



Norwalk River Valley Trail

P.O. Box 174
Georgetown, CT 06829
www.NRVT-Trail.com

First Selectwoman Lynne Vanderslice
Town Administrator Matt Knickerbocker
Wilton Town Hall
238 Danbury Road
Wilton, CT 06897

February 14, 2023

Dear First Selectwoman and Town Administrator,

The purpose of this letter is to request that the Norwalk River Valley Trail (NRVT) be added to the agenda for the February 21, 2023 Board of Selectman's meeting to seek approval for the Town of Wilton to apply for a CT DEEP Recreational Trail Grant in the amount of \$194,400. The grant application deadline is March 1, 2023.

The grant will cover the construction of an approximately 1,000 foot trail section from Chipmunk Lane to short of Kent Road. This section extends the "WilWalk" section constructed under a prior DEEP RTG grant and is fully engineered and permitted. An engineering map of this section is attached. The section noted in red (titled "limit of project") is the section we'll be constructing. The grant dollar breakdown is as follows:

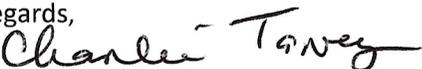
Trail construction	\$210,000
Engineering/construction administration	<u>\$ 33,000</u>
Total project cost	\$243,000
20% Match	\$ 48,600
DEEP RTG grant (not to exceed)	\$194,400

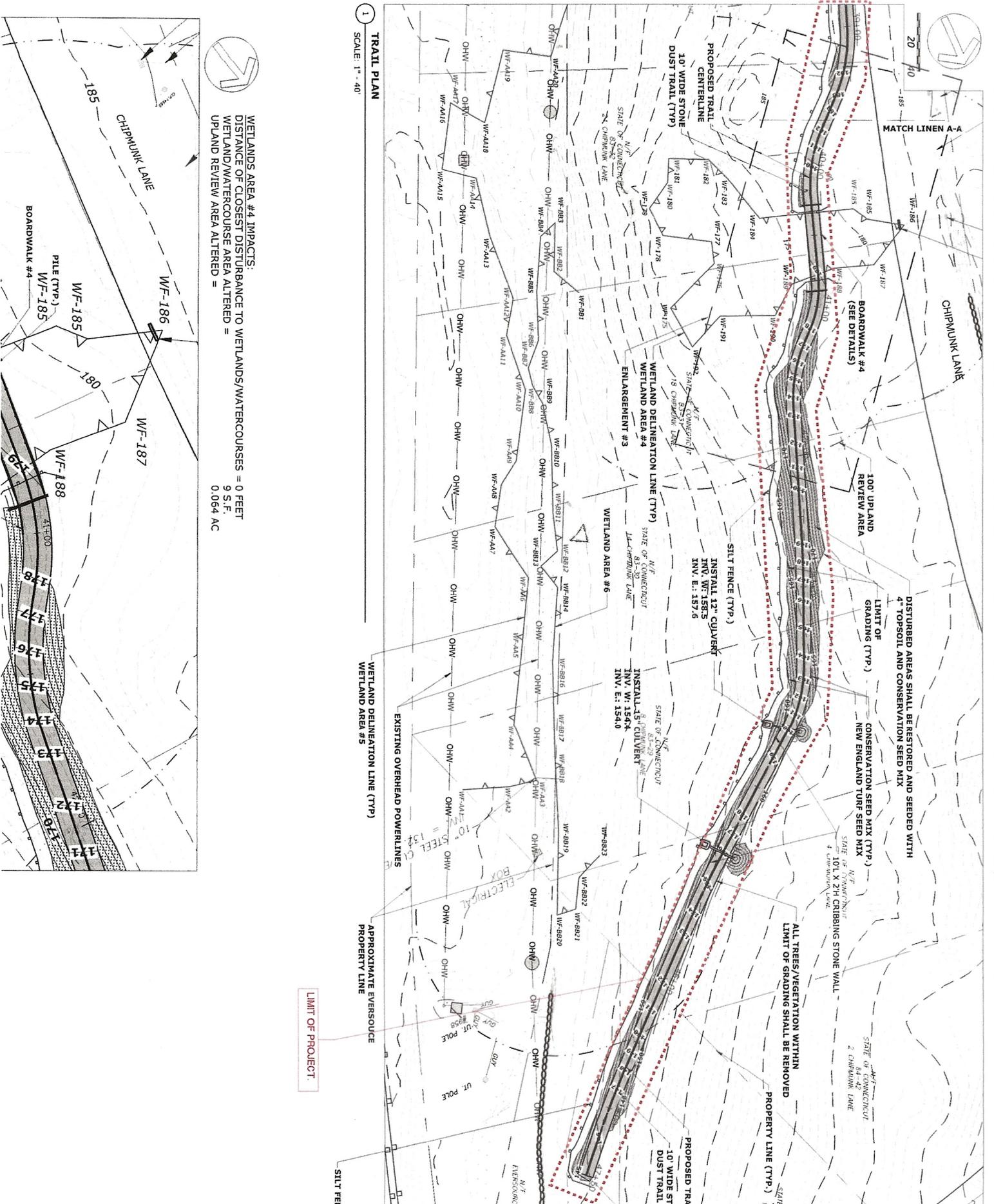
The NRVT has raised the funds to cover the 20% match and will complete the RTG application.

Please note that the Town of Wilton and the NRVT have successfully partnered in the past to secure significant State construction grants, including the \$1,100,000 RTG grant for the WilWalk section and the \$3.1 million LOTCIP grant for the Skunk-Pimpewaug section.

Thanks for your consideration and please let me know if you have any questions.

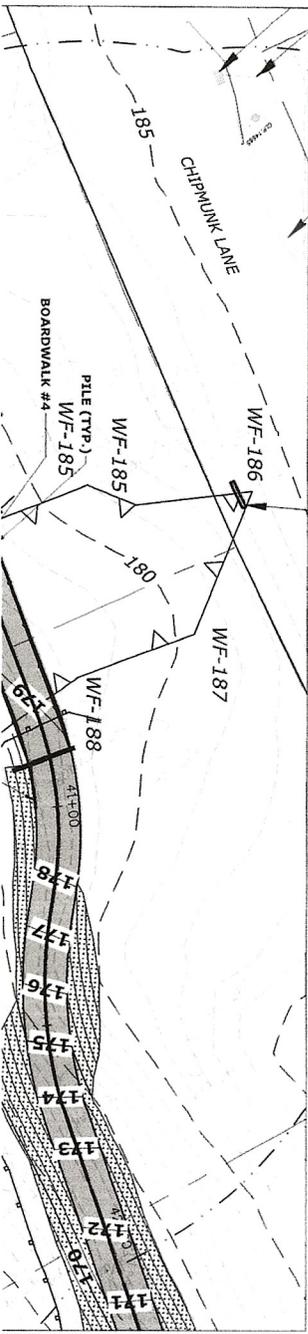
Regards,


Charlie Taney, First Vice President, Friends of the Norwalk River Valley Trail



1
TRAIL PLAN
 SCALE: 1" = 40'

WETLANDS AREA #4 IMPACTS:
 DISTANCE OF CLOSEST DISTURBANCE TO WETLANDS/WATERCOURSES = 0 FEET
 WETLAND/WATERCOURSE AREA ALTERED = 9 S.F.
 UPLAND REVIEW AREA ALTERED = 0.064 AC



COOPERATION AGREEMENT
FOR PUBLIC RECREATION IMPROVEMENT PROJECT

REVISED BY DOUG LOMONTE JANUARY 26, 2023 9:55 A.M.

This Agreement is dated as of February 6, 2023, by and between TOWN OF WILTON (the "Town") and FRIENDS OF THE NORWALK RIVER VALLEY TRAIL, INC. ("Friends").

RECITALS

- A. The Norwalk River Valley Trail ("NRVT") is a multi-use trail stretching from Norwalk, Connecticut to Danbury, Connecticut, a distance of approximately thirty miles. Over its course, from south to north, the NRVT passes through the municipalities of Norwalk, Wilton, Redding, Ridgefield and Danbury. As of the Effective Date, sections of the NRVT are in various stages of planning, construction and completion.
- B. This Agreement pertains to that land owned by the State of Connecticut to be leased to the Town on which the section of the NRVT from Skunk Lane, Wilton, to Pimpewaug Road, Wilton will be constructed ("Wilton Loop North").
- C. The Parties desire to design and construct certain Trail Improvements on and within the Wilton Loop North.
- D. The Town, in cooperation with Friends, filed a Local Transportation Capital Improvement Program Grant Proposal (the "Grant Proposal") with the Western Connecticut Council of Governments ("WESTCOG").
- E. WESTCOG approved the Grant Proposal and submitted a formal LOTCIP application to the Connecticut Department of Transportation ("CTDOT") for a formal *Commitment to Fund* award.
- F. CTDOT issued a *Commitment to Fund* award on October 14, 2022 indicating a total funding commitment of \$3,018,600.
- G. The Town and Friends desire to memorialize their agreement with respect to the funding of the design and administration of the construction of the Trail Improvements, the construction of the Trail Improvements, and subsequent maintenance of the Trail Improvements, as well as access to the Wilton Loop North for both construction and maintenance of the Trail Improvements.
- H. For convenience and ease of understanding, various words and phrases appearing in these Recitals and elsewhere in this Agreement are capitalized. If not defined in these Recitals, capitalized words and phrases appearing in these Recitals and elsewhere in this Agreement shall have the meanings ascribed to

them in Section 2.

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. **Recitals**. The Recitals are hereby incorporated into this Agreement.

2. **Definitions**. The following capitalized words and phrases used in this Agreement shall have the following definitions.

2.1. **“Agreement”** means this Cooperation Agreement For Public Recreation Improvement Project.

2.2. **“Approved Designs”** means the Plans for Norwalk River Valley Trail “Wilton Loop North” Section to be prepared by Stantec Consulting Services, Inc. and the plans and details referenced therein which will be submitted to CTDOT for approval.

2.3. **“Contractor”** means the construction contractor selected by the Parties, after reviewing the responses to the RFP, to construct the Trail Improvements.

2.4. **“Designated Official”** means the Town’s Director of Public Works/Town Engineer, or such an alternate or successor Designated Official designated by the Town by written notice to Friends.

2.5. **“Effective Date”** means the date appearing below the signature of the First Selectwoman of the Town on the signature page of this Agreement.

2.6. **“LOTICIP Grant”** means The Local Transportation Capital Improvement Program Grant (Norwalk River Valley Trail) in the amount of Three Million Eighteen Thousand Six Hundred and 00/100 Dollars (\$3,018,600.00), which includes 10% for incidentals to construction and 10% for contingencies.

2.7. **“Maintenance Program”** means the written program for maintenance of the Trail Improvements on the Wilton Loop North to be established by the Parties pursuant to discussions between the President and Executive Director of Friends and the Designated Official, as it may be amended from time to time by mutual agreement of the Parties.

2.8. **“Party”** and **“Parties”** means the Town and Friends, as applicable.

2.9. **“Payment and Performance Bond”** means a contractor’s payment and performance bond on the current AIA form or forms or other forms reasonably acceptable to the Town and Friends, issued by a surety company licensed as a surety in the State of Connecticut.

2.10. “State Lease” means the lease agreement to be entered into between the Town and the State of Connecticut pursuant to which the State of Connecticut will authorize the Town to undertake the Trail Improvements.

2.11. “Subsurface Work” means disturbance of existing ground surface at a depth greater than twelve (12) inches.

2.12. “Trail Improvements” means the improvements to the Wilton Loop North described in the Approved Designs.

3. Right of Access and Entry.

3.1. Lease. As described more fully in the State Lease, the Town will be the lessee of the Wilton Loop North.

3.2 Construction. Subject to the terms of this Agreement, the Town will provide access to the Contractor to enter upon and over Wilton Loop North for the purposes of constructing the Trail Improvements in accordance with the Approved Designs. Friends will provide advice and assistance to the Town during the procurement and construction phases of the Trail Improvements. To that end, Friends will designate a project manager (the “Project Manager”) whose responsibility will be to observe the progress of the work and serve as liaison among the Contractor, the Engineer (defined below) and the Designated Official, and the Town will grant Friends a non-exclusive license to enter upon and over the Wilton Loop North to observe the progress of the work.

3.3. Maintenance. Subject to the terms of this Agreement, the Town grants to Friends a non-exclusive revocable limited license to enter upon and over the Wilton Loop North for the purposes of maintaining the Trail Improvements in accordance with Article 5.

3.4. Subsurface Work. Under no circumstances shall Friends authorize or perform Subsurface Work within the Wilton Loop North without the prior written consent of the Designated Official.

4. Funding, Design and Construction. The Town and Friends desire to cooperate in the funding and construction of the Trail Improvements, as follows.

4.1. Preconstruction Work. Friends shall be responsible for all costs and expenses associated with the following pre-construction work, including, without limitation: preparing the Approved Designs; obtaining any permits required for the construction of the Trail Improvements; the baseline Phase I environmental site assessment prepared on behalf of the Town and Friends; the costs of obtaining easements, if any; and the preparation of any other design work or specifications that may be required for proper completion of the Trail Improvements. Friends acknowledges that the costs for which Friends shall be responsible include, without limitation, hours

incurred by staff of the Town's Department of Public Works. Time spent by the Director of Public Works shall be reimbursed at \$100 per hour. Time spent by the staff Civil Engineer shall be reimbursed at \$53 per hour. Time spent by any other Professional Engineer shall be reimbursed at \$100 per hour. The Town will waive reimbursement of the first \$10,000 of the Town's expenses. Friends shall ensure that the Approved Designs are in accordance with all LOTCIP requirements. Friends shall prepare the request for proposals for the construction of the Trail Improvements (the "RFP") and shall forward the RFP to the Designated Official and CTDOT for review and to obtain an *Authorization to Bid*.

4.2. RFP; Competitive Bidding. Following approval by the Designated Official of the RFP and issuance of the Authorization to Bid by CTDOT, the Town will issue the RFP to procure services, labor, equipment, materials and all other items necessary for the construction of the Trail Improvements through competitive bidding consistent with the Town's customary competitive bidding practices and the terms of the LOTCIP Grant. Friends will analyze the proposals submitted by prospective contractors in response to the RFP and recommend to the Designated Official the contractor that Friends believes is the lowest cost, responsible qualified bidder. The Parties will then recommend a contractor to CTDOT for approval.

4.3. Permits. Friends shall submit applications for all applicable federal, state and local permits necessary for the construction of the Trail Improvements (the "Necessary Permits"). The Parties shall ensure that the construction of the Trail Improvements does not commence unless and until the Necessary Permits have been issued.

4.4. Construction Contract and Requirements. The Town will be the Party entering into the construction contract with the Contractor, and shall, among other things, be the Party undertaking the payment obligation to the Contractor. The Town's legal counsel will draft the construction contract and solicit comments from the Designated Official and Friends prior to forwarding the construction contract to the Contractor. The Town shall ensure that the construction contract shall include, at a minimum, the following provisions:

4.4.1. Performance of Work. The Contractor shall construct the Trail Improvements in accordance with the Approved Designs, and in compliance with the applicable provisions of the LOTCIP Grant and the State Lease.

4.4.2. Contractor Indemnification. The Contractor shall indemnify, defend and save harmless the Town and Friends, and their respective elected and appointed officials, officers, agents and employees from and against any and all liabilities; obligations; damages; penalties; claims; losses; costs and expenses, including reasonable attorneys' fees, arising out of, in connection with, or related to the acts and omissions of the Contractor, and that of its agents, contractors, subcontractors, and employees in constructing the Trail Improvements.

4.4.3. Contractor Insurance. The Contractor shall obtain and maintain insurance coverages consistent with the requirements of the RFP. The Contractor shall be required to deliver a copy of a certificate of insurance evidencing proof of insurance and naming the Town and Friends, as additional insureds, within ten (10) days of the execution of the construction contract(s).

4.4.4. Contractor Payment and Performance Bond. The Contractor shall obtain and maintain a Payment and Performance Bond for the full amount of the contract price naming the Town as obligee thereunder to the extent of the value of the Trail Improvements.

4.4.5. Compliance; Licenses. The Contractor shall comply with the Necessary Permits and all applicable laws, ordinances and codes of any governmental body having jurisdiction over any matter related to the construction contract or the services to be performed thereunder and shall commit no trespass on any private property in connection with the completion of the Trail Improvements. The Contractor will be required to comply with applicable Connecticut Prevailing Wage laws and requirements. The Contractor will be required to hold valid Connecticut licenses for the performance of the construction of the Trail Improvements.

4.5. Review and Certification of Work. Friends and the Town shall retain a qualified engineering consultant (the "Engineer") to perform construction administration services. The Town and Friends shall enter into a written contract with the Engineer (the "Engineer's Contract"), the costs of which shall be paid utilizing the 10% of the LOTCIP Grant amount allocated for incidentals to construction (construction administration). If the Engineer's charges exceed 10% of the LOTCIP Grant amount, Friends will pay the excess. The Engineer's Contract shall include the following provisions: (a) the Engineer shall manage, inspect and create all required inspection documents in accordance with LOTCIP requirements, including any and all disadvantaged business enterprise requirements; (b) the Engineer shall review the progress of construction work and the Contractor's invoices and certify to Friends and the Town that all work is completed in accordance with the Approved Designs and the LOTCIP Grant requirements; (c) the Engineer shall advise Friends and the Designated Official as to all change order requests submitted by the Contractor; and (d) the Engineer shall provide the Designated Official and Friends periodic, but no less frequently than monthly, progress reports, the purpose of which are to ensure that the construction of the Trail Improvements is completed on schedule and on budget and that the cost of construction of the Trail Improvements does not exceed the amount available under the LOTCIP Grant. The Designated Official will consult with the Project Manager and, in his discretion, periodically review the progress of construction work. The Town will rely upon the Engineer's progress reports and certifications and comments, if any, from the Designated Official in paying (or withholding payment of) the Contractor's invoices.

4.6. Construction Administration. To the extent not covered by the LOTCIP Grant, Friends will reimburse the Town the reasonable costs of time expended by the Designated Official and Public Works Department personnel associated with

design, permitting, easement acquisition and the construction administration, including, without limitation, time and fees expended or incurred during the procurement and construction phases of the project (the "Town's Administrative Costs"). The Town will waive reimbursement of the first \$10,000 of the Town's expenses. Time spent by the Director of Public Works shall be reimbursed at \$100 per hour. Time spent by the staff Civil Engineer shall be reimbursed at \$53 per hour. Time spent by any other Professional Engineer shall be reimbursed at \$100 per hour. If two Engineers are visiting the job site, one employee's rate shall be charged to NRV (the employee with the higher rate). The Town will invoice Friends periodically, but not more frequently than once per month, for the Town's Administrative Costs. Each invoice for the Town's Administrative Costs will include an itemized list of time spent. Friends will pay each invoice for the Town's Administrative Costs within thirty (30) days of receipt.

4.7. Oversight and Cost Overrun. The LOTCIP Grant includes 10% for qualified contingencies. Friends will monitor the Engineer's progress reports and collaborate with the Engineer in overseeing the construction work to the end that construction work is completed on schedule, on budget and that the cost of construction of the Trail Improvements does not exceed the amount available under the LOTCIP Grant. If Engineer's progress reports indicate, or Friends learns or discovers that the cost of construction of the Trail Improvements is likely to exceed the amount available under the LOTCIP Grant (a "Cost Overrun"), Friends shall promptly give written notice to the Designated Official and recommend a course of action to eliminate or limit the Cost Overrun. If the Cost Overrun cannot reasonably be eliminated through modifications of the Contractor's scope of work, substitution of materials, timing, or otherwise, then Friends will be responsible for the Cost Overrun.

4.8 Project Closeout & Audit. Friends shall pay all costs and expenses of the Town and all costs of the Engineer to coordinate project closeout and any CT DOT audit with respect to the Trail Improvements.

5. Maintenance.

5.1. Friends shall be responsible for maintaining the Wilton Loop North and the Trail Improvements in accordance with the Maintenance Program at its sole cost and expense. Friends understands that the Town undertakes no responsibility for the care or maintenance of the Wilton Loop North or the Trail Improvements.

5.2. Friends will be responsible for maintaining the Wilton Loop North and Trail Improvements in a safe, clean and neat condition for all who may use or come upon it for the purposes intended. Friends will not permit any accumulation of debris or obstructions in, on or around the Wilton Loop North, and will undertake to remedy any such condition within a reasonable time following receipt of notice of same.

5.3. The Town may, at any time, notify Friends in writing of any deficiencies in the condition or maintenance of the Wilton Loop North and Friends shall,

upon receipt of such notice, correct the same to the reasonable satisfaction of the Town as soon as reasonably possible.

5.4. Friends shall, immediately upon completion of any of its maintenance obligations under this Agreement, repair any damage to the Wilton Loop North occurring as a result of the performance of the maintenance obligations.

6. Safety. The Town reserves the right to close to the public all or part of the Wilton Loop North if, and for so long as, in the opinion of the Designated Official, the Wilton Loop North is unsafe for public use. Any Party exercising rights or obligations pursuant to Section 3.2 or Article 5 shall: (a) be responsible for undertaking all reasonable measures to prevent accidents and ensure the safety of all persons in the leasehold area (as defined in the State Lease) of the Wilton Loop North during construction, maintenance or other activities usual, customary or incidental thereto, including those engaged in the construction or maintenance of the Trail Improvements and members of the general public; and (b) comply with all laws, ordinances, rules, regulations, codes, standards, orders, notices and requirements concerning safety applicable to the construction or maintenance of the Trail Improvements, including, among others, the Federal Occupational Safety and Health Act of 1970, as amended, and all standards, rules, regulations and orders which have been or shall be adopted or issued thereunder, and with all safety standards established in the construction contracts or the Maintenance Program.

7. Term. The term of this Agreement shall commence on the Effective Date and shall remain in effect until terminated pursuant to Article 8.

8. Termination. This Agreement may be terminated by any Party in the event of the breach of any material obligation of a non-terminating Party. This Agreement may be terminated by the Town, if Friends fails to maintain the Wilton Loop North in accordance with the Maintenance Program. Prior to such termination becoming effective, any Party found to be in breach shall have a thirty (30) cure period following its receipt of written notification of such breach. In the event such breach is not cured within this time frame, termination of this Agreement shall be effective upon the expiration of such thirty-day cure period.

The Town may terminate this Agreement upon termination of the State Lease and such termination of this Agreement shall be effective upon the receipt of the notice of termination by the non-terminating Party or Parties.

9. Indemnification.

Friends agrees to indemnify, defend, and save harmless the Town (the "Indemnified Party"), and the Indemnified Party's elected and appointed officials, directors, officers, agents and employees from and against any and all liabilities; obligations; damages; penalties; claims; losses; costs and expenses, including reasonable attorneys' fees, arising out of, in connection with, or related to the failure of Friends to fulfill Friends' obligations under this Agreement either by way of omission or

Attn: President
P.O. Box 174
Georgetown, CT 06829
ctaney@nrvt-trail.com

11.3. Entire Agreement. This Agreement, together with all exhibits and/or schedule hereto, integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements among the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof. Notwithstanding, the Parties agree that the Funding Agreement shall remain in full force and effect except to the extent that the Funding Agreement is expressly contradicted by this Agreement.

11.4. Severability. The provisions of this Agreement are severable, and, if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions, and any partially unenforceable provision, to the extent enforceable, in any jurisdiction, shall nevertheless be binding and enforceable if and to the extent that the economic and legal substance of the transactions contemplated is not materially adversely affected in any matter as to any party and shall be construed and enforced so as to effectuate the intent of the entire Agreement, including the wholly or partially unenforceable provision, to the maximum extent legally permissible.

11.5. Amendments. Any amendments to this Agreement shall be effective only when duly executed by all of the Parties.

11.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut.

11.7. Assignment of Agreement. No Party may assign or transfer its rights or obligations under this Agreement without first obtaining the prior written consent of the other Parties, which consent may be granted or withheld in the sole and absolute discretion of the applicable Party.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the dates indicated below.

TOWN OF WILTON

By: _____
Lynne A. Venderslice,
Its First Selectwoman

Date Signed: _____

**FRIENDS OF THE NORWALK RIVER
VALLEY TRAIL, INC.**

By: _____
Charlie Taney,
Its President

Date Signed: _____

{Signature Page to Cooperation Agreement}

EXHIBIT A

INSURANCE REQUIREMENTS

Workers' Compensation Insurance: Workers' Compensation Insurance in accordance with the requirements of the laws of the State of Connecticut.

Commercial General Liability: Commercial General Liability insurance providing for a total limit of Two Million Dollars (\$2,000,000) coverage per occurrence for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification obligations arising under this Agreement. The Annual Aggregate limit shall not be less than Two Million Dollars (\$2,000,000).

Automobile Liability: With respect to each owned, non-owned, or hired vehicle, Automobile Liability insurance providing One Million Dollars (\$1,000,000) coverage per accident for bodily injury and property damage.

Umbrella/Excess Liability: The insurance limits required can be provided with a combination of Umbrella or Excess Liability insurance that would "follow form" of the underlying required terms and conditions.

Acceptability of Insurers: The policies shall be written by insurance companies licensed to do business in the State of Connecticut, with an AM Best rating of A-VII.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the Town. All deductibles or self-insured retentions are the sole responsibility of the insured to pay and/or to indemnify.

Notice of Cancellation or Nonrenewal: Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, or cancelled in coverage or in limits before the expiration date except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Town. Notwithstanding this requirement, Friends is primarily responsible for providing such written notice to the Town thirty (30) days prior to any policy change or cancellation that would result in a change of the amount or type of coverage provided. In the event of any such change Friends shall provide comparable substitute coverage so that there is no lapse in applicable coverage or reduction in the amount of coverage available to the Town.

Waiver of Governmental Immunity: Unless requested otherwise by the Town, Friends and its insurer shall waive governmental immunity as defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the Town.

Additional Insured: The liability insurance coverage, except Workers' Compensation, if included, required by this Agreement shall include the Town as Additional Insureds.

Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Waiver of Subrogation: Friends hereby waives the right to subrogate or seek recovery from the Town and its insurance carriers.