

## Exhibit B

### MEMBERSHIP AGREEMENT for the Eastern Trail Management District

This Membership Agreement ("Agreement") is entered into between any or all of the following entities (hereinafter referred to as "members"): the municipalities of Kittery, Eliot, South Berwick, North Berwick, Wells, Kennebunk, Arundel, Biddeford, Saco, Old Orchard Beach, Scarborough, and South Portland and the Eastern Trail Alliance.

WHEREAS, pursuant to the Maine Constitution, Art. VIII, Pt. 2 and 30-A M.R.S.A. section 3001, municipal home rule authorizes such an agreement through a vote of the legislative body; and

WHEREAS, the members have been working together and intend to continue working together with the following organizations: National Park Service, Maine Department of Transportation, State Planning Office, Department of Conservation, Southern Maine Regional Planning Commission, Appalachian Mountain Club, Maine Community Foundation, East Coast Greenway Alliance, Granite State Gas Transmission Company, Biddeford and Saco Water Company, Central Maine Power Company, Portland Trails, and other local entities in pursuit of the Eastern Trail;

NOW, THEREFORE, for and in consideration of the mutual promises and agreements hereinafter stated and the performance thereof, the members do hereby promise and agree as follows:

#### ARTICLE 1 - DEFINITIONS

1.1 For purposes of this Agreement:

**EASTERN TRAIL** - means the pedestrian/bicycle/equestrian trail that starts at Bug Light Park on Casco Bay and crosses South Portland on sections of the city's Greenway. It crosses Scarborough Marsh near the Audubon nature center, and crosses Old Orchard Beach on a woodland corridor. It passes near Cascade Falls in Saco. The route continues through Saco, Biddeford and Arundel. In Kennebunk the Eastern Trail is cut by the Maine Turnpike just east of the highway rest area. The trail continues across western Wells into North Berwick and South Berwick, then into Eliot and on existing paved roads through Kittery before crossing into Portsmouth, New Hampshire. See the Appendix for the map.

**EASTERN TRAIL ALLIANCE** - means the 501(c)3 non-profit organization incorporated in 1999 under the Maine Nonprofit Corporation Act and composed of trail advocates and potential users. The Eastern Trail Alliance is governed by a Board of Trustees. See Article 5 for the Duties of the Eastern Trail Alliance under this Agreement. See the Appendix for the Articles of Incorporation.

**EASTERN TRAIL MANAGEMENT DISTRICT** - means the 501(c)3 non-profit organization to be incorporated pursuant to this Agreement under the Maine Nonprofit Corporation Act to

oversee and coordinate the construction and management of the Eastern Trail. See the Appendix for the Articles of Incorporation.

**BOARD OF DIRECTORS** - means the governing body of the Eastern Trail Management District, consisting of representatives from each municipality which signs this Agreement and the Eastern Trail Alliance. See Article 4 for the Duties of the Board of Directors.

## **ARTICLE 2 - PURPOSE OF AGREEMENT**

- 2.1 The purpose of this Agreement is to accomplish the following objectives:
- a. develop trail related recreation and transportation opportunities along the Eastern Trail route
  - b. provide a twenty year administrative structure through this Agreement, including the organization of the Eastern Trail Management District to oversee and coordinate the construction and management of the Eastern Trail
  - c. establish the mechanism to obtain necessary funding and in-kind services for the construction and management of the Eastern Trail
  - d. cooperate in pursuit of developing a major link in the East Coast Greenway for non-motorized recreational opportunities

## **ARTICLE 3 - ESTABLISHMENT OF THE EASTERN TRAIL MANAGEMENT DISTRICT**

- 3.1 The members shall establish the Eastern Trail Management District and shall act in accordance with this Agreement in its governance.
- 3.2 The Eastern Trail Management District shall be governed by a Board of Directors composed of one (1) director from and representing each member municipality and three (3) directors from and representing the Eastern Trail Alliance.
- 3.2.1 Each member municipality, through its municipal officers, shall appoint one (1) director who shall have one vote. The Eastern Trail Alliance, through its Board of Trustees, shall appoint three (3) directors, each entitled to one vote. Each member municipality and the Eastern Trail Alliance may appoint an alternate or alternates for each director it appoints, which alternates may attend Board meetings and cast the director's vote for whom they are an alternate, in the director's absence. The terms of all directors and alternates shall be determined by the appointing member.
- 3.3 Upon the effective date of this Agreement or as soon thereafter as possible, the Board of Directors shall hold an organizational meeting and elect officers. Only directors shall be eligible to be officers. Officers shall serve for a term of one year, but may serve consecutive terms as officers, if eligible. If an officer resigns before the term has expired, the Board of Directors may replace the officer by means of a special election.

- g. develop an annual budget to consist of revenue, construction costs, maintenance, appurtenances, and staff support as deemed necessary and appropriate
- h. set the annual membership fee in accordance with the financial needs identified by the annual and long term work plans
- i. maintain, manage and operate the trail
- j. hold and administer funds and report all income and expenses on an annual basis to the members
- k. invoice members
- l. authorize expenditures
- m. negotiate and enter into contracts for technical, operating, maintenance, legal, management or other services necessary to fulfill the purposes of this Agreement
- n. coordinate in-kind services
- o. pursue other funding opportunities (grants, donations, etc.)
- p. hold meetings as deemed necessary
- q. carry out any other responsibilities assumed pursuant to this Agreement
- r. adopt by-laws governing the conduct of its affairs

#### **ARTICLE 5 - DUTIES OF THE EASTERN TRAIL ALLIANCE**

- 5.1 Duties of the Eastern Trail Alliance for the purposes of this Agreement are:
- a. appoint three directors and alternates to the Board of Directors from its Board of Trustees
  - b. negotiate and hold the easement(s) for public access to the Eastern Trail
  - c. research and procure additional funding (grants, donations, etc.) for the trail
  - d. provide management suggestions and support to the Board of Directors for trail development, standards, and maintenance
  - e. market the trail to potential users
  - f. organize and conduct volunteer activities for management and maintenance of the trail under the direction of the Board of Directors
  - g. serve as a public advocacy group to encourage public support for the spending of government funds on the Eastern Trail

#### **ARTICLE 6 - DUTIES OF THE MUNICIPALITIES**

- 6.1 The duties of the municipalities under this Agreement are:
- a. sign the incorporation papers for the Eastern Trail Management District
  - b. appoint one director and an alternate to the Board of Directors
  - c. pay the annual membership fee as invoiced by the Board of Directors

#### **ARTICLE 7 - FINANCE**

- 7.1 Each member municipality and the Eastern Trail Alliance will contribute to the Eastern Trail Management District for two years an annual administrative fee in the amount of

\$2500. Thereafter, the Board of Directors may recommend further sources of funding. For each of the next eighteen years of the Agreement the Board of Directors shall propose how the Eastern Trail Management District shall be funded.

- 7.3 Payment of the administrative fee is due on August 1, annually, starting with August 1, 2001.

#### **ARTICLE 8 - ADOPTION, AMENDMENT**

- 8.1 Adoption: This Agreement shall take effect once it has been approved by the legislative bodies of at least three municipalities and signed by the authorized agent of each. Municipalities shall have until July 31, 2001 to approve this Agreement, after which time they shall make application as new members under Section 8.3 herein below.
- 8.2 Amendment: An amendment shall not be required to delete any references in this Agreement to municipalities which fail to approve or which withdraw from this Agreement. The Board of Directors may propose and shall approve by a majority vote, amendments to this Agreement. Proposed amendments also shall require an affirmative vote of all the participating municipal legislative bodies and the Eastern Trail Alliance in order to be adopted. Amendments shall be signed by an authorized municipal agent.
- 8.3 New Members: Municipalities may be admitted under this Agreement as members of the Eastern Trail Management District by a simple majority vote of the Board of Directors and upon approval by the legislative body of such municipality. A new member shall pay within the first two years of membership all assessments, adjusted for inflation, it would have paid had it entered the Agreement in 2001.

#### **ARTICLE 9 - DURATION**

- 9.1 This Agreement shall be in effect from the time that three municipalities sign it as outlined in Section 8.1 until December 31, 2021 or until the members no longer have maintenance and enforcement responsibilities for the Eastern Trail, whichever comes first. Or it may be terminated sooner by the participation of fewer than three members or by dissolution.
- 9.2 If the Eastern Trail Management District dissolves, responsibility for trail management and maintenance of each section of the trail shall revert to the municipality in which the trail section is located.
- 9.3 Upon termination, the Board of Directors shall conclude the affairs of the Eastern Trail Management District, and shall liquidate the assets and liabilities as follows:
- a. pay all the expenses and debts of the Eastern Trail Management District; and
  - b. distribute the assets thus: any funds remaining upon termination of this Agreement shall be divided equally and returned to the members under this Agreement at the time of termination.

#### **ARTICLE 10 - WITHDRAWAL**

- 10.1 A municipality may withdraw from this Agreement subject to the following:
  - a. the withdrawing municipality must give written notice to the Board of Directors
  - b. upon the effective date of withdrawal the withdrawing municipality shall lose all rights and benefits derived from this Agreement and to funds previously contributed

10.2.1 Withdrawal by a municipality shall require a vote of the legislative body of the municipality. The question to be voted upon shall be in substantially the following form: To see if the municipality will vote to withdraw from this Agreement.

10.2.2 The Eastern Trail Alliance is bound for the duration of this Agreement with no provision for early withdrawal.

**ARTICLE 11 - SEPARABILITY CLAUSE**

11.1 If any provision in this Agreement or any application hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby.

**ARTICLE 12 - GOVERNING LAW**

12.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Maine.

IN WITNESS WHEREOF, the members hereunder have caused this Agreement to be duly executed as of the date and year noted below.

Approved on \_\_\_\_\_ by Municipality of \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Municipal Officer

\_\_\_\_\_  
Date