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City of Newton
Law Department
City Hall

1000 Commonwealth Ave.
Newton, MA 02459

GRANTOR: City of Newton

GRANTEE: Newton Conservators, Incorporated

ADDRESS OF PREMISES: 30 Wabasso Street,
Newton, MA

FOR GRANTOR'S TITLE SEE:
Middlesex South Registry of Deeds
Book 50331, Page 144

CONSERVATION RESTRICTION

The City of Newton, acting by and through its Mayor, with a mailing address at 1000 Commonwealth Avenue, Newton Centre, Massachusetts 02459, being the sole owner, for its successors and assigns (hereinafter referenced to as the "Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants with QUITCLAIM COVENANTS to Newton Conservators, Incorporated, having an address of P.O. Box 590011, Newton Centre, Massachusetts 02459 and its permitted successors and assigns (hereinafter referred to as the "Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction located on a parcel of land off Wabasso Street in Newton, Massachusetts constituting approximately five thousand one hundred eighty-four square feet (5,184), ("Premises") which Premises is more particularly described in Exhibit A and shown as Lot 60 on the attached plan, "Map of Forest Grove Situated in Newton, MA", prepared by Rowland H. Barnes & Henry F. Beal, civil engineers, Boston & Waltham, Massachusetts, dated June 1919, filed with Middlesex South Registry of Deeds, Book of Plans number 303, Plan 15, a reduced copy of which is attached hereto as Exhibit B, both of which are attached hereto and incorporated herein.

I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its open space, conservation and preservation values (“conservation values”).

The Premises were acquired using M.G.L. c. 44B Community Preservation Act funds, and a copy of the Newton Board of Aldermen Order #257-07 authorizing the use of such funds for such purpose is attached hereto as Exhibit C.

The conservation values include the following:

Open Space Protection. The Premises contributes to the protection of the scenic and natural character of the Charles River and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved by the City of Newton, named Flowed Meadow Conservation Area, which has a total area of 28.80 acres. The Premises borders the Flowed Meadow Conservation Area by 105.8 feet to the east and 50.0 feet to the south. The Premises shares a border 46.5 feet to the north with a section of the Charles River known as Purgatory Cove.

Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy. Protecting open space is a goal in Newton, with specific points of importance outlined in the 2014 Open Space and Recreation Plan “OSRP” and also in the Newton Comprehensive Plan section for Open Space and Recreation.

Specifically, in this area close to the Charles River, Newton’s OSRP states,

“Strategic additions to major blocks of conservation land and other large open spaces in conjunction with recognizing important corridors for wildlife movement are key in this undertaking. Parcels that are contiguous with existing conservation lands should be considered for elevated priority. The value of biodiversity and protection of native species is hereby again explicitly acknowledged as an important component of planning for open space preservation within our community. The principle of linkage is also useful in consideration of other open space assets, such as preservation of visual corridors and scenic roads.”
Sec. 6, p. 7.

Another main-focus for Newton, as described in the OSRP is connectivity of trail systems:

“An important concept receiving significant interest within Newton is for the establishment of various trail systems. These have the potential for facilitating integration and/or linking of various open space resources while also providing the benefits of walkable pathways and multiple points of access. Possibilities include consideration of an overall trail network, aqueduct loop trails,

interconnections with segments of the Charles River pathway, connections with potential future rail trails and also connections with regional trail systems. With the increased presence of trail bikes, it will be important to address ways to accommodate bike access to and use of suitable trails and appropriate open spaces while also preserving natural resources and respecting pedestrian use.”

Sec. 6, p. 8.

Flood Plain Protection. A portion (~0.037 acres) of the Premises lies within the 100-year floodplain of the Charles River at Purgatory Cove. The protection of this floodplain will ensure the continued availability of this flood storage during major storm events. A capped municipal landfill is to the south of the site within 500 feet. The preservation of the Premises for stormwater infiltration is critical for keeping contaminants out of the Charles River. The permanent conservation of the Premises will prevent development on a riverfront property, will conserve an area of Prime Forest Land 3, and will contribute to the overall water quality maintenance provided by the forests of the Flowed Meadow Conservation Area through natural stormwater management.

Geology, Topography, Soils. The Premises falls within the Boston Basin Ecoregion and is currently comprised of two land uses, Forested and Forested Wetland, as categorized by the MassGIS online mapping tool, OLIVER. The Premises includes .119 acres of Hinckley loamy sand, categorized as Prime Forest Land 3 by the USDA. There is no Prime Farmland on the Premises.

Public access. Public access to the Premises will be allowed for passive recreation and nature study. The Premises will permanently conserve 70 feet of the Flowed Meadow Trail which allows almost continuous access to the Charles River through the Lakes District of Newton.

BioMap2. The Premises consists of 0.119 acres of Upland Buffer of Aquatic Core Critical Natural Landscape as defined by the Massachusetts Natural Heritage and Endangered Species Program. As an area upland of an Aquatic Core Landscape, this land can be critical in the health and function of the wetland area.

Water Quality Protection. Protection of the Premises will assist in meeting the requirements of TMDL (Total Maximum Daily Load) of phosphorus for the Charles River.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report (“Baseline Report”) prepared by Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

A. Prohibited Acts and Uses

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line, drilled or dug wells, or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of groundwater, soil, loam, peat, gravel, sand, rock or other mineral or natural resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste, hazardous substances or waste oil, or other substance or material whatsoever, including the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, archaeological conservation, or scenic views;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles of any kind on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or individual transportation vehicles as necessary for the mobility impaired;
- (7) Division, subdivision or conveyance of a part or portion of the Premises alone, or division, or subdivision of the Premises, and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Premises for business, residential or industrial use;
- (9) Hunting or commercial trapping;
- (10) The use of herbicides or pesticides, except when the use of herbicides or pesticides is approved by the Grantee for the management of non-native/invasive species.

- (11) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

B. Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction.

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Survey, woods, roads, fence lines and trails and meadows;
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (4) Wildlife Habitat Improvement. With the approval of the Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (5) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).
- (6) Trails. The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior notice to the Grantee, the construction of new trails or the relocation or alteration of existing trails provided that no such activities result in trails wider than eight (8) feet.
- (7) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the protected conservation values;

- (8) Outdoor Passive Recreational Activities. Use of the Premises by the general public for education, nature study, bird watching, fishing, boating, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
- (9) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph B shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises, and to Flowed Meadow Conservation Area, that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph B, any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report.
- (10) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (11) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph B shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Notice and Approval.

Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Conservation Restriction.

Subject to any applicable law or regulation, failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as

the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not impair the conservation values or purposes of this Conservation Restriction.

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. The Grantee shall attempt to resolve issues concerning violations through negotiations with the Grantor prior to reverting to legal means.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred.

B. Non-Waiver.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the

event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible, at no expense to the Grantee.

IV. ACCESS

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

This Conservation Restriction also grants to the general public and to the Grantee the right to enter upon and use the Premises for passive outdoor recreational purposes and activities as described in Section II(B)(8) provided that such activities shall not involve the use of motorized vehicles (except for use of individual transportation vehicles (ITV) necessary for the mobility of persons with disabilities and maintenance vehicles, public safety vehicles and vehicles related to permitted uses of the site), shall not be detrimental to the purposes of or violate the terms of this Conservation Restriction, and shall not unreasonably interfere with Grantor's use and enjoyment of the Premises. The terms and conditions of public access, such as hours of access, shall be determined by the Grantor.

V. EXTINGUISHMENT

A. Procedure for Extinguishment

If circumstances arise in the future such as to render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs.

B. Proceeds

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to an interest in land in the Grantee, including, without limitation, the right to enforce the terms of this Conservation Restriction, but (except as set forth herein) does not entitle Grantee, upon the extinguishment or other release of this Conservation Restriction under applicable law, to any proceeds received by the Grantor from the subsequent sale, exchange or involuntary conversion of the Premises. Any proceeds that result from any extinguishment or other release of this Conservation Restriction under applicable law will be distributed only after complying with the terms of any gift, grant, or other funding requirements, including the Community Preservation Act. The City of Newton shall use its share of the proceeds in a manner consistent with the purposes of this Conservation Restriction by depositing its portion of the proceeds into the City of Newton's CPA fund for open space

purposes (see M.G.L. c 44B). If CPA funds no longer exist, then the proceeds will be placed in a similar fund for similar purposes.

Notwithstanding the foregoing, the parties agree that in the event that this Conservation Restriction is extinguished or terminated when the Premises are owned by an entity other than the City of Newton (the "Subsequent Owner"), any sale or conveyance of the Premises by the Subsequent Owner shall entitle Grantee to a share of the proceeds thereof, which share shall be equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted fee simple property interest. Such proportionate value of the Grantee's property right shall be determined by an independent appraisal at the time of extinguishment or release. Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes set forth herein.

C. Grantor/Grantee Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then Grantor and Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by Grantor and Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed to the Grantor, or be distributed between the Subsequent Owner and Grantee, in accordance with Paragraph V(B) herein above, after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

VI. DURATION & ASSIGNABILITY

- A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.
- B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.
- C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the

Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

VIII. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of

the General laws of Massachusetts. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Art. 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South District Registry of Deeds.

XI. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded in a timely manner in the Middlesex South District Registry of Deeds.

XII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Mayor
City of Newton
City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

With a Copy to Grantor's Counsel:

City Solicitor
City of Newton
City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

To Grantee: Newton Conservators, Incorporated
P.O. Box 590011
Newton Centre, MA 02468

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIII. GENERAL PROVISIONS

- A. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

- B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Chapter 184, Sections 31, 32, and 33 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

- C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

- D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

XIV. MISCELLANEOUS

- A. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to Chapter 184, Section 32 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

- B. The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

- C. Attached hereto and incorporated herein by reference are the following:

Signature pages:

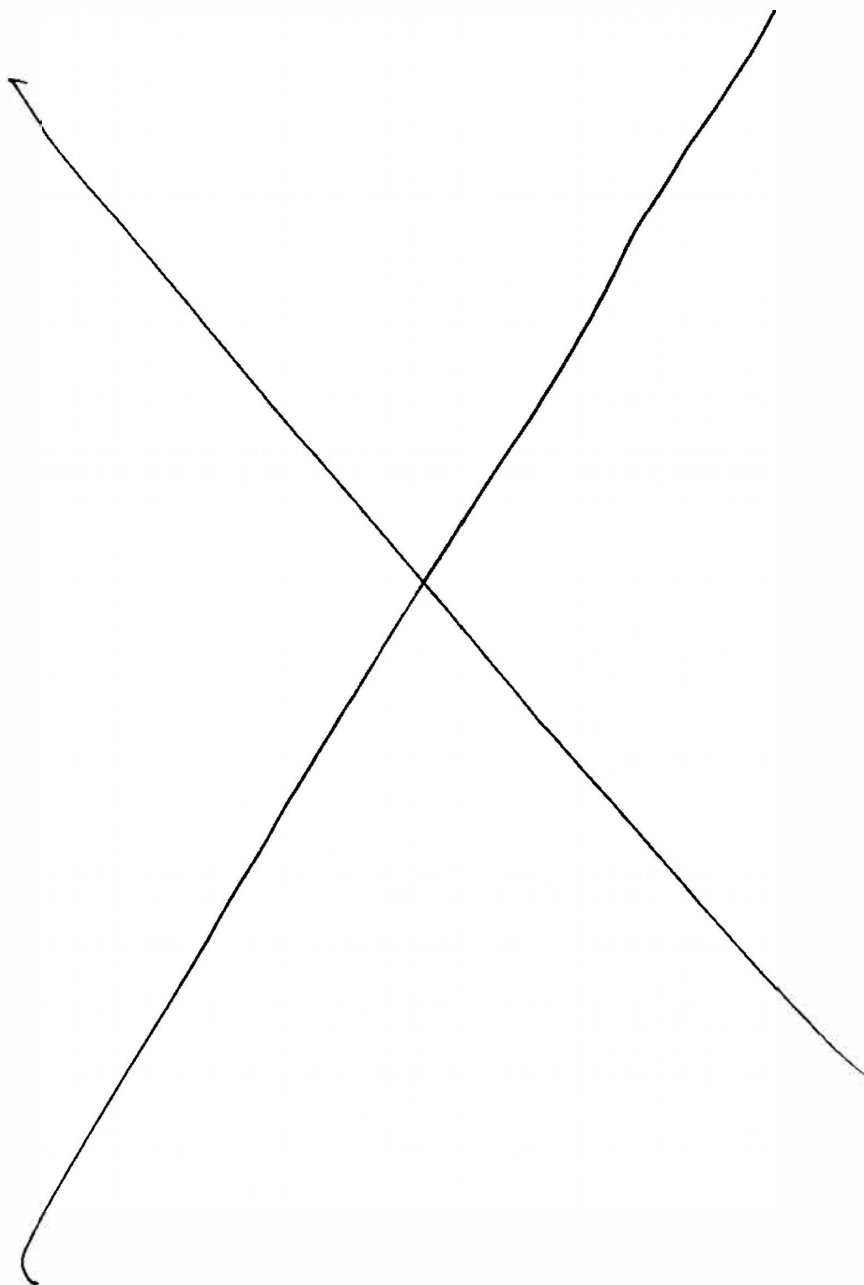
- Grantor (and Mayor's Approval)
- Approval of Newton Conservation Commission
- Grantee Acceptance
- Approval of Newton City Council
- Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Plan of Premises

Exhibit C: City Vote Authorizing the use of CPA Funds



I, Ruthanne Fuller, duly elected Mayor of the City of Newton, Massachusetts, on this 24 day of June, 2019, as authorized by Section 3-2 of the Charter of the City of Newton and Section 2-2 of the Revised Ordinances of the City of Newton 2017, hereby approve in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and grant the foregoing Conservation Restriction to the Newton Conservators, Incorporated

**GRANTOR:
CITY OF NEWTON**

6/24/19
Date

By: Ruthanne Fuller
Ruthanne Fuller
Its: Mayor

**COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss:**

On this 24 day of June, 2019, before me, the undersigned notary public, personally appeared Ruthanne Fuller, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Emily A. Meehan
Notary Public
My Commission Expires:

Approved as to legal form and character:

[Signature]
Assistant City Solicitor



We, the undersigned, being a majority of the Conservation Commission of the City of Newton, Massachusetts, hereby certify that at a public meeting duly held on May 9 2019, the Conservation Commission voted to approve the foregoing Conservation Restriction to the Newton Conservators, Incorporated.

**CITY OF NEWTON
CONSERVATION COMMISSION:**

[Signature]

Susan H. Turner

Ellen Katz

Kathryn Cook

Jimmy Zabel

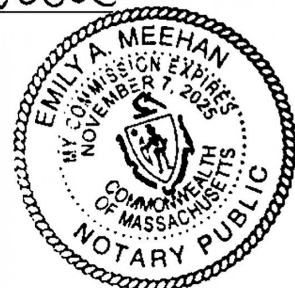
Judith P. Apple

[Signature]

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss:

On this 9 day of May, 20 19, before me, the undersigned notary public, personally appeared Daniel Green, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Emily A. Meehan
Notary Public
My Commission Expires:



ACCEPTANCE OF GRANT

This Conservation Restriction from the City of Newton was accepted by this the Newton Conservators, Incorporated this 10th day of May, 2019.

By: Theodore T. Kuklinski

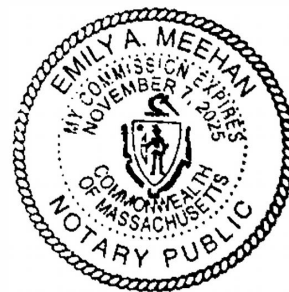
Its: President, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this 10th day of May, 2019, before me, the undersigned notary public, personally appeared Theodore T. Kuklinski, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

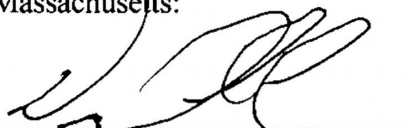
Emily A. Meehan
Notary Public
My Commission Expires:



APPROVAL OF CITY COUNCIL

I, the undersigned Clerk of the City Council of the City of Newton, Massachusetts, hereby certify that at a public meeting duly held on June 17, 2019, the City Council voted to approve the foregoing Conservation Restriction from the City of Newton to the Newton Conservators, Incorporated, in the public interest pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

Attest: Clerk of the City Council, City of Newton, Massachusetts:

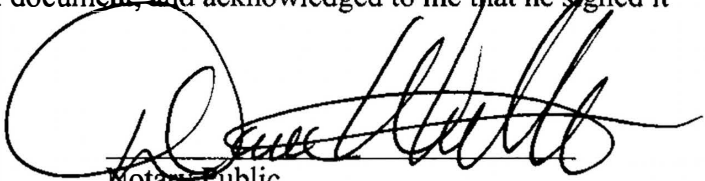


David A. Olson

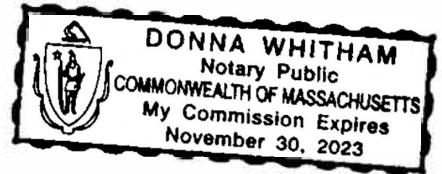
COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss:

On this 20th day of June, 2019, before me, the undersigned notary public, personally appeared David A. Olson, proved to me through satisfactory evidence of identification which was personally shown to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public
My Commission Expires:



**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from the City of Newton to the Newton Conservators, Incorporated, has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: 7/3, 2019

K. Theoharides
KATHELEEN A. THEOHARIDES
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this 3rd day of July, 2019, before me, the undersigned notary public, personally appeared KATHELEEN A. THEOHARIDES, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Denise Pires
Notary Public
My Commission Expires 12/28/23

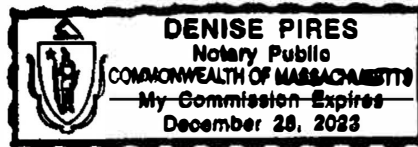


Exhibit A – Legal Description of the Premises

The land subject to this Conservation Restriction, herein referred to as the Premises, is a certain parcel of land situated in the City of Newton, Middlesex County, Commonwealth of Massachusetts, being shown as "Lot 60" on a Plan entitled, "Map of Forest Grove Situated in Newton, MA", prepared by Rowland H. Barnes & Henry F. Beal, civil engineers, Boston & Waltham, Massachusetts, dated June 1919, scale 1"=60', and recorded in the Middlesex South District Registry of Deeds, Book of Plans number 303, Plan 15, recorded March 18, 1922, bounded and described as follows:

Beginning on the northerly sideline of the right of way (Wabasso St.) that runs easterly from the Metropolitan Park Road at the southeast corner of Lot 61, as shown on said Plan, and thence:

- | | |
|-----------|--|
| Northerly | Along the easterly line of said Lot 61, a distance of one hundred nine and three tenths (109.3) feet (\pm) to Paradise Cove so-called, thence turning and running; |
| Easterly | Along said Paradise Cove, a distance of forty-six and five tenths (46.5) feet (\pm) to Lot 59 on said Plan, thence turning and running; |
| Southerly | Along the westerly line of said Lot 59, a distance of one hundred five and eight tenths (105.8) feet (\pm) to a northerly side of said right of way, thence turning and running; |
| Westerly | Along the northerly sideline of said right of way, a distance of fifty (50) feet to the point of beginning. |

The above described Lot 60 contains five thousand one hundred eighty-four square feet more or less (5,184+/- S.F.) according to said record plan.

For back title references see: Deed Book 6695, Page 475 (1943), Deed Book 7209, Page 443 (1947), Middlesex Probate & Family Court, 06P5455T1, Deed Book 50331, Page 142 (affidavit, 2007), Deed Book 50331, Page 144 (Deed, 2007).

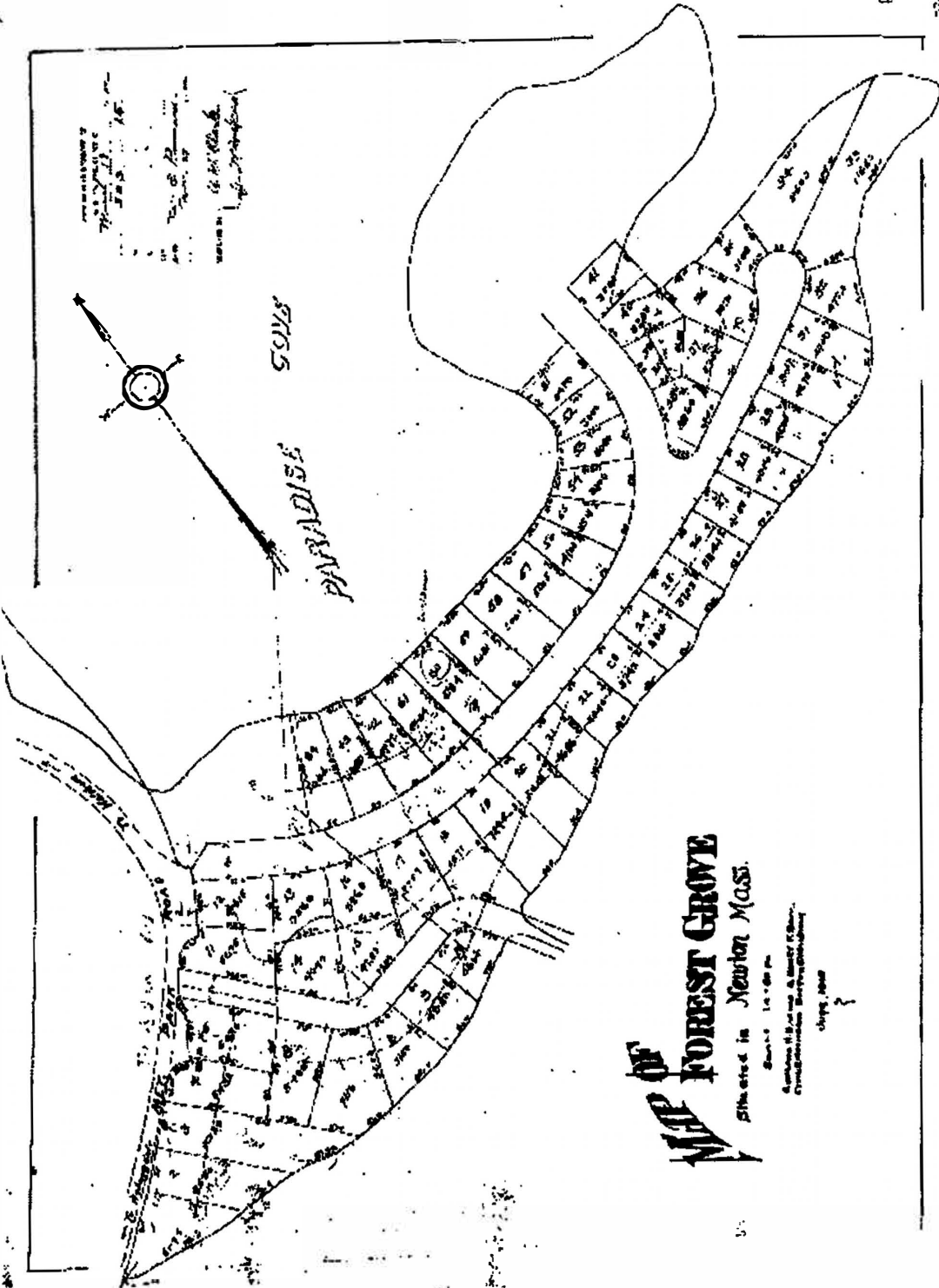
Exhibit B - Reduced Copy of Plan of the Premises

EXHIBIT B

Plot 12

3000

1500



MAP OF FOREST GROVE
 Situated in Newton, Mass.

Scale: 1 in. = 60 ft.
 As shown in the above plan of the
 Forest Grove, Newton, Massachusetts
 July, 1908

(NOTE: SEE PLAN T1258-N-55)

Exhibit C – City Vote Authorizing the use of CPA Funds

IN BOARD OF ALDERMEN

EXHIBIT C

October 15, 2007

ORDERED:

That, in accordance with the recommendations of the Community Preservation Committee, through its Chairman Judy Jacobson; the Board of Aldermen Committee on Community Preservation, through its Chairman Alderman Stephen I.insky; and the Finance Committee through its Chairman Alderman Paul Coletti the sum of Three Hundred Fifty-Eight Thousand, Six Hundred Dollars (\$358,600) is hereby appropriated and transferred from the Community Preservation Open Space Reserve and the Community Preservation General Reserve, to be expended under the direction and control of the Director of Planning and Development for purposes of funding a grant to pay for the purchase and associated legal costs of acquiring and clearing 30 Wabasso St. (assessors' parcel id number 41031 0053), as an addition to the Flowed Meadow Conservation Area in Auburndale, as described in the Community Preservation Committee Recommendation (submitted 15 August 2007, revised 4 September 2007) and the proposal (submitted 18 July 2007, revised 1 August 2007).

FROM:	Fund Balance – Open Space Purposes	
	(21-3321A).....	\$ 298,981.98
	Open Space Reserve	
	(21R10498-5790A).....	\$ 59,618.02
TO:	Open Space Projects; 30 Wabasso Street Purchase	
	(21A11408-5810).....	\$ 355,000.00
	For legal services	
	(21A11408 -5309).....	<u>\$3,600.00</u>
	TOTAL	\$ 358,600.00

Under Suspension of Rules
Readings Waived and Approved
21 yeas, 0 nays, 3 absent (Ald. Johnson, Mansfield and Weisbuch)

(SGD) DAVID A. OLSON
City Clerk

(SGD) DAVID B. COHEN
Mayor

Date

(SGD) PAUL E. COLETTI
Chairman, Finance Committee

