

PERPETUAL EASEMENT
Granted from _____ to DLG

This Deed of Easement is made this _____ day of _____, 20____, by and between _____ LPA _____ (“Grantor”) and Department for Local Government (DLG).

WITNESSETH:

WHEREAS, the Grantor is a public body politic, which has obtained a grant from the Commonwealth of Kentucky, Department for Local Government (“DLG”), as governed by the Memorandum of Agreement (“MOA”) between the Grantor and the DLG, attached hereto as Exhibit A, in order to establish a public multi-use non motorized recreational trail (“Trail”) in conjunction with the Recreational Trails Program governed by 23 U.S.C. § 206 and all other applicable laws and regulations.

WHEREAS, the Grantor built the Trail within the Trail Easement Area in compliance with the MOA between the Grantor and the DLG. The quality of the Trail and the Trail Easement Area are documented in a set of reports, surveys and photographs (“Baseline Documentation”) a portion of or all of which is attached hereto as Exhibit D and incorporated herein by this reference. The parties acknowledge and agree that the Baseline Documentation provides an accurate representation of the Trail and the Trail Easement Area the time of this grant, and which are intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement. Exhibit D consists in part of photographs, which may not be recordable, but are otherwise incorporated by reference. The original photographs have been retained in the DLG offices. In the event of any discrepancy in the Baseline Documentation, including photographs, between the original held by DLG and the copy retained by the Grantor, DLG’s Baseline Documentation shall control.

WHEREAS, in connection with the above described program and as required by the MOA the Grantor desires to transfer to DLG this easement (“Easement”) on the Trail Easement Area as governed by the below terms.

NOW, THEREFORE, in consideration of the mutual covenants by and between the parties hereto and the public benefit to be derived by the grant of the hereinafter described Easement, and in return for a grant of funds under the Recreational Trails Program, the Grantor hereby grants and conveys unto DLG, its successors, lessees, and assigns a perpetual, non-exclusive and assignable multi-use public trail easement along with the right, power, and privilege, but not the obligation to maintain the Trail along and upon the Trail Easement Area as described in Exhibit B.

1. Grantor’s Reserved Rights Not Requiring Further Approval by DLG. Subject to the other provisions of this Easement, the following rights, uses, and activities of or by Grantor in, on, over or under the Trail and the Trail Easement Area are permitted by this Easement:

- a. The right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; and (ii) do not substantially impair the purposes of this Easement;
- b. The right to maintain and repair the Trail and the Trail Easement Area to the standard indicated by the Baseline Documentation, pursuant to the terms of the MOA.
- c. The right to continue all manner of existing use and enjoyment of the Trail and the Trail Easement Area, including but not limited the right to construct maintain, repair and restore of permitted structures and improvements
- d. The right to selectively cut or clear trees or vegetation as required to maintain the Trail and the Trail Easement Area.
- e. The right to remove dead, dying or diseased vegetation and trees within the Trail Easement Area which pose a safety risk to Trail users.
- f. The right to regulate the use of the Trail and the Trail Easement Area in compliance with the MOA and the Grants of Property Interest, if applicable.

2. Grantor's Covenants. The Grantor agrees at all times to maintain the Trail and the Trail Easement Areas pursuant to the terms of the MOA and to the level of repair indicated by the Baseline Documentation, in perpetuity. Grantor's responsibilities include but are not limited to the following:

- a. Grantor shall maintain the Trail and the Trail Easement Area in perpetuity to prevent undue deterioration of the facilities and to encourage public use.
- b. The Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the Trail and the Trail Easement Area in substantially the same structural condition and state of repairs as those indicated in the Baseline Documentation.
- c. Grantor shall keep the Trail and the Trail Easement Area reasonably safe for public use
- d. Grantor shall keep the Trail and the Trail Easement Area open for public use at reasonable hours and times of the year for perpetuity.
- e. Grantor shall keep the Trail and the Trail Easement Area open for all persons regardless of race, color, sex, national origin, or disability.
- f. The Grantor shall allow the Trail and the Trail Easement Area to be used solely for public recreational purposes. The Trail shall be used only for non-motorized

passive recreation and designated for foot and horse travel, bicycle use, roller skating and skate boarding use and the like.

- g. The Grantor shall only erect those structures or improvements which are conducive to the use of the Trail and/or the safety of the Trail users. Such structures may include but shall not be limited to signage, stairways, steps, bridges, paving and surfacing material, culverts, benches, picnic tables, restrooms, parking lots, trash receptacles, and signs or markings to inform the public of the Trail location or other features.
- h. The Grantor shall not place, collect, or store trash, human waste, ashes, chemicals, hazardous or toxic substances or any other unsightly or offensive material within the Trail Easement Area, except for trash receptacles provided for the use of Trail users.
- i. The Grantor shall not make permanent substantial topographical changes within the Trail Easement Area, including but not limited to filling, excavation, removal of topsoil, sand gravel, rocks or minerals without prior notice and approval from DLG;
- j. The Grantor shall not participate in any unanticipated activity or use of the Property, which would impair significant use of the Trail unless such activity is necessary for the protection of the values that are the subject of this Easement.
- k. The Grantor shall not change the use of the Trail or the Trail Easement Area without prior notice to and approval for the change of use from DLG. Before approval is granted DLG must find that the change does not conflict with any federal laws which may prohibit change of the use of the Trail and the Trail Easement Area.
- l. The Grantor shall not conduct any archaeological exploration, artifact collection or recovery operation without prior notice to and approval by DLG. Any such investigation shall be conducted under the immediate supervision of a qualified professional archaeologist with training or experience that is acceptable to DLG and shall conform to the standards for archaeological work established by DLG or the National Park Service. If a permit is required, Grantor must also obtain prior written approval from DLG. All archeological artifacts recovered from the Trail Easement Area shall be curated at a facility approved by DLG. Should the facility charged with the curation of such artifacts cease to exist, or become, for any reason, unwilling to remain in possession of such artifacts or should DLG determine that such party is using such artifacts for purposes other than research, conservation, and display, then possession shall become vested in DLG and Grantor or its designee shall immediately surrender control over all such artifacts to DLG.

- m. The Grantor shall not erect any signs or advertisements within the Trail Easement Area except those designed to provide information to the public of the Trail location or other Trail features without prior notice to and approval by DLG.
- n. The Grantor shall not permit any rights-of-way, easements of ingress or egress, driveways, roads, utility lines or other easements or servitudes, to be constructed, developed, or maintained into, on, over, under, or across, the Trail Easement Area without the prior notice to and approval by DLG.
- o. The Grantor shall take all steps necessary, at its own cost, to enforce and preserve its property interest in the Trail Easement Area to the extent necessary to comply with its obligations under the MOA and this Easement and to preserve DLG's rights under the same.

3. Notice and Approval. The purpose of requiring the Grantor to notify DLG prior to undertaking certain permitted activities is to afford DLG an adequate opportunity to monitor those activities in question to ensure that they are designed and carried out in a manner that is consistent with the purpose of the Easement.

- a. Whenever notice is required, Grantor shall notify DLG in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit DLG to make an informed judgment as to its consistency with the purpose of this Easement.
- b. Where DLG's approval is required, DLG shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request therefore. Failure of DLG to deliver a written response to the Grantor within such thirty (30) days shall be deemed to constitute approval by DLG of such request unless such act is contrary to any express restriction included herein. DLG's approval may be withheld only upon a reasonable determination by DLG that the action as proposed would be inconsistent with the purpose of this Easement.

4. Inspections. DLG may, but is not required to, make periodic inspections of the Trail and Trail Easement Area with the consent of Grantor, representative of DLG shall be permitted at all reasonable times to inspect the Trail and the Trail Easement Area. Grantor covenants not to withhold unreasonably its consent in determining dates and times for such inspections.

5. Notice of Violation; Corrective Action. If DLG determines that a violation of the terms of this Easement has occurred or is threatened, DLG shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation. The Grantor shall correct

deficiencies identified and report those corrections in writing to DLG within the time allowed for cure outlined in Paragraph 7.

6. Standards for Review. DLG shall apply the Secretary's Standards in exercising any authority created by the Easement to inspect the Trail and the Trail Easement Area, to review any construction, alteration, repair or maintenance of the Trail or Trail Easement Area, or to review casualty damage or to reconstruct or approve reconstruction of the Trail or the Trail Easement Area following casualty damage.

7. Remedies:

- a. Injunction. If Grantor fails to cure the violation within sixty (60) days after receipt of notice thereof from DLG, or, under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, fails to begin curing such violation within the sixty (60) day period, fails to continue diligently to cure such violation until finally cured, DLG may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by restraining order, temporary or permanent injunction, and to require the restoration of the Trail and Trail Easement Area to the condition indicated in the Baseline Documentation.

In the event that DLG seeks an injunction DLG shall not be required to post a bond and shall not be required to demonstrate irreparable harm or injury. Grantor agrees that DLG's remedies at law for any violation of the terms of this Easement are inadequate and that DLG shall be entitled to the injunctive relief described above, both prohibitive and mandatory, in addition to such other relief to which DLG may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. DLG's remedies described in this Subparagraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

- b. Damages. If Grantor fails to cure the violation within sixty (60) days after receipt of notice thereof from DLG, or, under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, fails to begin curing such violation within the sixty (60) period, fails to continue diligently to cure such violation until finally cured, DLG may bring an action at law demanding reimbursement of the money paid to the Grantor pursuant to the MOA.

In the alternative, DLG can enter the Trail Easement Area and cure the violation itself. It can then bring an action for the cost of performing the maintenance or curing the violation.

- c. Emergency Enforcement. If DLG, in its discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Trail or

the Trail Easement Area, DLG may pursue any of its remedies available under this Easement without notice to Grantor and without waiting for the period provided for cure to expire.

- d. Scope of Relief. DLG's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement.
- e. Cost of Enforcement. All reasonable costs incurred by DLG in enforcing the terms of this Easement against the Grantor, including without limitation, costs and expenses of suit and reasonable attorneys' fees, shall be borne by the Grantor without abatement, suspension, deferment or reduction; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- f. Lien. Grantor expressly agrees that DLG shall have, is hereby granted, and shall be entitled to record a lien against the Grantor's interest in the Trail Easement Area for any unpaid damages or costs of enforcement if DLG so chooses. Any lien on the Trail Easement Area created pursuant to this Easement may be confirmed by judgment and foreclosed by DLG in the same manner as a mechanic's lien except that no lien created pursuant to this Easement shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Trail Easement Area.
- g. Forbearance. Forbearance by DLG to exercise any of its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by DLG of such term or of any subsequent breach of the same or any other terms of this or of any of DLG's rights under this Easement. No delay or omission by DLG in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- h. Waiver of Certain Defenses. DLG acknowledges that Grantor has read this Easement, its terms and requirements, and Grantor, in full knowledge of its provisions, hereby waives any defense of laches, estoppels, or prescription with respect to any enforcement action instituted by DLG.
- i. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle DLG to bring any action against Grantor for any injury to or change in the Trail or Trail Easement Area resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Trail or Trail Easement Area resulting from such causes. Notwithstanding the foregoing Paragraph, the Grantor remains responsible for maintaining the Trail and the Trail Easement Area to the standard of the Baseline Documentation against wear and tear caused by public use.

8. Casualty Damage or Destruction; Insurance. In the event that the Trail or Trail Easement Area shall be damaged or destroyed by fire, flood, windstorm, tornado, earth movement or other casualty, Grantor shall notify DLG in writing within sixty (60) days of the damage or destruction. The notification shall include what, if any, emergency work has already been completed, an assessment of the nature and extent of the damage, a determination of the feasibility of the restoration of the Trail and Trail Easement Area if appropriate under the Secretary's Standards, and a report of such restoration work necessary to return the Property to the condition existing at the date hereof if appropriate under the Secretary's Standards.

After reviewing the report provided pursuant to this Paragraph and assessing the availability of insurance proceeds, if Grantor and DLG agree that the purpose of the easement will be served by such reconstruction and if deemed appropriate under the Secretary's Standards, the Grantor and DLG shall establish a schedule under which Grantor shall repair or reconstruct the Trail and Trail Easement Area so that it conforms to the requirements of the MOA and to the condition represented in the Baseline Documentation as closely as possible given the amount of any casualty insurance proceeds available to Grantor.

9. Indemnification. To the extent permitted by law, Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend, at its own cost and expense, the FHWA, DLG, and its agents, officers, employees, contractors, subcontractors, the Commonwealth of Kentucky, the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified parties") from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, losses, fines, costs, charges, demands, orders, judgments, administrative actions, and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon, incurred by or asserted against any one of the Indemnified Parties (unless due solely to the negligence of any of the Indemnified Parties while acting within the scope of their employment) by reason of any one or more of the following: (i) DLG's interest in the Trail and Trail Easement Area or any part thereof, (ii) any accident, injury to or death of person or persons or loss of or damage to property occurring in, on or about the Trail and Trail Easement Area or any part thereof; (iii) any use, disuse or condition of the Trail and Trail Easement Area or any part thereof, (iv) the presence or release in, on, or about the Trail and the Trail Easement Area, at any time, of any substance now or hereafter defined, listed or otherwise, classified pursuant to any law, ordinance, or regulation as hazardous, toxic, polluting or contaminating substance, (v) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and Kentucky Revised Statutes § 224.10-020, et seq., by any person in any way affecting, involving, or relating to the Trail and the Trail Easement Area, and (vi) the obligations, covenants, representations, and warranties of Paragraphs 8, 11, 12, 13, and 14. Nothing

contained herein is intended to be, nor shall it be, a waiver of any defense, including that of sovereign immunity, that Grantor may have as to any party.

10. Taxes. Grantor shall pay immediately, when first due or owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, charges or fees of whatever description levied on or assessed against the Trail and the Trail Easement Area by a competent authority which may become a lien on the Trail or Trail Easement Area, including any taxes imposed upon or incurred as a result of this Easement, unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation hereunder to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. Grantor shall furnish DLG with satisfactory evidence of payment upon request.

11. Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of its knowledge:

- a. As soil contamination has been detected in portions of the Project corridor, a Soil Management and Capping Plan is required as part of the Purchase Sale Agreement. The LFUCG will comply with the Soil Capping Plan during construction of the project;
- b. There are not now any underground storage tanks located within the Trail Easement Area, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Trail Easement Area in a manner not in compliance with applicable federal, state and local laws, regulations, and requirements;
- c. Grantor and Trail Easement Area are in compliance with all federal state and local laws, regulations, ordinances, codes and requirements applicable to the Trail Easement Area and its use;
- d. There is no pending or threatened litigation in any way affecting, involving, or relating to the Trail Easement Area;
- e. No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or any alleged violation of, or failure to comply with, any use, nor do there exist any facts or circumstances that Grantor

might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders;

- f. There are no outstanding surface or subsurface mineral rights associated with the Trail Easement Area; and
- g. Grantor has sufficient interest in the property comprising the Trail Easement Area to grant this Easement and fulfill all of its terms and conditions fully.

12. Remediation. If, at any time, there occurs, or has occurred, a release in, on, or about the Trail Easement Area of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required.

13. Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in DLG to exercise physical or managerial control over the day-to-day operations of the Trail or the Trail Easement Area, or any of Grantor's activities on the Trail and Trail Easement Area, or otherwise become an operator with respect to the Trail and Trail Easement Area within in the meaning of the CERCLA and Kentucky Revised Statutes § 224.10-020, et seq.

14. Written Notice. Any notice which either Grantor or DLG may desire or be required to give to the other party shall be in writing and shall be delivered by one of the following methods: (i) upon delivery if delivered by hand delivery or facsimile transmission, (ii) one (1) business day after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, with return receipt requested, and addressed as follows: if to Grantor, _____ and if to DLG, then to the Commonwealth of Kentucky, Transportation Cabinet, Office of Local Programs, Attn: _____, 200 Mero Street, Frankfort, KY 40622. Each party may change its address set forth herein by a notice to such effect to the other party.

15. Estoppel Certificates. Upon written request by DLG, Grantor shall promptly furnish DLG certification that, to the best of Grantor's knowledge, Grantor is in compliance with any obligations of Grantor contained in this Easement;

16. Notice from Government Authorities. Grantor shall deliver to DLG copies of any notice of violation or lien relating to the Trail and the Trail Easement Area received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by DLG,

Grantor shall promptly furnish DLG with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

17. Proposed Sale of Any Portion of Trail Easement Area. Grantor shall promptly notify DLG in writing of any proposed sale of the Trail Easement Area, notify DLG of the names and addresses of Grantor's successor(s) in interest, and provide the opportunity for DLG to explain the terms of the Easement to potential new owners or prior to sale closing. In any deed conveying an interest in all or part of Trail Easement Area subject to the terms of this Easement, the Grantor shall refer to this Easement and shall indicate that the Easement is binding upon all successors in interest to the Trail Easement Area in perpetuity.

18. Runs with the Land. Except as provided in Paragraphs 8, 9, 22, 23, 24, and 25, the obligations imposed by this Easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with all property which makes up the Trail Easement Area. This Easement shall extend to and be binding upon Grantor and DLG and all of each of their successors and assigns. The words "Grantor" and DLG" shall include all such persons. Anything contained herein to the contrary notwithstanding, an owner of any portion of the Trail Easement Area shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the property by reason of a bona fide transfer. The restrictions, stipulations, and covenants contained in this Easement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title or any lesser estate in the property making up the Trail Easement Area or any part thereof, including by way of example and not limitation, a lease of all or a portion of the property making up the Trial Easement Area.

19. Assignment. DLG may, with the express prior written approval of the Grantor, convey, assign, or transfer its respective rights, title, and interest in this Easement to a duly authorized unit of the federal, state or local government or to a similar local, state or national organization whose purpose, inter alia, are to promote the values of the Recreational Trails Program, provided that such conveyance, assignment or transfer requires that the purpose for which the Easement was granted will continue to be carried out. In the event that DLG shall cease to be authorized to hold such easements, then DLG shall promptly select another qualified organization with the express prior written approval of Grantor, and convey, assign, or transfer to the selected qualified organization all of its respective right, title, and interest under this Easement. DLG agrees to give written notice to Grantor of an assignment at least thirty (30) days prior to the date of such assignment. Approval by the Grantor under this paragraph shall not be unreasonably withheld.

20. Recording and Effective Date. DLG shall do and perform at its own cost all acts necessary for the prompt recording of this instrument in the land records of _____ County, Kentucky. Grantor and DLG intend that the restrictions arising under this Easement

take effect on the day and year this instrument is recorded in the above described land records. This instrument may be re-recorded at any time as may be required to preserve the rights in this Easement.

21. Change in Economic Conditions. The fact that any use of the Trail Easement Area that is expressly prohibited by the terms of this Easement may become more economically valuable than uses permitted by the terms of this Easement, or that neighboring properties may, in the future be put entirely to uses that are not permitted by the terms of this Easement, has been considered by Grantor in granting this Easement, Grantor believes that any such changes in the use of neighboring properties will increase the benefit to the public on the continuation of this Easement, and Grantor and DLG intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement. The inability of making a profit shall not impair the validity of the Easement or be considered grounds for its termination or extinguishment pursuant to Paragraph 24.

22. Extinguishment. If circumstances arise in the future that render the purpose of the Easement impossible to accomplish, this Easement can only be terminated or extinguished whether in whole or in part, agreeable to the parties in a court of competent jurisdiction. Such circumstances may include, but are not limited to, partial or total destruction of the Trail or the Trail Easement Area resulting from casualty.

23. Agents of DLG. DLG may assign its rights and obligations under this instrument with regard to maintenance and monitoring of the Trail and the Trail Easement Area to persons, entities, or agencies ("Agents") as it sees fit. DLG shall notify Grantor if such assignment is made and shall provide Grantor the name, address, and other contact information for these Agents.

24. Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Easement:

- a. The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Kentucky;
- b. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of the Trail Easement Area shall not apply in the construction interpretation of this Easement and this instrument shall be interpreted broadly to affect its purpose and the transfer or rights and restriction on use herein contained;

- c. The parties intend to agree and bind themselves, their successors, and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter.
- d. The invalidity or unenforceability of any provision of this Easement shall not affect the validity or enforceability of any other provision of this Easement or any ancillary or supplementary agreement relating to the subject matter hereof;
- e. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any law regulation, ordinance, code or requirement relating to building materials, construction methods, interior mechanical systems (including, but not limited to, heating, air conditioning, plumbing, electrical, or gas), or use of the Trail or the Trail Easement Area. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor shall promptly notify DLG of such conflict and shall cooperate with DLG and the applicable governmental entity to accommodate the purpose of both this Easements and such ordinance or regulation.
- f. To the extent that Grantor owns or is entitled to development rights which may exist now or at some time hereafter, whether by reason of applicable zoning or some other similar ordinance, such development rights shall not be exercisable on, above, or below the Trail or the Trail Easement Area during the term of the Easement, nor shall they be transferred to any adjacent parcel and exercised in a manner what would interfere with the purpose of the Easement.
- g. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation; and
- h. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and DLG may by mutual written agreement jointly amend this Easement, provided that no amendment shall be made that will adversely affect the qualification of the Easement or the status of DLG under any applicable law. Any such amendment shall be consistent with the purpose of the Easement and shall not affect its perpetual duration. Any such amendment shall be recorded in the land records of _____ County, Kentucky. Nothing in this paragraph shall require the Grantor or DLG to agree to any amendment or bind them to negotiation.

TO HAVE AND TO HOLD unto the Commonwealth of Kentucky, Transportation Cabinet, for the use and benefit of the Transportation Cabinet, its successors and assigns forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor its survivors, agents, personal representatives, heirs, assigns and all other successors to them in interest, and shall continue as a servitude running in perpetuity with the property.

CONSIDERATION CERTIFICATE OF GRANTOR

The Grantor herein hereby certifies that the consideration reflected in this easement as set forth hereinabove, is the full consideration paid for the property rights hereby conveyed.

ACKNOWLEDGMENT OF CONDITIONS BY GRANTOR

The Grantor herein, _____, and DLG agree that in substance the Baseline Documentation is an objective, though non-exclusive, representation of the Trail and the Trail Easement Area as it exists at the time of the conveyance of this Easement and documents a portion of the characteristics of the Trail and the Trail Easement Area in its current use and state of improvement.

IN WITNESS WHEREOF, the Grantor and DLG have hereunto set their hands on the date indicated above.

GRANTOR(S)

[Representative name, representative title]

COMMONWEALTH OF KENTUCKY

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____.

My commission expires: _____.

NOTARY PUBLIC, STATE AT LARGE, KY

KENTUCKY TRANSPORTATION CABINET

By: [Cabinet representative, Title]

COMMONWEALTH OF KENTUCKY

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____.

My commission expires: _____.

NOTARY PUBLIC, STATE AT LARGE, KY

Approved as to form and legality:

_____, Esq.
Kentucky Transportation Cabinet
Office of Legal Services
200 Mero Street
Frankfort, KY 40622
Telephone: (502) 564-7650
Facsimile: (502) 564-5238

This instrument prepared by: [Preparer, Title]

Schedule of Exhibits:
Exhibit A: MOA between DLG and Grantor
Exhibit B: Plat
Exhibit D: Baseline Documentation