

**Proposed
Conservation Easement Modification
ANGLE FLY PRESERVE
Town of Somers, County of Westchester**

Proceeding: 7694
Department of Environmental Conservation
Project: Westchester 29
Town: Somers
County: Westchester

THIS CONSERVATION EASEMENT MODIFICATION, made this _____ day of _____, 20__ between

TOWN OF SOMERS, with offices located at 335 Route 202, Somers, New York 10589 and the **COUNTY OF WESTCHESTER**, with offices located in the Michaelian Office Building, 148 Maritime Avenue, White Plains, New York 10601 (collectively, "Grantors")

And

THE PEOPLE OF THE STATE OF NEW YORK, acting by and through their Commissioner of Environmental Conservation, with offices at 625 Broadway, 14th Floor, Albany, New York 12233 ("Grantee").

WHEREAS, reference is made to a Conservation Easement granted by the Town of Somers and the County of Westchester to the People of the State of New York on the 15th day of May, 2006, and recorded in the Westchester County Clerk's Office on the 16th day of May, 2006 in Instrument Control Number 461360211 ("Conservation Easement"); and

WHEREAS, Grantors are the owners in fee of lands subject to the Conservation Easement; and

WHEREAS, pursuant to Article 49 of the Environmental Conservation Law ("ECL") and the express terms of the Conservation Easement, the parties hereto wish to modify the Conservation Easement;

WHEREAS, the Conservation Easement is generally shown on a map entitled "SKETCH MAP OF CONSERVATION EASEMENT TO BE ACQUIRED PURSUANT TO SECTION 3-0305 OF THE ENVIRONMENTAL CONSERVATION LAW, PROJECT: WESTCHESTER 29 & 29a, ICC BRIDGEPORT LIMITED PARTNERSHIP & EAGLE RIVER LIMITED PARTNERSHIP," by Robert A. Burgher, L.S., Reg. Number 49601, dated May 25, 2005, last revised on December 29, 2005 and filed in NYSDEC offices in Albany, N.Y. as Map # 11,934 as amended on _____, 2013 to reflect the modifications described herein;

WHEREAS, the Conservation Easement established an “Open Space Recreation Area,” which encumbers Parcels “A” through “D” and established an “Athletic Field Area,” which encumbers Parcel “E”;

NOW THEREFORE, Grantee and Grantors for good and valuable consideration and in consideration of the mutual covenants herein, do hereby amend and modify certain terms of the Conservation easement as expressly provided herein:

MODIFICATION ONE:

THE FOLLOWING PARCEL IDENTIFICATION DESIGNATION OF “OPEN SPACE RECREATION AREA” AND “ATHLETIC FIELD AREA” ARE TO BE MODIFIED:

“Open Space Recreation Area” identified as Parcel “A” to be given the designation of “Athletic Field Area” and “Athletic Field Area” identified as Parcel “E” to be added to the “Open Space Recreation Area” designation.

“Open Space Recreation Area” to now encumber Parcels “B” through “E” and “Athletic Field Area” to now encumber Parcel “A”.

MODIFICATION TWO:

THE FOLLOWING REPLACES SECTION 5.2 ATHLETIC FIELD AREA AND THE OPEN SPACE AREA:

Schedule A and Map # 11,934 as amended separate the Protected Property into two (2) areas for the purpose of providing different levels of public recreation: the Athletic Field Area (Parcel “A”) and the Open Space Recreation Area (Parcels “B” through “E”).

MODIFICATION THREE:

THE FOLLOWING REPLACES SECTION 7.3 ATHLETIC FIELD AREA; GRANTORS’ RECREATIONAL IMPROVEMENTS; FEES:

On that portion of the Protected Property described in **Schedule A** and as generally shown on Map # 11,934 as amended as the Athletic Field Area and Parcel “A”, Grantors shall provide public recreation in accordance with the following terms:

MODIFICATION FOUR:

THE FOLLOWING REPLACES SECTION 7.4 OPEN SPACE RECREATION AREA.

On that portion of the Protected Property described in **Schedule A** and as generally shown on Map # 11,934 as amended as the Open Space Recreation Area and Parcels “B” through “E”, Grantors shall provide public recreation in accordance with the following terms:

MODIFICATION FIVE:

THE FOLLOWING REPLACES APPENDIX 1 DEFINITIONS ATHLETIC FIELD AREA.

That portion of the Protected Property described in Schedule A and as generally shown on Map # 11,934 as amended as Parcel “A”; public recreation within the Athletic Field Area shall be provided in accordance with the terms of Section 7.3, herein.

MODIFICATION SIX:

THE FOLLOWING REPLACES APPENDIX 1 DEFINITIONS OPEN SPACE AREA.

To mean OPEN SPACE RECREATION AREA and

That portion of the Protected Property described in Schedule A and as generally shown on Map # 11,934 as amended as Parcels “B” through “E”; public recreation within the Athletic Field Area shall be provided in accordance with the terms of Section 7.4, herein.

MODIFICATION SEVEN:

THE FOLLOWING REPLACES AND REDISCRIBES SCHEDULE A DESCRIPTION OF PROTECTED PROPERTY.

SCHEDULE A

PROJECT: WESTCHESTER 29 (Eagle River) Amendment to Conservation Easement

ALL THOSE CERTAIN TRACTS OR PARCELS OF LAND, situate, lying and being in the Town of Somers, County of Westchester and State of New York being more particularly bounded and described as follows:

ATHLETIC FIELD AREA

PARCEL A

BEGINNING at a point formed by the intersection of the northerly side of Plum Brook Road with the easterly side of Primrose Street (N.Y.S. Route 139) and runs
thence along said easterly side of Primrose Street (N.Y.S. Route 139), along a stone wall, North 23° 31' 23" East 164.71 feet to a point;
thence continuing, North 05° 22' 59" West 327.21 feet to land of the Town of Somers, formerly of the Methodist Church Mt. Zion Cemetery;
thence along the same, along a stone wall, North 84° 08' 38" East 315.92 feet to a point;
thence continuing along the same, along a stone wall, North 07° 35' 30" West 207.08 feet to lands of the Town of Somers, formerly Reese;
thence along the same, along a stone wall, North 82° 37' 10" East 493.25 feet to a point at a "T" intersection of stone walls and lands now or formerly of Blair (Document #410190580);
thence along the same and along a stone wall, the following three (3) courses and distances:
1) South 06° 29' 20" East 98.48 feet,
2) South 07° 41' 20" East 378.85 feet, and
3) South 08° 26' 30" East 155.66 feet to the northerly side of Plum Brook Road;
thence along said northerly side of Plum Brook Road, South 78° 20' 00" West 582.50 feet;
thence continuing, South 80° 12' 20" West 313.59 feet;
thence continuing, along a curve to the right having a radius of 15.00 feet and a length of 32.28 feet to the point or place of beginning, containing **11.087 Acres** of land, more or less.

Open Space Recreation Area

PARCEL B

BEGINNING at a point formed by the intersection of the southerly side of Plum Brook Road with the easterly side of Primrose Street (N.Y.S. Route 139) and runs
thence along said southerly side of Plum Brook Road, partly along the remains of a post and wire fence, the following eleven (11) courses and distances:
1) North 77° 46' 30" East 509.98 feet,
2) North 78° 15' 40" East 197.79 feet,
3) North 76° 19' 40" East 80.60 feet,

- 4) North 80° 25' 40" East 132.74 feet,
- 5) North 78° 16' 40" East 286.92 feet,
- 6) North 79° 41' 40" East 10.05 feet,
- 7) South 73° 36' 20" East 19.75 feet,
- 8) South 48° 34' 20" East 29.48 feet,
- 9) South 33° 50' 20" East 22.58 feet,
- 10) South 12° 44' 20" East 50.64 feet, and
- 11) South 00° 35' 40" West 246.00 feet to lands now or formerly of Berman & Risetto

(Liber 9476 cp. 104);

thence along said lands the following three (3) courses and distances:

- 1) along remains of a stone wall and post and wire fence, South 82° 47' 10" West 62.08 feet,
- 2) South 81° 24' 00" West 243.18 feet, and
- 3) South 00° 09' 00" West 284.98 feet to a point marking the most northerly point of

Parcel E of the herein described premises;

thence running through the lands of the grantor herein, being along the westerly bounds of said **Parcel E**, the following four (4) courses and distances:

- 1) South 00° 09' 00" West 299.98 feet,
- 2) North 89° 51' 00" West 179.99 feet,
- 3) South 00° 09' 00" West 999.93 feet, and
- 4) South 89° 51' 00" East 552.18 feet to a point in a stone wall and lands now or

formerly A L Development Properties, LLC (Liber 11837 cp. 116);

thence southerly along the aforesaid lands and said stone wall the following three (3) courses and distances:

- 1) South 03° 05' 30" East 749.71 feet,
- 2) South 29° 40' 40" East 156.21 feet, and
- 3) South 29° 00' 40" East 253.59 feet to a point;

thence easterly, still along the last mentioned land and stone wall, the following five (5) courses and distances:

- 1) North 83° 48' 20" East 24.43 feet,
- 2) North 79° 55' 10" East 386.62 feet,
- 3) North 82° 07' 30" East 63.53 feet,
- 4) North 75° 56' 30" East 40.87 feet, and
- 5) North 80° 06' 30" East 353.01 feet to lands now or formerly of Lopez (Liber 10090

cp. 136);

thence southerly along said lands, along a wire fence, South 03° 44' 40" West 205.53 feet to a point;

thence easterly, still along said lands, South 79° 24' 10" East 122.86 feet to Somerstown Turnpike (N.Y.S. Route 100);

thence southerly along the said Somerstown Turnpike (N.Y.S. Route 100), along a stone wall, South 20° 22' 40" West 954.94 feet to a point and lands now or formerly of Staruch (Liber 12376 cp. 032);

thence westerly along said lands, North 88° 48' 00" West 375.43 feet to a point in a stone wall;

thence southerly along lands of Staruch as aforesaid, along lands now or formerly of McMachan (Liber 6206 cp. 025) and along lands now or formerly of Helgans (Liber 10893 cp. 203), along a stone wall, the following seven (7) courses and distances:

- 1) South 06° 47' 00" West 55.94 feet,
- 2) South 03° 13' 00" West 90.74 feet,
- 3) South 05° 16' 30" West 90.35 feet,
- 4) South 00° 58' 40" West 37.00 feet,
- 5) South 07° 19' 20" West 24.54 feet,
- 6) South 04° 26' 10" West 107.54 feet, and
- 7) South 04° 58' 20" West 105.67 feet to a point and land now or formerly of Tepp

(Liber 11723 cp. 252;

thence westerly along said lands and land now or formerly of Bolan (Document #993630211) and a stone wall, the following three (3) courses and distances:

- 1) South 82° 05' 30" West 222.38 feet,
- 2) South 81° 23' 40" West 258.68 feet, and
- 3) South 81° 14' 50" West 428.20 feet, to a point and land now or formerly of Ryan

(Liber 7805 cp. 674);

thence northerly along said land of Ryan and land now or formerly of Fedele LLC (Liber Document #441560865) and a stone wall, the following three (3) courses and distances:

- 1) North 08° 23' 50" West 152.32 feet,
- 2) North 09° 54' 40" West 377.76 feet, and
- 3) North 14° 27' 40" West 65.48 feet to a point;

thence still along Fedele LLC lands, continuing along said stone wall, North 75° 19' 00" East 3.70 feet to a point;

thence northerly along the land of Fedele LLC as aforesaid, along land now or formerly of Scarfone (Liber 11101 cp. 165) and along land now or formerly of Anderson (Liber 6411 cp. 498) and said stone wall, the following six (6) courses and distances:

- 1) North 09° 28' 20" West 57.07 feet,
- 2) North 13° 03' 30" West 14.63 feet,
- 3) North 11° 37' 40" West 163.13 feet,
- 4) North 10° 15' 10" West 98.80 feet,
- 5) North 01° 07' 50" West 8.90 feet, and
- 6) North 10° 38' 20" West 361.14 feet to a point;

thence still along land of Anderson as aforesaid, continuing along said stone wall, South 82° 46' 20" West 32.97 feet to a point;

thence northerly along land now or formerly of Beach (Liber 7646 cp. 596) and land now or formerly of Papalia (Document #410590145) and said stone wall, the following two (2) courses and distances:

- 1) North 08° 28' 00" West 293.19 feet, and
- 2) North 08° 28' 04" West 266.21 feet to a point;

thence westerly still along land of Papalia as aforesaid the following two (2) courses and distances:

- 1) partly along a stone wall, South 82° 18' 46" West 352.39 feet, and
- 2) South 86° 31' 56" West 23.19 feet to the easterly side of Primrose Street (N.Y.S.

Route 139);

thence northerly along said easterly side of Primrose Street (N.Y.S. Route 139), the following eleven (11) courses and distances:

- 1) North 16° 21' 00" West 320.20 feet,
- 2) North 17° 37' 00" West 492.20 feet,
- 3) North 19° 50' 00" West 75.00 feet,
- 4) North 25° 50' 00" West 79.50 feet,
- 5) North 61° 50' 00" West 150.00 feet,
- 6) on a curve to the right having a radius of 284.98 feet, a distance of 345.02 feet,
- 7) North 07° 32' 00" East 692.05 feet,
- 8) North 18° 47' 00" East 155.42 feet,
- 9) North 26° 00' 00" East 269.62 feet,
- 10) North 26° 44' 20" East 327.96 feet, and
- 11) North 55° 34' 40" East 18.13 feet to the point or place of beginning, containing

134.039 Acres of land, more or less.

PARCEL C

BEGINNING at a point on the northerly side of Van Renssalaer Road, where the same is intersected by the southeasterly boundary of the premises herein described and the southwesterly boundary of lands now or formerly of Grochowski (Liber 8377 cp. 337) and runs

thence along said northerly side of Van Renssalaer Road, the following eighteen (18) courses and distances:

- 1) South 77° 04' 20" West 51.30 feet,
- 2) South 75° 22' 20" West 347.00 feet,
- 3) South 65° 49' 20" West 50.14 feet,
- 4) South 41° 11' 37" West 51.40 feet,
- 5) South 48° 13' 01" West 10.79 feet,
- 6) South 26° 58' 00" West 75.70 feet,
- 7) South 26° 36' 01" West 43.74 feet,
- 8) South 28° 04' 01" West 96.68 feet,
- 9) South 32° 35' 01" West 117.45 feet,
- 10) South 34° 43' 01" West 78.74 feet,
- 11) South 28° 53' 01" West 81.38 feet,
- 12) South 23° 55' 01" West 66.80 feet,
- 13) South 20° 41' 01" West 18.60 feet,
- 14) South 30° 41' 01" West 8.21 feet,
- 15) South 20° 37' 01" West 78.29 feet,
- 16) South 24° 16' 50" West 62.30 feet,
- 17) South 19° 19' 20" West 31.52 feet, and
- 18) South 08° 35' 10" West 44.85 feet to the easterly side of lands now or formerly of

Alotrico (Liber 4861 cp. 136);

thence along the same, North 12° 59' 55" West 2,341.33 feet to a point;

thence along the same and along land now or formerly of Villani (Document #441881463), South 83° 20' 30" West 740.60 feet to a point,

thence along other lands of the party of the first part herein the following nine (9) courses and distances:

- 1) North 06° 07' 10" West 198.93 feet,
- 2) North 05° 18' 10" West 210.41 feet,
- 3) North 00° 32' 20" East 266.56 feet,
- 4) North 12° 46' 10" West 211.81 feet,
- 5) North 10° 27' 00" West 192.93 feet,
- 6) North 09° 02' 00" West 305.98 feet,
- 7) North 11° 16' 10" West 253.64 feet,
- 8) North 03° 12' 20" West 76.91 feet, and
- 9) North 07° 53' 00" West 78.94 feet to lands now or formerly of Diggins (Liber

11596 cp. 225);

thence along the same, and along lands now or formerly of Levine (Liber 11286 cp. 337), and along lands now or formerly of Miller (Liber 11402 cp. 289), and along lands now or formerly of Pollock (Liber 11767 cp. 235), along a stone wall, the following fourteen (14) courses and distances:

- 1) North 82° 36' 33" East 711.48 feet,
- 2) North 83° 11' 53" East 157.00 feet,
- 3) North 82° 41' 40" East 162.40 feet, and
- 4) North 82° 28' 40" East 159.80 feet,
- 5) North 82° 18' 26" East 274.89 feet,
- 6) North 82° 07' 40" East 127.00 feet,
- 7) North 83° 20' 20" East 166.44 feet,
- 8) North 82° 48' 53" East 190.29 feet,
- 9) North 83° 26' 40" East 116.00 feet,
- 10) North 81° 51' 00" East 63.00 feet,
- 11) North 84° 38' 40" East 50.00 feet,
- 12) North 82° 40' 00" East 208.50 feet,
- 13) North 81° 50' 00" East 74.26 feet, and
- 14) North 82° 48' 53" East 163.78 feet to a point;

thence continuing along said lands of Pollock (Liber 11767 cp. 235), and lands of now or formerly Parcesepe (Liber 11648 cp. 049), and lands of now or formerly Allegretti-Davenport (Liber 11704 cp. 052), lands of now or formerly Rotanelli (Document #440200038), and lands of now or formerly Greco (Liber 11827 cp. 75), North 05° 03' 33" East 769.58 feet to lands now or formerly of Mosher (Liber 10457 cp. 229);

thence along the same, South 73° 41' 42" East 635.87 feet to the westerly side of Primrose Street (N.Y.S. Route 139);

thence along the same, the following six (6) courses and distances:

- 1) South 09° 02' 53" West 228.95 feet,
- 2) South 04° 45' 55" West 75.60 feet,
- 3) South 03° 32' 03" West 75.73 feet,
- 4) South 03° 53' 45" West 59.54 feet,
- 5) South 03° 27' 50" West 78.30 feet, and
- 6) South 02° 54' 40" West 158.88 feet to a point;

thence running through the lands of the grantor herein the following four (4) courses and distances:

- 1) South 12° 36' 40" West 630.55 feet,
- 2) South 70° 23' 20" West 512.51 feet,
- 3) South 40° 53' 20" West 389.96 feet, and
- 4) South 10° 14' 40" East 689.94 feet to lands now or formerly of Benaissa (Liber 7045

cp. 715);

thence along the same and the aforementioned lands of Grochowski (Liber 8377 cp.337), along a stone wall, South 83° 23' 40" West 419.58 feet to a point;

thence along the said lands of Grochowski (Liber 8377 cp. 337), South 10° 12' 35" East 1,552.96 feet to the point or place of beginning, containing **161.199** Acres of land, more or less.

PARCEL D

BEGINNING at a point on the southwesterly side of Colonial Drive, said point of beginning being 404.97 feet westerly along the southwesterly side of Colonial Drive from the westerly end of a curve having a radius of 25.00 feet connecting the said southwesterly side of Colonial Drive with the westerly side of Edgewood Drive and runs

thence along the westerly boundary of lands now or formerly of Wray (Liber 12410 cp. 041), the following four (4) courses and distances:

- 1) South 07° 54' 40" East 299.98 feet,
- 2) South 82° 05' 20" West 66.36 feet,
- 3) South 07° 54' 40" East 201.42 feet, and
- 4) North 82° 05' 20" East 84.86 feet to lands now or formerly of Perelman (Document

#420610451);

thence along the same and lands of now or formerly Cheung (Document #433120014) and lands now or formerly of Thomas (Liber 10045 cp. 087), South 07° 54' 40" East 487.51 feet to lands now or formerly of Adriano (liber 12347 cp. 128);

thence along the same the following five (5) courses and distances:

- 1) South 80° 12' 30" West 95.22 feet,
- 2) South 80° 19' 40" West 140.56 feet,
- 3) South 79° 10' 20" West 272.08 feet,
- 4) South 81° 28' 30" West 165.56 feet, and
- 5) South 80° 23' 00" West 420.48 feet to a point,

thence along the same, and along lands of now or formerly Friedenbergh, North 07° 59' 20" West 508.10 feet to the lands now or formerly of Lawler (Liber 7629 cp. 747);

thence along the same, and along lands now or formerly of Bleser (Liber 10480 cp. 195), and along lands now or formerly of Katz (Liber 12010 cp. 202), North 07° 44' 50" West 423.36 feet;

thence continuing along said Katz (Liber 12010 cp. 202), and along lands now or formerly of Ross (Liber 12068 cp. 244), North 08° 21' 40" West 93.66 feet to a point;

thence along the lands now or formerly of Carnaghi (Liber 11738 cp. 144) the following two (2) courses and distances:

- 1) North 79° 11' 40" East 468.39 feet, and
- 2) North 60° 30' 00" East 286.75 feet to the southwesterly side of Colonial Drive;

thence along said southwesterly side of Colonial Drive the following two (2) courses and distances:

- 1) South 76° 32' 10" East 291.35 feet, and
- 2) along a curve to the left having a radius of 824.94 feet, a distance of 73.16 feet to the point or place of beginning, containing **25.882** Acres of land, more or less.

PARCEL E

BEGINNING at a point on the westerly side of Plum Brook Road where the same is intersected by the southerly boundary of lands of now or formerly Berman & Risetto (Liber 9476 cp. 104) and runs

thence southerly along said westerly side of Plum Brook Road, along a post and wire fence, South 05° 07' 00" West 49.63 feet to lands now or formerly of A L Development Properties, LLC (Liber 11837 cp. 116);

thence southerly along the aforesaid lands of A L Development Properties, LLC (Liber 11837 cp. 116), and center line of a stone wall, the following five (5) courses and distances:

- 1) South 03° 14' 50" East 301.87 feet,
- 2) South 03° 46' 10" East 137.37 feet,
- 3) South 03° 00' 45" East 549.10 feet,
- 4) South 03° 19' 20" East 241.33 feet, and
- 5) South 03° 05' 30" East 68.22 feet to a point;

thence running through the lands of the grantor herein, being along the easterly bounds of **Parcel B** herein described, the following four (4) courses and distances:

- 1) North 89° 51' 00" West 552.18 feet,
- 2) North 00° 09' 00" East 999.93 feet,
- 3) South 89° 51' 00" East 179.99 feet, and
- 4) North 00° 09' 00" East 299.98 feet to the aforementioned lands of Berman &

Risetto (Liber 9476 cp. 104);

thence along the same the following two (2) courses and distances:

- 1) North 83° 04' 00" East 274.26 feet, and
- 2) North 68° 15' 10" East 30.48 feet to the point or place of beginning, containing

14.240 Acres of land, more or less.

BEARINGS, distances and coordinate values described herein are with reference to the New York State Coordinate System, East Zone (NAD - 83/96), **TRUE NORTH** at 74° 30' West Longitude (NAD - 83/96), distance values described herein are Grid Horizontal, to obtain Ground Horizontal distance, divide by scale factor of 0.99993000.

BEING a portion of the lands described in conveyance from Walter I. Seligsohn, Referee, to ICC Bridgeport Limited Partnership and Eagle River Limited Partnership by deed dated August 16, 1996, recorded on August 30, 1996 at the Westchester County Clerk's Office in Liber 11514 of Deeds at page 91.