MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF TRANSPORTATION,

THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

AND

THE ADIRONDACK PARK AGENCY

CONCERNING DEVELOPMENT AND IMPLEMENTATION OF

TRAVEL CORRIDOR UNIT MANAGEMENT PLANS

PURSUANT TO

THE ADIRONDACK PARK STATE LAND MASTER PLAN
WHEREAS, the Legislature of the State of New York in 1885 established the Adirondack Forest Preserve, and in 1892 created the Adirondack Park to consist of both the Forest Preserve and private lands within the Park's boundary, and in 1895, the People of the State of New York, through constitutional amendment, mandated that Forest Preserve lands be forever kept as wild forest lands, prohibited the removal, destruction or sale of timber situated thereon, and prohibited the lease, sale, exchange, or taking of such land by any public or private corporation; and

WHEREAS, the Adirondack Park Forest Preserve is a place of state, national and global significance and is listed on the National Register as a designated National Historic Landmark for its role in being the first state constitutionally protected landscape; and

WHEREAS, the New York State Department of Transportation (DOT) has broad functions, powers and duties generally set forth in the Transportation Law and the Highway Law including but not limited to the following: coordination and development of comprehensive, balanced transportation policy and planning for the state to meet the present and future statewide needs for adequate, safe and efficient transportation facilities and services at a reasonable cost to the people; the operation and maintenance of the state highways, bridges and canals; the authority to alter, relocate and pave intersecting highways, roads or streets; and to provide for the removal, replacement or reconstruction of the facilities of public utility corporations; and

WHEREAS, the New York State Department of Environmental Conservation (DEC) has the statutory responsibility under the Environmental Conservation Law to provide for the care, custody and control of the Forest Preserve, and for protection of other natural resources of the state, and for the administration within the Park for the New York State Wild, Scenic and Recreational Rivers Act (on state lands); and

WHEREAS, the New York State Adirondack Park Agency (APA), has the statutory responsibility under the Adirondack Park Agency Act (APA Act) for the long-range policy and planning for the Adirondack Park, including the preparation, continual revision and evaluation, administration and interpretation of the Adirondack Park Private Land Use and Development Plan Map and the administration, interpretation, preparation and periodic revision of the Adirondack Park State Land Master Plan (APSLMP),
and for the administration within the Park of the APA Act, the Freshwater Wetlands Act and the New York State Wild, Scenic and Recreational Rivers Act (on private lands); and

WHEREAS, the DOT, DEC and APA each recognize that, as Executive Agencies of New York State, it is imperative that the specific authorities and program responsibilities of each are administered as cooperative elements of a coordinated state government program for the Adirondack Park; and

WHEREAS, the DOT, DEC and APA each agree that their specific program responsibilities and activities are enhanced by the involvement and participation of the other, including coordinated policy and planning development and implementation, as well as sharing of information, technical and other resources; and

WHEREAS, the DOT, DEC and APA agree that it is in the interest of the State of New York to fully coordinate and integrate their respective planning and program responsibilities; and

WHEREAS, the state highway corridors in the Adirondack Park frame the visitor experience and as gateways, provide community character and provide access to public lands and waters, are an important interface with significant natural resources, serve as important connections between communities for many types of recreation and public infrastructure, and are an essential determinate of the image and entire atmosphere of the Park for many visitors; and

WHEREAS, travel corridors also serve by their linear nature to segment natural systems, impede wildlife migration, disseminate non-native and sometimes invasive species, and introduce air and water borne pollutants; and

WHEREAS, travel corridors serve not only transportation purposes and functions but also provide, where authorized, alignment of and routing for public utility transmission lines and public utility facilities; and

WHEREAS, the state highway corridors in the Adirondack Park are recognized as fundamentally different from highway corridors throughout the rest of the state in that they traverse a landscape that is legislatively recognized for having unique physical, biological and hydrological features protected by and for the citizens of the state for their inherent uniqueness and wild character; and
WHEREAS, the coordinated planning, design and management of the travel corridors in the Adirondack Park serve the best interests of the People of the State, state and local governments, residents and Park visitors as well as the Park’s natural and cultural resources; and

WHEREAS, a long history of cooperation among involved state agencies in the Adirondack Park has resulted in award-winning, context-sensitive highway design for sections of travel corridors such as Route 30 and 28N between Blue Mountain Lake and Long Lake, Route 3 between Saranac Lake and Tupper Lake, and the Adirondack Northway as well as for the award-winning Adirondack Park Invasive Plant Program (APIPP) for the control of invasive plant species; and

WHEREAS, the DOT, DEC and APA agree that this Memorandum is not intended to diminish any authority or responsibility of either the DOT, DEC or APA, nor transfer to the others any authority to act on matters with which it is charged; and

NOW, THEREFORE, the parties do hereby agree to exercise their responsibilities and authorities for the development and implementation of Travel Corridor Unit Management Plans (TCUMPs) authorized by the APSLMP and Section 816 of the APA Act through the cooperative arrangements created by this Memorandum.

I. NEED FOR TRAVEL CORRIDOR UNIT MANAGEMENT PLANS

(a) The DOT, DEC and APA acknowledge that the APSLMP requires the development of TCUMPs and that DEC prepare such plans. Further, the DEC has the primary responsibility for the final approval of such plans in consultation with the APA as per the APA Act. Due to the DOT’s functions, powers, duties and special expertise, the DOT will accept primary responsibility for the development of TCUMPs on behalf of DEC and in consultation with the DEC and APA.

(b) The APSLMP defines a travel corridor as “that strip of land constituting the roadbed and right-of-way for state and interstate highways in the Adirondack Park, the Remsen to Lake Placid railroad right-of-way, and those state lands immediately adjacent to and visible from these facilities.”
(c) The APA has interpreted the term "state lands" to mean land held in the name of, owned by or under the long-term lease to the State of New York or a state agency, and the APSLMP specifically defines those "state lands" under the jurisdiction of various state agencies within the Adirondack Park.

II. GOALS OF TRAVEL CORRIDOR UNIT MANAGEMENT PLANS

The APSLMP provides guidelines for management and use of travel corridors "to achieve and maintain a park-like atmosphere on state lands within the travel corridor that complements the total Adirondack environment." The APSLMP further states that "the importance of the major travel corridors and the principal segments of the local highway network to the integrity of the Park cannot be overemphasized."

TCUMPs will conform to the guidelines and criteria set forth in the APSLMP and cannot amend the APSLMP itself. They will contain, at a minimum, the principle components of a Unit Management Plan as outlined in Appendix I of this Memorandum, "Travel Corridor Unit Management Plan, Draft Table of Contents," and will serve to:

(a) engage and coordinate state agency, municipal and regional planning activities (such as Department of State [DOS] sponsored Local Waterfront Revitalization Programs and other planning efforts along designated inland waterways) by identifying specific planning, design, construction and maintenance activities to be undertaken by the involved agencies, municipalities, utility providers and certain non-governmental organizations (such as Adirondack North Country Association's [ANCA] Scenic Byways Program);

(b) assure that facilities designed, constructed and maintained by or under the authority of state agencies, municipalities, and utility providers within the travel corridor are consistent with constitutional requirements, TCUMPs, the NYS Guidelines for the Adirondack Park ("Green Book") and Unit Management Plans for adjacent public lands including those pertaining to highway design and construction, signing, scenic vistas, trailheads and roadside
aesthetics, and will be prepared according to the content and guidelines outlined in the APSLMP;

(c) the travel corridor planning process shall ensure that appropriate elements developed under the authority of other State agencies like Agriculture and Markets, DOS and the Department of Public Service are reflected in the TCUMP, and that TCUMP guidelines and criteria are provided for integration in the adopted planning documents under the authority of these other state and local agencies;

(d) use ongoing GIS and Web-based information, appropriate elements from related DOT, DEC and APA corridor planning efforts, "Green Book," and related DEC Unit Management Plans; and

(e) establish state and municipal inter-agency responsibilities, points of contact and procedures to facilitate the coordination of activities such as planning, design, construction, maintenance, permitting, emergency situations, Forest Preserve boundary delineations, wetland delineations and management of utilities within the travel corridor.

III. COMMITMENTS

(a) While DEC has the primary responsibility to prepare the TCUMPS as required by Section 816 of the APA Act and the APSLMP, DOT agrees to take the lead in developing TCUMPS on behalf of DEC and in consultation with DEC and APA.

(b) DOT will take the lead in coordinating meetings, setting milestones, assembling data and preparing the draft TCUMP for the NYS Route 3 travel corridor within the Park as an initial prototype. Upon completion of the NYS Route 3 Travel Corridor Plan, DOT, DEC and APA will evaluate the planning process and determine if any revision of this Memorandum is warranted.

(c) DOT will prepare and periodically amend TCUMPS in consultation with DEC and APA for each of the individual travel corridors identified in the APSLMP. TCUMPS will be regularly updated on a five-year planning cycle upon completion of the initial set of
travel corridor plans in the Park unless an update of an existing adopted plan is warranted prior to that time. TCUMPS will be prepared according to the guidelines outlined in the APSLMP and the "Travel Corridor Unit Management Plan Table of Contents," Appendix I.

(d) No new land use or development will occur that will materially affect the character of the corridor within the highway or railroad right-of-way portion of the travel corridor or adjacent state lands not under the jurisdiction of the DEC without the approval of such activity as part of the adopted TCUMP, except in exceptional circumstances as required for sudden and ongoing emergencies.

(e) Travel corridor unit management planning will establish a vision, goals and objectives for the management of each corridor's unique qualities in a manner consistent with maintaining an Adirondack Park-like character. The review of site-specific projects involving new land use and development in the highway right-of-way will be reviewed under the established procedures provided for in Section 814 of the APA Act and in a manner consistent with the design guidelines in the "Green Book" and the adopted TCUMP for the corridor.

(f) Maintenance and rehabilitation of certain existing facilities within the right-of-way and as specifically identified in the proposed revisions of the "Green Book" may be implemented without review and approval in an adopted TCUMP. Specifically, the activities identified in the "Green Book" in Table IIIA, NYS DOT Maintenance and Construction Activities/Actions that Include APA/NYSDEC Exempt Actions, will be considered maintenance and rehabilitation for the purposes of this Memorandum. Examples of these activities include shoulder repair, guiderail replacement and mowing.

(g) Certain maintenance and rehabilitation activities shall be subject to a jurisdictional determination by the APA and may require potential review under Section 814; Section 816; freshwater wetlands; wild, scenic and recreational rivers or other review as appropriate. The activities identified in the "Green Book" in Table IIIB, Activities and Contracts
Typically with APA/NYSDEC Notification/Involvement, are examples of projects that require a jurisdictional review. Examples of these activities include tree removal, bridge repairs and resurfacing. The APA’s Division of Regulatory Programs is the point of contact for review under Section 814.

(h) The evaluation of the location and type of proposed transportation projects over the next ten years will be used to prioritize the development schedule for TCUMPs to assure the most active corridors are assigned a higher priority in the TCUMP planning schedule.

(i) Any material modification or amendment to an adopted Unit Management Plan will be made following the procedure for original unit plan preparation. Depending on the nature of a proposed amendment to an adopted TCUMP, the amendment may not involve a comprehensive review of the TCUMP and its scope may be limited to the relevant and affected portions of the unit plan.

(j) DOT, DEC and APA agree to provide the necessary staff resources to assure timely development and review of the TCUMPs.

(k) DOT, DEC and APA will share, to the fullest extent possible, all information and data pertaining to the natural, physical, social, economic and transportation infrastructure resources of the Adirondack Park collected by each, including available information in a GIS format.

IV. GENERAL COORDINATION AND COMMUNICATION

(a) DOT, DEC and APA will carefully plan and coordinate with the involved state agencies such as the DOS and Department of Public Service, municipalities and utility providers in order to prepare timely development of and updates to TCUMPs.

(b) DOT, DEC and APA will communicate and coordinate as follows:
(1) Formal coordination pursuant to this Memorandum will be through the primary contact persons designated in paragraph IV.(b)(2). The agencies will maintain and share current organization charts depicting their respective subdivisions of program responsibilities and will identify specific staff who will be involved in developing and reviewing the TCUMPs.

(2) The DEC, DOT and the APA will each appoint a primary contact person for implementation of this Memorandum. The primary contact person for DOT will be the Adirondack and Catskill Park Forest Preserve Manager. The primary contact person for the DEC will be the Forest Preserve Coordinator, New York State Department of Environmental Conservation. The primary contact person for the APA will be the Director of Planning.

(3) Where there has been inter-agency consultation at the DOT, DEC and APA staff level and staff nonetheless disagrees on a material, substantive matter, the matter will be formally referred in writing for resolution as follows:

(i) The primary contact person for DOT will make a written request for resolution to the DOT Commissioner’s designee.

(ii) The primary contact person for DEC will make a written request for resolution to the DEC Commissioner’s designee.

(iii) The primary contact person for the APA will make a written request for resolution to the Executive Director of the APA.

(iv) Issues which cannot be resolved by such designees and the APA Executive Director within 30 days of such referral will be referred by them for final resolution to Commissioners of the DOT and DEC and the APA Chairman for resolution according to the applicable regulations and procedures of each.
(4) DOT, DEC and APA will provide each other with actions or policy determinations, Engineering Instruction (EIs) or Specifications that may affect program responsibilities of the others relating to the development or implementation of TCUMPs.

(i) DOT, DEC and APA will not represent any technical or legal positions on behalf of the other except by express mutual agreement; furthermore, DOT, DEC and APA each agree to provide timely notice to the proponent of any improvement within the Adirondack Park of the possible regulatory responsibilities of the other.

(ii) DEC will, by December 31 of each year, provide APA and DOT a schedule for the preparation and/or revisions of any Unit Management Plan proposed to be undertaken by DEC that is part of any travel corridor within the Park, and will promptly advise APA and DOT of any changes thereto. The schedule for all Unit Management Plans for lands under the jurisdiction of DEC will be provided to DOT and APA for purposes of coordinating TCUMP planning and scheduling by the three agencies.

V. PREPARATION OF TRAVEL CORRIDOR UNIT MANAGEMENT PLANS

(a) General Guidelines:

(1) The DEC and DOT will prepare and periodically revise TCUMPs for each of the travel corridors identified in the APSLMP, Section III, Area Descriptions, “Travel Corridors.” TCUMPs will contain an inventory of the natural resources, facilities and public use of the corridor; establish goals and objectives for its future use and management; evaluate alternatives for the management of the travel corridor unit and assess environmental impacts of each alternative; establish preferred management options for each unit through a procedure involving the participation of interested citizens, user groups
and the local governments of communities through which the corridor passes; describe the specific management goals and policies which are incorporated in the preferred management plan; describe any specific physical development or improvement projects required by the management plan, including a priority schedule for the completion of each project and estimated costs thereof; provide a priority schedule for the removal and/or termination of any non-conforming uses; and describe procedures for the continued monitoring of the plan's implementation. A TCUMP cannot amend the APSLMP and as finally adopted will be in compliance with the general guidelines and criteria of the APSLMP.

(2) The DEC and DOT annually will coordinate and provide the APA with a schedule for the preparation and/or revision of any TCUMP proposed to be undertaken and will promptly advise the APA of any changes thereto.

(3) The DEC and DOT will consult with the APA prior to undertaking the preparation of a TCUMP to identify significant issues and constraints, scheduling, data needs, and public involvement.

(4) On request of the DEC and DOT, or on its own initiative, the APA will promptly provide interpretations of the APSLMP to facilitate the preparation of TCUMPs and to otherwise administer and manage the state lands of the Adirondack Park.

(b) Staff Consultation:

The DEC and DOT will consult with the APA in the preparation and/or revision of a TCUMP as follows:

(1) The DEC and DOT will not undertake the preparation and/or revision of any TCUMP without written notice to the APA of the intent to do so.

(2) The APA Director of Planning is the designated contact for communications between the DEC, DOT and APA regarding the preparation of TCUMPs. The APA's Executive Director may designate other
APA staff to be the contact as appropriate, and will so notify the designated contact for the DEC and DOT. The DEC Forest Preserve Coordinator is the designated contact for communications between the APA and the DOT. The Director of the Division of Lands and Forests may designate other DEC staff to be the contact as appropriate, and will so notify the designated contacts for the APA and DOT. The Adirondack and Catskill Park Forest Preserve Manager is the designated contact for DOT for communications with the APA and the DEC.

(3) The DEC and DOT will request the official designation of a representative of the APA to assist them with the preparation and/or revision of individual TCUMPs. The APA's Director of Planning will designate APA staff to provide GIS support and be a member of each TCUMP team.

(4) To assist the planning team in the development of individual TCUMPs, APA staff will receive plan materials for review coincident with the DEC and DOT team members and provide comment on APSLMP compliance issues, participate in planning team discussions and review preliminary TCUMP drafts, and comment on Unit Management Plan text and proposed management actions. This internal, informal, deliberative process is essential to establishing the inter-agency relationship envisioned by the APSLMP and is ordinarily exempt from Freedom of Information Law (FOIL).

(5) APA State Land staff will participate with DEC and DOT in data collection and field inspections as part of the planning team. DEC and DOT staff will conduct public information sessions with participation of APA staff to assist in the identification of planning issues and opportunities in the travel corridor.

(6) In the preparation of TCUMPs, the DEC and DOT will normally serve as co-lead agency for State Environmental Quality Review (SEQR), and the APA will participate in the SEQR process as an involved agency.
(c) TCUMP Review:

INITIAL DRAFT TCUMP

(1) The DEC and DOT will provide APA staff with an internal Initial Draft of the TCUMP containing all the elements specified in the APSLMP, including all required inventories, statement of alternative management objectives, administrative actions, schedules for Unit Management Plan implementation and all information, text, maps and appendices which are intended for inclusion in the Public Draft.

(2) Unless otherwise determined upon agreement by the involved agencies, the APA, within 45 days of the receipt of a complete Initial Draft, will provide the DEC and DOT with internal APA comments on the Initial Draft TCUMP regarding compliance with the APSLMP.

(3) Prior to release of the Public Draft, the DEC and DOT will advise the APA in writing of its responses to APA comments on the Initial Draft TCUMP. These inter-agency communications are an essential part of the deliberative process ordinarily exempt from FOIL.

PUBLIC DRAFT TCUMP

(1) The Public Draft will be released by the DEC and DOT for public review and comment and will contain appropriate SEQRA documentation. After completion of public review of any TCUMP, DEC and DOT will prepare a proposed Final TCUMP which will include responses to comments and necessary SEQRA documentation. Upon DEC and DOT Commissioners’ approval, the proposed Final TCUMP will be transmitted to the APA.

(2) A minimum of two Agency meetings are preferred for final determination by the APA as to whether the proposed Final TCUMP is in compliance with the APSLMP.
(3) APA staff will review the proposed Final TCUMP and will prepare a final staff recommendation and draft resolution for APA consideration, which will be transmitted to APA members and the DEC and DOT in advance of the meeting in which the APA will make its determination regarding the proposed Final TCUMP's compliance with the APSLMP.

(4) At the conclusion of such review, the APA will determine whether the proposed Final TCUMP complies with the guidelines and criteria set forth in the APSLMP and will transmit their determination to the Commissioners of the DEC and DOT. Following the compliance determination by the APA, the Commissioners of DEC and DOT will approve the Final TCUMP and publish a notice of approval of the Final TCUMP in the Environmental Notice Bulletin.

VI. EFFECTIVE DATE

This Memorandum will be in full force and effect upon its execution by the Commissioner of Environmental Conservation, the Commissioner of Department of Transportation and the Chairman of the Adirondack Park Agency.

[Signatures]

COMMISSIONER
New York State Department of Environmental Conservation

COMMISSIONER
New York State Department of Transportation

CHAIRMAN
New York State Adirondack Park Agency

DEC 21 2009
DATE

DEC 21 2009
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DEC 21 2009
DATE
I. EXECUTIVE SUMMARY

II. INTRODUCTION

A. Purpose: Protecting and Managing Adirondack Travel Corridors
   1. Purpose of Travel Corridor Planning
   2. Legal Framework

B. General Description of Travel Corridor
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   2. Counties, Towns, Villages and Communities Involved
   3. Intersections with other Major and Minor Routes
   4. General Description of State-Private Land Relationships

C. History of Travel Corridor
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   2. General Description of Highway Maintenance in Past
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D. Travel Corridor Planning Process
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III. TRAVEL CORRIDOR RESOURCE INVENTORY and ASSESSMENT: HISTORICAL AND CURRENT SITUATION

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   2. Typical Highway Sections
   3. Design Speeds
   4. Substandard Features
   5. Speed Limit(s)
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3. Fish and Wildlife
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6. Soils
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9. Threatened and Endangered Species
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11. Designated Wild, Scenic and Recreational Rivers
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2. Scenic Views - Overlooks
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J. Ownership of lands within Corridor
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   5. Adirondack Park State Land Master Plan
   6. DOT Guidelines for the Adirondack Park
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   2. Substandard Features
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