

Execution Copy

DONATION AGREEMENT

THIS DONATION AGREEMENT (the "Agreement") made as of the 25th day of August, 2013, by and among THE BINNEWATER REALTY CORPORATION and ULSTER COUNTY CONSTRUCTION CORPORATION, INC., business corporations under New York law having their principal place of business at Williams Lake Hotel, Rosendale, New York 12472 (hereinafter referred to as the "Donors"), and OPEN SPACE CONSERVANCY, INC., a not-for-profit corporation under New York law having its principal office at 1350 Broadway, Room 201, New York, New York 10018 ("OSC") and WALLKILL VALLEY LAND TRUST, INC., A not-for-profit corporation under New York law having its principal place of business at 69 Huguenot Street, New Paltz, New York 12561 ("WVLT") (OSC and WVLT are sometimes referred to herein as the "Donees").

W I T N E S S E T H:

WHEREAS, the Donors are the owner in fee simple of certain real property (the "Property") located in the Town of Rosendale, Ulster County, New York as more fully described in a deed from Consolidated Rail Corporation to the Donors dated _____, 1984 and recorded in the Ulster County Clerk's Office on _____, 1984 at Liber ___ page ___;

WHEREAS, OSC, WVLT, and the towns of Gardiner and New Paltz collectively own a publicly available recreational rail trail that runs uninterrupted from Denniston Road on the

southern boundary of the Town of Gardiner, Ulster County, New York to the southern boundary of lands of the Donors. OSC and WVLT are currently engaged in an extensive renovation of the Rosendale trestle, a 950-foot long railroad bridge located approximately one mile south of the lands of Donors, in order to make such railroad bridge available for public recreational rail trail use;

WHEREAS, Donors and Donees all agree that it is in the public interest and in the interest of the Donors to have a continuous recreational rail trail running from the southern boundary of the town of Gardiner all the way to the City of Kingston;

WHEREAS, the Wallkill Valley Rail Trail will connect a variety of public and private recreational landscapes, including the 7,000-acre Mohonk Preserve, the 119-acre Joppenbergh Mountain owned by WVLT, and will access to the extensive network of trails and carriage roads that span much of the Shawangunk Ridge;

WHEREAS, Hudson River Valley Resorts, LLC (sole owner of Donors) is undertaking a proposed redevelopment of the Williams Lake resort in Rosendale as an environmentally responsible, community inclusive resort and residential development focused on wellness and outdoor recreation (the “Hudson River Valley Resort”, also known as the “Williams Lake Project” or “WLP”); and Donors are seeking approvals for such project from various agencies;

WHEREAS, Donors and Donees all recognize that the public recreational use of the Wallkill Valley Rail Trail and its associated recreational landscapes (Joppenbergh Mountain and Mohonk Preserve) has enormous importance to the residents of Rosendale, the general public, and WLP and its future residents and guests;

WHEREAS, Donors desire to grant and convey an easement and right of way over the former bed of the Wallkill Valley Railroad (with one area excepted, as more fully discussed

below) to Donees, in accordance with the terms and conditions set forth below;

WHEREAS, the Donees desire to acquire an easement and right of way over the Property, as more fully described in Exhibit A attached hereto and made a part hereof;

WHEREAS, in exchange for the easement and right of way, Donees desire to grant and convey to Donors a sewer line easement as more fully set forth in Exhibit B attached here and made a part hereof;

WHEREAS, the Donors and Donees intend this Donation Agreement to be enforceable in accordance with New York law regarding charitable pledges;

NOW, THEREFORE, subject to the provisions set forth herein, the parties agree as follows:

1. Donation Agreement. In consideration of the mutual covenants and promises contained in this Agreement and in acknowledgement of Donors and Donees' material reliance on this Agreement,

(i) Donors shall donate to Donees, and Donees shall accept, the donation of the easement and right of way as more fully described in the Easement and Right of Way attached hereto as Exhibit A and made a part hereof (the "Rail Trail Permanent Easement and Right of Way").

2. Closing.

(a) The closing on the acquisition of the Rail Trail Permanent Easement and Right of Way by the Donees and the Sewer Easement by the Donors shall occur upon the earlier of Donors' receipt of Master Plan approval for the WLP from the Town of Rosendale in a form acceptable to Donors or upon Donors' receipt of a site plan approval from the Town of Rosendale Planning Board for the WLP or any phase thereof.

(b) The Donors shall deliver at closing the Easement and Right of Way so as to be recordable in the Ulster County Clerk's Office.

(c) Prior to Closing Donees, at their sole cost and expense, may conduct a Phase 1 Environmental Site Assessment of the Rail Trail Permanent Easement and Right of Way. In the event the Phase 1 assessment discloses an condition unsatisfactory to Donees, Donees may opt not to take title to the Rail Trail Permanent Easement and Right of Way.

3. Title. Donors shall convey the Easement and Right of Way subject only to (a) a lien for non-delinquent real property taxes; and (b) utility easements and other easements not affecting the marketability of title to the Property.

4. Donors' Representations. Donors represent the following:

(a) Donors have full power and authority to enter into this Agreement and to convey the Easement and Right of Way in accordance with this Agreement.

(b) To the best of Donors' actual knowledge, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry pending or threatened against the Easement and Right of Way or any portion thereof, or pending or threatened against Donors which could affect Donors' title to the Easement and Right of Way or any portion thereof, affect the value of the Easement and Right of Way or any portion thereof, or subject an owner of the Easement and Right of Way, or any portion thereof, to liability.

(c) To the best of Donors' actual knowledge, there are no:

(i) Uncured notices from any governmental agency notifying Donors of any violations of law, ordinance, rule or regulation which would affect the Easement and Right of Way or any portion thereof;

(ii) Actual or impending mechanics liens against the Easement and Right of Way or any portion thereof.

(iii) Notices or other information giving Donors reason to believe that any conditions existing on the Easement and Right of Way may subject the owner of the Easement and Right of Way to potential liabilities under environmental laws.

(d) Donors have not granted any lease, license, permit, option, rental agreement, right of first refusal or other agreement, written or oral, which affects the Easement and Right of Way or any portion thereof.

(e) Except as disclosed hereafter, to the best of Donors knowledge, no hazardous substance or waste has been released or disposed of in or on the Easement and Right of Way. Donors disclose the former existence of two underground petroleum storage tanks (Tank #3 and Tank #8) at the Arch Motel, adjacent to the Easement and Right of Way. The tanks have been decommissioned and closed in accordance with all government requirements.

5. Donees' Representations.

(a) Donees are entities exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"), as amended, and qualify as publicly-supported charities under Code section 509(a)(3).

(b) Donees have the full power and authority to enter into this Agreement and to accept title to the Property.

7. Binding on Successors. This Agreement shall be binding upon the parties and upon their assigns and other successors in interest.

8. Entire Agreement; Modification. This Agreement constitutes the entire agreement between Donors and Donees pertaining to the subject matter contained in it and

supercedes all prior and contemporaneous agreements, representations, and understandings. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all the parties.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

10. Assignment. No assignment of this Agreement may be made by Donees to any party without the written consent of Donors, which may be withheld at Donors' sole discretion for any reason.

11. Conveyance of Sewer Line Easement to Donors. WVLT shall convey to Donors a sewer line easement (the "Sewer Line Easement") on the premises located in the Town of Rosendale, Ulster County, New York as more fully described in the Sewer Line Easement attached hereto as Exhibit B and made a part hereof. WVLT shall convey the Sewer Line Easement to the Donors subject only to (a) a lien for non-delinquent real property taxes; (b) utility easements and other easements not affecting the ability of the Donors to use the Sewer Line Easement for its intended purposes, and (c) covenants and restrictions set forth in the deed from Ulster County to the Wallkill Valley Land Trust, Inc. dated August 28, 2008 and recorded in the Ulster County Clerk's Office on _____, 2008 at Liber ____ page ____.

To the best of WVLT's actual knowledge, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry pending or threatened against the Sewer Line Easement or any portion thereof, or pending or threatened against Donees which could affect Donees' title to the Sewer Line Easement or any portion thereof, affect the value of the Sewer Line Easement or any portion thereof, or subject an owner of the Sewer Line Easement, or any portion thereof, to liability.

To the best of WVLT's actual knowledge, there are no: (i) Uncured notices from any governmental agency notifying WVLT of any violations of law, ordinance, rule or regulation which would affect the Sewer Line Easement or any portion thereof; (ii) Actual or impending mechanics liens against the Sewer Line Easement or any portion thereof; or (iii) Notices or other information giving WVLT reason to believe that any conditions existing on the Sewer Line Easement may subject the owner of the Sewer Line Easement to potential liabilities under environmental laws.

There is no lease, license, permit, option, rental agreement, right of first refusal or other agreement, written or oral, which affects the Sewer Line Easement or any portion thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the first date written above.

DONORS

THE BINNEWATER REALTY CORPORATION



By: Richard B. Steele
Title: President

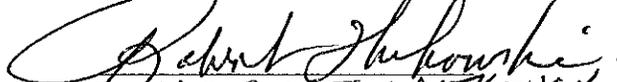
ULSTER COUNTY CONSTRUCTION CORPORATION, INC.



By: Richard B. Steele
Title: President

DONEES

WALKKILL VALLEY LAND TRUST, INC.



By: ROBERT WITKOWSKI
Title: VICE PRESIDENT

OPEN SPACE CONSERVANCY, INC.



By: Robert K. Anderberg
Title: Vice President + General Counsel

Attachments:

Exhibit A (Rail Trail Permanent Easement and Right of Way)

Exhibit B (Sewer Line Easement)

Exhibit A

(Rail Trail Permanent Easement and Right of Way)

Exhibit B

(Sewer Line Easement)