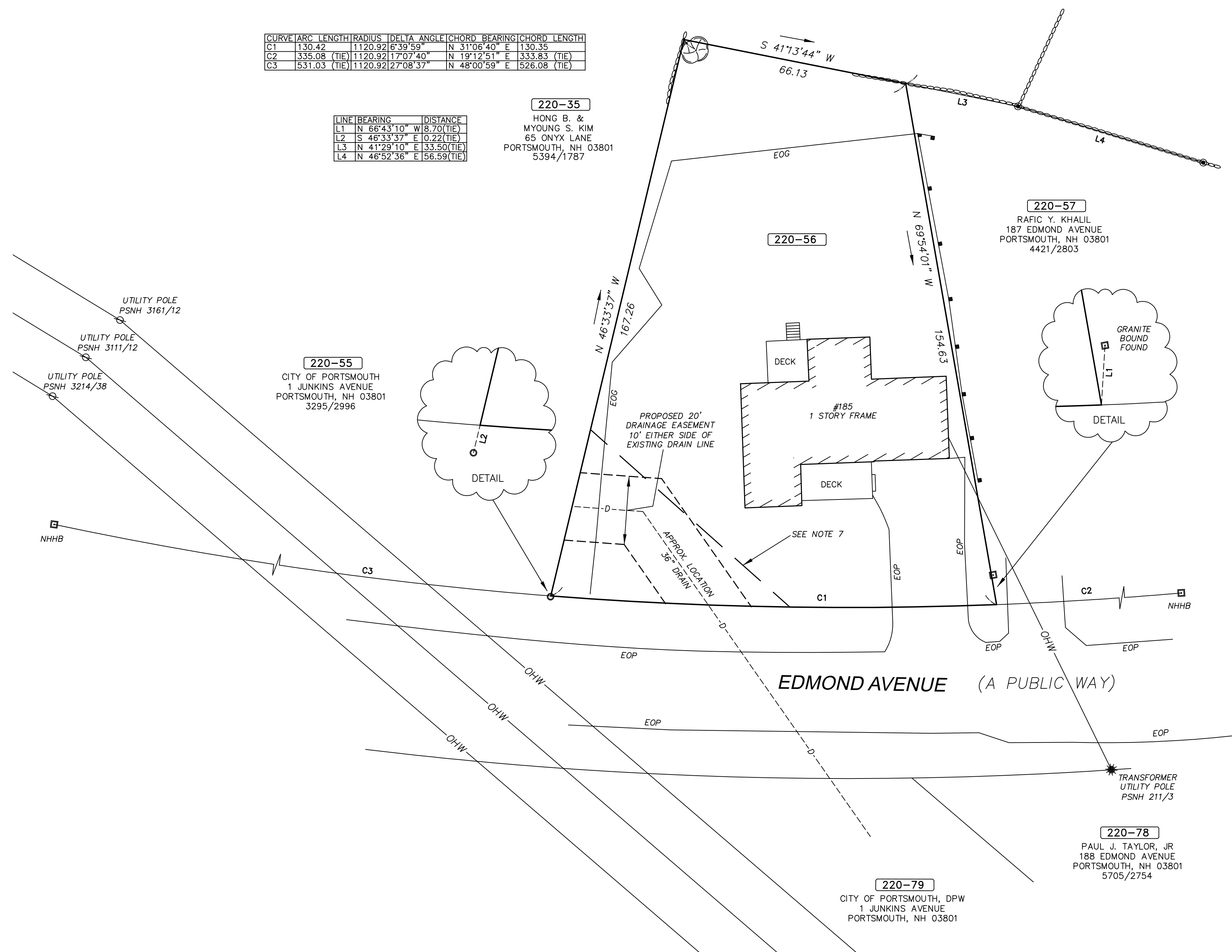
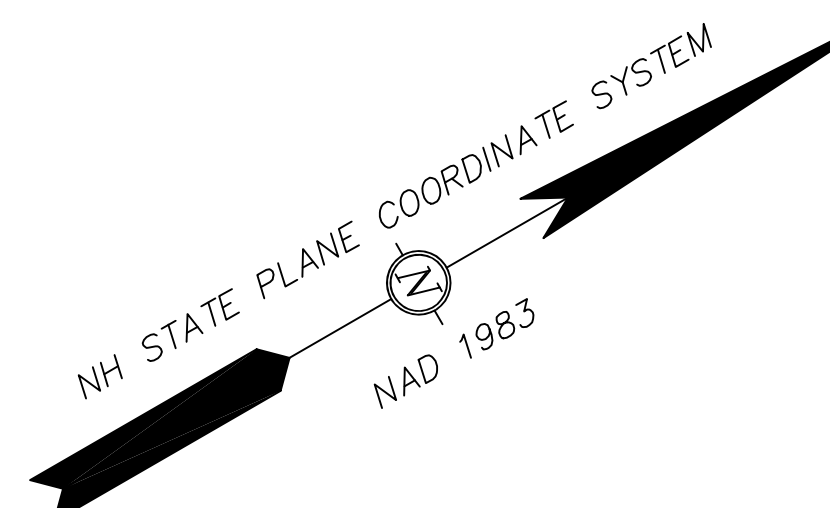
219-03-1
PETER BRESCIANO
101 O'LEARY PLACE
PORTSMOUTH, NH 03801
4925/1326

220-57
RAFIC Y. KHALIL
187 EDMOND AVENUE
PORTSMOUTH, NH 03801
4421/2803

220-55
CITY OF PORTSMOUTH
1 JUNKINS AVENUE
PORTSMOUTH, NH 03801
3295/2996

220-78
PAUL J. TAYLOR, JR
188 EDMOND AVENUE
PORTSMOUTH, NH 03801
5705/2754

220-79
CITY OF PORTSMOUTH, DPW
1 JUNKINS AVENUE
PORTSMOUTH, NH 03801



NOTES:

- OWNER OF RECORD.....RYAN A. & ADRIENNE A. CRESS
ADDRESS.....185 EDMOND AVENUE, PORTSMOUTH, NH 03801
DEED REFERENCE.....5563/937
TAX SHEET / LOT.....220-56
- ZONED:.....SINGLE RESIDENCE B(SRB) FRONT YARD SETBACK.....30'
MINIMUM LOT AREA 15,000 S.F. SIDE YARD SETBACK.....10'
FRONTAGE.....100' REAR YARD SETBACK.....30'
- THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES, ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- HORIZONTAL DATUM: NAD 1983 ESTABLISHED BY SURVEY GRADE GPS OBSERVATION AND NGS "OPUS" SOLUTION. REFERENCE FRAME: NAD83 (2011)(EPOCH: 2010.0000), US SURVEY FOOT.
- THE PARCEL SHOWN HEREON LIES WITHIN ZONE X (AREAS OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 33015C0259E, EFFECTIVE DATE MAY 17, 2005 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- APPROXIMATE LIMIT OF NHG&E (EVERSOURCE) EASEMENT, SEE RCRD 1138/253.

REFERENCE PLANS:

- PLAT OF LAND, FOR, CHARLES GOODIN IN PORTSMOUTH, NH, DATED OCT, 1971 RCRD PLAN #B-8710.
- SUBDIVISION PLAN FOR CHARLES FARRIN, EDMOND AVENUE, PORTSMOUTH, NH DATED JUNE, 1979. RCRD PLAN #C-9495.
- FEDERAL AID R.O.W. PROJECT I-95-1(9)14 NH PROJECT P-5875-A, 1969 SHEETS 22 & 23 OF 38.

PURSUANT TO RSA 676:18,III AND RSA 672:14

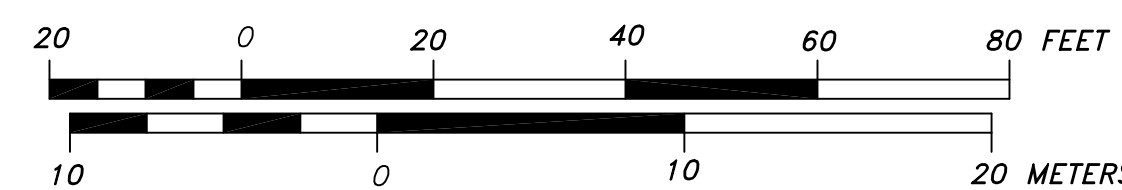
I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

JAMES VERRA DATE

PRELIMINARY
SUBJECT TO CHANGE

LEGEND:

- ○ ○ ○ ○ STONE WALL
- DRILL HOLE FOUND
- IRON ROD AS NOTED
- IRON PIPE FOUND
- ⊞ GRANITE BOUND FOUND
- NHHB NEW HAMPSHIRE HIGHWAY BOUND
- WOOD FENCE
- 220-56 TAX SHEET - LOT NUMBER
- RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
- EOP EDGE OF PAVEMENT
- UTILITY POLE
- HYDRANT
- OHW- OVERHEAD WIRES
- EOG EDGE OF GRASS
- CMP CORRUGATED METAL PIPE



REV. NO.	DATE	DESCRIPTION	APPR'D
1	1-19-2018	NEW EASEMENT LANGUAGE	JV
0	10-5-2017	FOR REVIEW & COMMENT	JV

EASEMENT PLAN
185 EDMOND AVENUE
PORTSMOUTH, NEW HAMPSHIRE
ASSESSOR'S PARCEL #220-56
OWNER: RYAN A. & ADRIENNE A. CRESS
FOR: CITY OF PORTSMOUTH

JAMES VERRA and ASSOCIATES, INC.	DATE: PRELIMINARY
101 SHATTUCK WAY SUITE 8 NEWINGTON, N.H., 03801-7876 603-436-3557	JOB NO: 23735
PROJECT MGR	DWG NAME: 23735
DRAWN BY	PLAN NO: 23735
COPYRIGHT ©2017 by JAMES VERRA and ASSOCIATES, INC.	SHEET: 1 of 1

Return to:
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

DRAINAGE EASEMENT

RYAN A. CRESS AND ADRIENNE A. CRESS, husband and wife, of 185 Edmond Avenue, Portsmouth, County of Rockingham, State of New Hampshire 03801, hereinafter "Grantors," for consideration paid, grant to the **CITY OF PORTSMOUTH**, a municipal body politic, having a mailing address of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, hereinafter, "Grantee," with QUITCLAIM COVENANTS, the following easement with respect to Grantor's real property situate on the southerly side of Shaw Road in the City of Portsmouth, State of New Hampshire :

Permanent Easement Area: A permanent easement area being ten (10) feet on either side of an existing drain pipe beginning in the southerly corner of the Grantor's property as shown on a plan entitled "Easement Plan, 185 Edmond Avenue, Portsmouth, New Hampshire, Assessor's Parcel #220-56, Owner: Ryan A. and Adrienne A. Cress, For: City of Portsmouth" dated July 14, 2020 by James Verra and Associates, Inc., approved recorded herewith at the Rockingham County Registry of Deeds at _____.

Being an easement area of approximately 1,081 square feet.

1. **Purpose and Rights:** The Grantee shall have a permanent easement and right of way in, under, across and over the Permanent Easement Area for the purpose of installing, maintaining, inspecting, removing, repairing, and replacing a drainage pipe, manholes, catch basins and appurtenances with their associated outfall, swales and storm water flow. The Grantee shall have the right to remove trees, bushes, undergrowth and other obstructions interfering with the activities authorized herein and to take such other actions as may be necessary, useful or convenient for the enjoyment of the easement rights herein granted.
2. **Grantee's Responsibility to Restore:** Disturbed areas within the Permanent Easement Area shall be back-filled and restored at the Grantee's expense.
3. **Grantor's Retained Rights:** Grantors retain the right to freely use and enjoy its interest in the Permanent Easement Area insofar as the exercise thereof does not endanger or interfere with the purpose of this instrument. Grantors shall not, however, erect any new building, shed, deck or other structure within the Permanent Easement Area, substantially change the grade or slope,

install any pipes, or pave or asphalt the Permanent Easement Area without prior written consent of the Grantee.


4. **Personal Property.** It is agreed that the pipes and related facilities installed within the Permanent Easement Area, whether fixed to the realty or not, shall be and remain the property of the Grantee.

5. **Easement to Run with Land:** All rights and privileges, obligations and liabilities created by this instrument shall inure to the benefit of, and be binding upon, the heirs, devisees, administrators, executor, successors and assignees of the Grantee and of the Grantors, the parties hereto and all subsequent owners of the Premises and shall run with the land.

MEANING AND INTENDING to convey an easement over a portion of the premises conveyed to the within Grantors by deed of Mark A. Weir dated September 26, 2014 and recorded in Book 5563 , Page 0937 of the Rockingham County Registry of Deeds.

This is an exempt transfer per RSA 78-B:2(I).

DATED this 20th day of July, 2020.

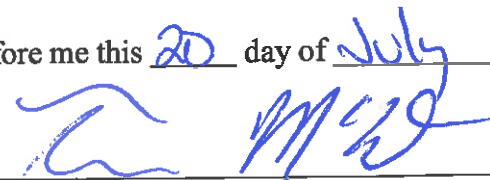
By: 
Ryan A. Cress

By: 
Adrienne A. Cress

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 20 day of July, 2020 by Ryan A. Cress.

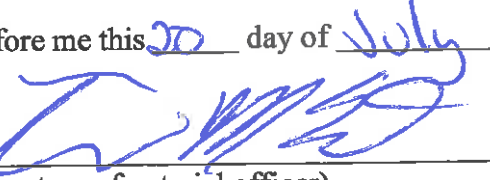
(Seal, if any)


(Signature of notarial officer)
Notary Public/Justice of the Peace
Trevor P. McCourt
NOTARY PUBLIC
State of New Hampshire
My Commission Expires 11/25/2024

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 20 day of July, 2020 by Adrienne A. Cress.

(Seal, if any)


(Signature of notarial officer)
Notary Public/Justice of the Peace

Trevor P. McCourt
NOTARY PUBLIC
State of New Hampshire
My Commission Expires 11/25/2024

City of Portsmouth, New Hampshire

Witness

By: _____
Karen S. Conard, City Manager, per vote of the City
Council on _____.

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by
_____, as the duly authorized City Manager of the City of Portsmouth New
Hampshire.

(Seal, if any)

(Signature of notarial officer)
Notary Public/Justice of the Peace