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Newton CPC website note: Final language of the escrow agreement between the City of Newton and the Newton Conservators attached, starting on page 19 of this document.

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



Bk: 65672 Pg: 37 Doc: REST
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Grantee: Newton Conservators, Incorporated
P.O. Box 590011
Newton Centre, MA 02459

Grantor's Title:
Middlesex South Registry of Deeds
Book 65672, Page 31

Along Manet Road and Ward Street, Newton, MA

WABAN HILL RESERVOIR 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 referred to as the "Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants 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"), with quitclaim covenants, for nominal consideration, in perpetuity and exclusively for open space, active and/or passive recreation purposes as permitted pursuant to Chapter 154 of the Acts of 2013, the following Conservation Restriction located on a parcel of land off of Manet Road in the City of Newton, Massachusetts constituting approximately 5.09 acres more fully described in Exhibit A attached hereto (the "Premises"). For Grantor's title see deed from the Commonwealth of Massachusetts recorded herewith as Instrument No. 106675, Book 65672, Page 31. This conveyance is made subject to the provisions of Chapter 154 of the Acts of 2013, a copy of which is attached hereto as Exhibit B.

I. PURPOSES

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws ("the Act") and otherwise by law. The purpose of this Conservation Restriction is to ensure that the Premises will (1) provide parkland in perpetuity

designed and used for open space, active and/or passive recreation purposes or a combination thereof; (2) provide appropriate public access; and/or further park, conservation and open space uses consistent with Chapter 154 of the Acts of 2013, and (3) prevent any use of the Premises that will significantly impair or materially interfere with the conservation, open space, passive and/or active recreation values thereof.

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

A. Prohibited Acts and Uses

This Conservation Restriction will at all times be held, used and conveyed subject to the following restrictions, and the Grantor shall not perform or permit the following acts or uses on, above and below the Premises except as allowed under Permitted Uses, Reserved Rights and Exceptions, Section II (B):

1. Constructing, placing or allowing to remain any temporary building, landing strip, mobile home, asphalt or concrete pavement sign, fence, billboard or other advertising display, antenna, utility pole, tower, conduit line or other temporary or permanent structure or facility on, above or under the Premises;
2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock, or other mineral resource or natural deposit or otherwise make topographical changes to the area;
3. Placing, filling, storing or dumping on the Premises of refuse, trash, vehicle parts or bodies, rubbish, debris, junk, snow, brush (or other landscaping debris), hazardous substances, oil, waste, or any other substances or materials whatsoever including the installation of underground storage tanks;
4. Use, parking or storage of vehicles including snowmobiles, motorcycles, mopeds, all-terrain vehicles, or other motor vehicles of any kind on the Premises except for vehicles required for public safety (i.e., fire, police, ambulance, park rangers or other officials in carrying out their lawful duties) and individual transportation vehicles (ITV) necessary for the mobility of persons with disabilities;
5. Subdivision or conveyance of a part or portion of the Premises alone, or a division or subdivision of the Premises (as compared to conveyance of the premises in its entirety which shall be permitted) and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
6. Activities detrimental to drainage, flood control, water conservation, erosion control, or soil conservation;

7. Cutting removing or otherwise destroying trees, grasses or other vegetation;
8. The storage or application of pesticides, herbicides, insecticides, fungicides or other chemicals, on or under the Premises, excluding customary chemicals used in the treatment and care of landscaping, arboriculture or insect control;
9. The installation and maintenance of groundwater extraction wells and associated equipment and pipelines and similar equipment for use in extracting groundwater and/or transporting said water for sale;
10. Tillage or sheltering of livestock on the Premises; and
11. Any other use of the Premises or activity thereon which would be inconsistent with the purposes of this Conservation Restriction or materially impair the significant open space or recreation interests of the Premises.

B. Permitted Uses, Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit activities and uses as contemplated by Chapter 154 of the Acts of 2013, including but not limited to the following activities and uses otherwise prohibited in Section II (A), but only if such activities and uses do not materially impair the values or purposes of this Conservation Restriction, further significant park, conservation, open space, active and/or passive recreation goals and are consistent with the special act referenced above:

1. Athletic or recreational uses or events that do not require alteration of the topography including cross-country skiing, biking, walking, jogging, wildlife observation and other health and fitness activities and public events such as wedding ceremonies, group gatherings, educational field trips, graduation ceremonies, picnics, and spectator attractions;
2. Removal of or addition of gravel, sand, soil, rocks and other natural or man-made materials and structures from or to the Premises to facilitate the construction, maintenance, repair and improvement of the land and structures, walking paths, parking areas, historic structures, landscaping, and all similar uses of the Premises permitted hereunder or authorized by Chapter 154 of the Acts of 2013, provided Grantor uses adequate erosion control measures and restores the Premises to a park-like condition;
3. Installation, replacement, maintenance or repair of underground utility systems to serve the Premises including a drainage system to maintain and/or adjust water levels, provided that excavated areas are restored;

4. Cutting, pruning, mowing, and removal of trees, shrubs, invasive species and other vegetation in accordance with established forestry practices or as necessary for maintenance, including the use of goats for such purposes;
5. The erection and maintenance of signs which identify the ownership of the Premises, list the rules and regulations regarding the use of the Premises, display descriptions and maps regarding the features of the Premises and areas of interest, and other like information for the education, safety and convenience of the public;
6. The control and management of nuisance animals, such as rodents and Canada Geese, and of invasive vegetation and non-native species all in accordance with best management practices appropriate for public park use and all applicable state and federal laws;
7. The construction, maintenance and repair of recreational facilities and structures accessory thereto such as comfort stations;
8. Conducting archaeological investigations and activities, including without limitation surveys, excavation and artifact retrieval, under the direction of a qualified organization or person, following submission of an archaeological field investigation plan and its approval by the State Archaeologist of the Massachusetts Historical Commission, and in accordance with Massachusetts Regulations 950 CMR 70.00;
9. Construction of new or reconstruction, maintenance and repair of existing pathways, parking areas, associated access ways, including but not limited to the use of asphalt, concrete, pavers or other hardscape materials, said hardscape materials not to exceed fifteen (15%) percent of the area of the Premises (except that granite block riprap covering the sides of the existing reservoir structure and any rubberized playground surfaces shall not be included in said 15% calculation) and underground utility systems to serve the Premises and only in relation to permitted purposes;
10. Placement and maintenance of trash barrels, receptacles, light poles, benches, fences or other furniture typically found in a public park;
11. Use of the existing structures and construction and use of additions, such as comfort stations picnic shelters, playgrounds, water features, and temporary structures necessary in connection with permitted uses such as tents or stages, or similar structures, except that the foregoing structures and additions (not including water features) together with the hardscape materials included in the calculation under paragraph 9, above, shall not exceed twenty (20%) percent of the area of the Premises;

12. The right to enter upon and use the Premises for park, conservation, open space, passive and/or active recreation purposes such as walking, hiking, jogging, use of playground equipment, wildlife observation and other similar activities or recreational uses by the general public;
13. The use of individual transportation vehicles (ITV) necessary for the mobility of persons with disabilities to enable persons with disabilities access the Premises, and the use of maintenance vehicles, public safety vehicles or vehicles related to permitted uses of the site;
14. The use, maintenance, repair or demolition of the existing gatehouse structure on the Premises; and
15. Any other activities that further the significant open space, active and/or passive recreation uses as contemplated by Chapter 154 of the Acts of 2013.

III. NOTICE PROVISIONS

1. Grantor shall notify Grantee prior to the removal of natural materials for construction purposes under Section II (B) 2 and prior to the and prior to the construction of recreation areas, parking areas, walking paths and pathways, water features, the installation of underground utility systems and the removal of trees under Sections II (B) 2, 3, 7, 9 and 11.
2. Whenever notice to the Grantee is required under the foregoing provisions, Grantor shall notify Grantee 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. Notice required hereunder shall be in writing and either served personally or sent by certified mail, return receipt requested and postage prepaid.

IV. 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 may 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 resorting to legal means.

The Grantor covenants and agrees to reimburse the Grantee all reasonable costs and expenses (including reasonable counsel and survey 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 the 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 which are not caused by the Grantee or its agents. Without limiting the foregoing, to the extent permitted by law and subject to the limitations set forth in Chapter 258 of the Massachusetts General Laws, Grantor shall hold harmless, indemnify and defend Grantee and Grantee's members, directors, officers, employees, agents and contractors, and the heirs, personal representatives, successors and assigns of each of them, from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation reasonable attorneys' fees, arising from or in any way connected with the presence or release of hazardous material or substance of any kind at or from the Premises.

D. Reimbursement of Costs of Enforcement

All reasonable costs and expenses (including reasonable counsel and survey fees) incurred in enforcing this Conservation Restriction in the event of any violation thereof or in taking reasonable measures to prevent, remedy, abate or correct any violation thereof shall be reimbursed to the Grantee pursuant to the terms of an Escrow Agreement established between the Grantor and the Grantee and funded by the Grantor. The parties acknowledge and agree that Grantee shall be entitled to reimbursement of all costs and expenses consistent with this Paragraph IV. D. and that reimbursement shall not be limited to the funds contemplated in said Escrow Agreement.

E. 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. The parties to this Conservation Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it is desirable that the Premises be restored, the parties, at no expense to the Grantee will cooperate in attempting to restore the Premises if feasible.

V. ACCESS

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises at reasonable times and in a reasonable manner, including access for the purpose of inspecting the Premises to determine compliance with or to enforce the terms of 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 reserves to the Grantor and grants to the general public and to the Grantee the right to enter upon and use the grounds of the Premises for park, conservation, open space, passive and/or active recreation purposes and activities as described hereinabove 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 Grantor.

VI. EXTINGUISHMENT

A. Termination

If circumstances arise in the future such as to render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law.

B. 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 the Grantor and the Grantee

shall join in appropriate proceedings and cooperate in recovering the full value of all direct and incidental damages resulting from such action. All expenses reasonably incurred by the Grantor and the Grantee shall be paid out to the Grantor and Grantee of any recovered proceeds. Grantor and Grantee shall be respectively entitled to compensation from the balance of the recovered proceeds in conformity with the provisions of any grant, agreement and state law. Any funds so received as compensation shall be used for purposes consistent with the provisions of Chapter 154 of the Acts of 2013.

VII. 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 agrees to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction 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; 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 Massachusetts General Laws. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee within 20 days of such transfer. Failure to do so 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 its 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.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within twenty (20) days, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. 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 ensure that merger does not occur.

XI. 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 Massachusetts General Laws. 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 shall comply with the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable, and with any gifts grants or funding requirements. Any amendment shall be recorded in the Middlesex South District Registry of Deeds.

XII. 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 Massachusetts

General Laws have been obtained, and it has been timely recorded in the Middlesex South District Registry of Deeds.

XIII. 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:

Grantee: Newton Conservators Incorporated
 P.O. Box 590011
 Newton Centre, MA 02459

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

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

XIV. 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 Massachusetts General Laws Chapter 184, Sections 31-33. 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.

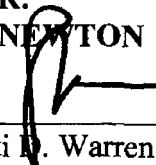
XV. PRE-EXISTING PUBLIC RIGHTS

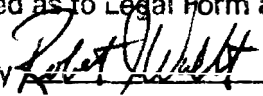
Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the 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.

IN WITNESS WHEREOF Grantor and Grantee have set their hands under seal on the dates set forth below, no Massachusetts deed excise stamps being affixed hereto since none are required.

**GRANTOR:
CITY OF NEWTON**

6-3-2015
Date

By: 
Setti D. Warren
Its: Mayor

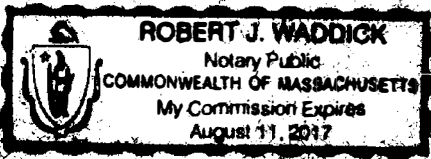
Approved as to Legal Form and Character
Attorney  Date _____

Asst City Solicitor

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this 3rd day of June, 2015, before me, the undersigned notary public, personally appeared Setti D. Warren proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.



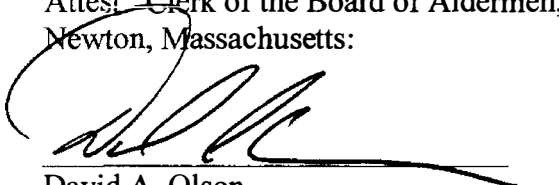
Robert J. Waddick

Notary Public
My Commission Expires: 8/11/2017

**APPROVAL AND ACCEPTANCE BY BOARD OF ALDERMEN
CITY OF NEWTON**

I the undersigned Clerk of the Board of Aldermen of the City of Newton, Massachusetts, hereby attest and certify that at a meeting duly held on May 15, 2015 the Board of Aldermen voted to approve the foregoing Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

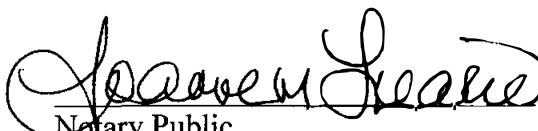
Attest: Clerk of the Board of Aldermen, City of
Newton, Massachusetts:

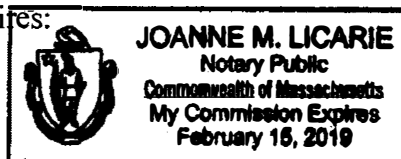

David A. Olson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 20th day of May, 2015, before me, the undersigned notary public, personally appeared David A. Olson, proved to me through satisfactory evidence of identification, which was PERSONALLY KNOWN TO ME to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.


Notary Public
My Commission Expires:



**ACCEPTED BY GRANTEE:
NEWTON CONSERVATORS, INCORPORATED**

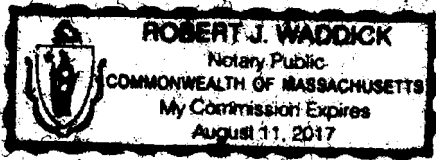
5-14-15
Date

By: Beth Wilkinson
Beth Wilkinson
Its: President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 14th day of May, 2015, before me, the undersigned notary public, personally appeared Beth Wilkinson, proved to me through satisfactory evidence of identification, which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

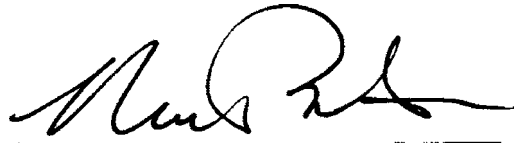


Robert Waddick
Notary Public
My Commission Expires: 8/11/2017

**APPROVAL BY SECRETARY, EXECUTIVE OFFICE OF ENERGY
AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

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

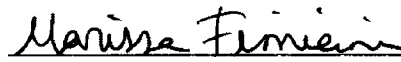
Date: 6/11/15


Secretary Executive Office of Energy
and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss:

On this 11 day of June, 2015, before me, the undersigned notary public, personally appeared Secretary Matthew Beaton, proved to me through satisfactory evidence of identification which was personally known to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she/he signed it voluntarily for its stated purpose as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts.


Notary Public
My Commission Expires: 08/06/2021

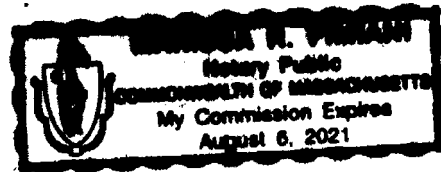


EXHIBIT A**CONSERVATION RESTRICTION FROM****CITY OF NEWTON TO NEWTON CONSERVATORS, INC.****Legal Description**

Beginning at the point at which the northwesterly line of Manet Road meets the northeasterly line of Ward Street, the said point being at the southwesterly end of the arc of a circle forty-one and eighty-four one-hundredths (41.84) feet in length and having a radius of twenty-eight (28) feet, forming the southwesterly extremity of said northwesterly line, and from said point of beginning running north $71^{\circ} 23' 30''$ west by the northeasterly line of said Ward Street four hundred and two and seventy-one one-hundredths (402.71) feet;

- then northwesterly forty-six and thirteen one hundredths (46.13) feet by the arc of a circle having a radius of twenty-eight (28) feet and forming the southwesterly extremity of the southeasterly side of a private street adjoining the Premises on the west and north;
- then northerly two hundred ninety-three and forty-three one-hundredths (293.43) feet by a line curving to the left and having a radius of six hundred seventy-seven and ninety-six and one-hundredths (677.96) feet;
- then northeasterly forty-four and forty-four one-hundredths (44.44) feet by a line curving to the right and having a radius of forty (40) feet;
- then easterly two hundred eighty-seven and eighty-seven one-hundredths (287.87) feet by a line curving to the right and having a radius of three hundred fifty (350) feet;
- then south 71° east two hundred fifty-one and thirty-two one-hundredths (251.32) feet;
- then southeasterly twenty-four and sixty-one one-hundredths (24.61) feet by a line curving to the right, having a radius of fifteen (15) feet, the last six courses being by the line of a private street upon the westerly and northerly sides of the Premises;
- then running south 23° west by the northwesterly line of said Manet Road four hundred twenty-seven and forty-six one-hundredths (427.46) feet to the northeasterly end of the arc of a circle first herein mentioned, near the junction of Manet Road with Ward Street;
- then southwesterly by said arc forty-one and eighty-four one-hundredths (41.84) feet to the point of beginning.

Said parcel containing 5.09 acres and shown on a plan inscribed "Commonwealth of Massachusetts, Metropolitan Water Board, Plan of Waban Hill Reservoir lot, NEWTON, Mass." dated October 3, 1900, and recorded with the Middlesex South District Registry of Deeds, Book of Plans 126, Plan 36.

EXHIBIT B**Chapter 154 of the Acts of 2013
AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND
MAINTENANCE TO CONVEY CERTAIN LAND TO THE CITY OF NEWTON.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for the conveyance of certain land from the commonwealth to the city of Newton, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the commissioner of capital asset management and maintenance may convey a certain parcel of state owned land in the city of Newton to the city of Newton; provided, however, that any deed conveying the parcel shall contain the restriction required pursuant to section 2. The parcel, known as the Waban Hill reservoir, and also known as the Manet road reservoir, is located on the east side of Manet road in the city of Newton and the exact boundaries of the parcel shall be established prior to such conveyance by a survey commissioned by the commissioner. The parcel is further described in a deed from the city of Newton to the Metropolitan Water Board dated October 20, 1900 and recorded in the Middlesex south district registry of deeds in book 2853, page 42. The consideration for the conveyance shall be the full and fair market value of the parcel as determined by the commissioner pursuant to an independent professional appraisal.

SECTION 2. The parcel described in section 1 shall be conveyed subject to a conservation restriction with the benefit of section 32 of chapter 184 of the General Laws limiting the use of the parcel to open space or active or passive recreation purposes. If at any time the property ceases to be used for the purposes described in this section, the commissioner of capital asset management and maintenance shall give written notice to the city of the unauthorized use. The city shall, upon receipt of the notice, have 30 days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the title to

the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall revert to the commonwealth and any further disposition of the property shall be subject to Article XCVII of the amendments to the constitution and chapter 7C of the General Laws.

SECTION 3. The inspector general shall review and approve the appraisal conducted pursuant to section 1. The review shall include an examination of the methodology utilized for the appraisal. Within 30 days of receiving the appraisal, the inspector general shall prepare a report of such review and file the report with the commissioner of capital asset management and maintenance. Within 15 days of receiving the inspector general's report and not later than 15 days before the execution of any agreement or other document relating to the conveyance, the commissioner shall submit it to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets.

SECTION 4. The city of Newton shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the transfers and conveyances authorized in this act as such costs may be determined by the commissioner of capital asset management and maintenance. Upon conveyance of the parcel, the city shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

Approved, November 25, 2013.

Escrow Agreement Relating to the Waban Hill Reservoir

Background.

1. The Newton Conservators, Inc. (the “Conservators”) is a Newton-based non-profit corporation whose mission includes the protection of open space in the City of Newton for the enjoyment and benefit of the general public. The City of Newton is a municipal corporation acting by and through its Parks and Recreation Commissioner for the purposes of this Agreement, but without personal liability to him (the “City”).
2. The City has acquired or shall acquire from the Commonwealth of Massachusetts the real property known as the Waban Hill Reservoir, also known as the Manet Road Reservoir (the “Premises”), in accordance with the provisions of Chapter 154 of the Acts of 2013 (the “Act”) and in accordance with the Act shall use the Premises in perpetuity for open space, active and/or passive recreation purposes or a combination thereof.
3. The Premises shall be under the control of the Parks and Recreation Commissioner of the City (the “Commissioner”).
4. The Act requires that the Premises are conveyed subject to a conservation restriction with the benefit of Section 32 of Chapter 184 of the General Laws limiting the use of the Premises to open space, active and/or passive recreation purposes or a combination thereof.
5. The Conservators have agreed to be the recipient of a Conservation Restriction (the “Restriction”) on the Premises a copy of which shall be appended to this Agreement upon its acceptance by the Conservators, the City and the relevant state agencies and its recording with the Southern Middlesex Registry of Deeds.
6. In order to discharge its responsibilities as holder of the Restriction, the Conservators need to have reserves sufficient to monitor and enforce the Restriction.
7. The City has appropriated the amount of \$30,000.00 for the purpose of monitoring and enforcing the Restriction.
8. It is the City’s position that Conservators are an appropriate entity to hold, monitor and enforce the Restriction.
9. The Conservators believe that the escrow arrangement provided for in this Escrow Agreement (the “Agreement”) is satisfactory and confirm that the Conservators has the commitment and the resources to monitor and enforce the provisions of the Restriction.

Agreement: Therefore, the undersigned City and Conservators make the following Agreement:

1. **Funding.** Upon acceptance of the Restriction by the Conservators, and its acceptance by the relevant City and state agencies, and its recording with the Southern Middlesex Registry of Deeds, the City shall disburse the sum of \$30,000.00 to an Escrow Agent (the "Agent") to be held in escrow by such Agent in a special interest-bearing Waban Hill Reservoir Escrow Account (the "Account") with a federally insured local bank. The Agent shall be Ruth Barnet, a duly qualified officer of Cambridge Savings Bank, a federally insured bank, with offices at 739 Beacon Street in Newton Centre, MA. The Agent may deposit the escrow monies in the Cambridge Savings Bank in accordance with the requirements set forth in this Agreement. The Escrow Account shall be in the name of the Newton Conservators, Inc. and it shall be the joint property of the City and the Conservators during such time as Conservators are the holder of the Restriction. Should Ruth Barnet fail or cease to serve, the Parties may select a replacement Agent.

2. **Disbursements; Accounting.** The amounts initially and later contributed or earned thereafter shall be made available by the Agent to the Conservators for monitoring, enforcing, and managing the Restriction on the satisfaction of the following conditions:

a. Actual expenses incurred or obligated by the Conservators for monitoring the Premises for compliance with the provisions of the Restriction shall be reimbursed to the Conservators in whole or in part, from any amount in the Account, from time to time as the Conservators may request (i) in writing, (ii) co-signed by two duly authorized officers of the Conservators, (iii) with a representation under the pains and penalties of perjury that such funds are needed for their intended purpose, and (iv) accompanied by written documentation sufficient to confirm the use of the requested funds for their intended purpose. The City shall countersign, and hereby agrees to countersign, within ten (10) business days after receipt thereof, any request for reimbursement submitted under the provisions of, and in compliance with, the provisions of this paragraph 2(a). Failure of the City to countersign within such ten (10) business days shall be deemed to be consent by the Commissioner to such reimbursement. Provided however, the Conservators will not be required to disclose any information that could be considered pre-litigation or litigation strategy.

b. Actual expenses incurred or obligated by the Conservators for ensuring enforcement of the provisions of the Restriction, or with good faith efforts to avoid a lawsuit, shall be reimbursed to the Conservators in whole or in part, from any amount in the Account, from time to time as the Conservators may request (i) in writing, (ii) co-signed by two duly authorized officers of the Conservators, (iii) with a representation under the pains and penalties of perjury that such funds are needed for their intended purpose, and (iv) accompanied by written documentation sufficient to confirm the use of the requested funds for their intended purpose. Provided however, the Conservators will not be required to disclose any information that could be considered pre-litigation or litigation strategy.

c. In disbursing funds from the Account hereunder, the Agent shall use reasonable best efforts to use income first so as to preserve principal for the duration of the Restriction.

d. Any funds received by the Conservators from the Account shall themselves be paid as may be designated by the Conservators, or pending such payment, set aside in a separate account by the Conservators, from which they may be expended as the Conservators may direct, but only for purposes of monitoring and enforcing the Restriction. Any Account funds so expended shall be reported to the City within 60 days. The Conservators or the Agent shall also provide an annual accounting to the City of funds disbursed from the Account, funds added to the Account and interest earned on the Account. Such accounting shall be accompanied by written documentation sufficient to confirm the use of the funds disbursed for their intended purpose. Provided however, the Conservators will not be required to disclose any information that could be considered pre-litigation or litigation strategy.

e. Should the Restriction be assigned to any other holder, either voluntarily by the Conservators or by operation of law, the principal and any accumulated income shall remain in the Account and shall be re-designated as available to such successor holder, and the provisions of this Agreement shall continue to govern the use of and disbursements from the Account. Should the Restriction for any reason be released or terminated as provided in the Restriction, any remaining principal and any accumulated income in the Account shall be returned to the City from which it came for disbursement or otherwise as the City may deem appropriate. The Conservators shall take whatever action may be necessary to carry out the provisions of this paragraph 2(e).

f. The Agent may be changed by either party as long as the other party agrees, consent not to be unreasonably withheld.

g. Within ten (10) days after the execution of this Agreement by both parties, the Conservators and the City shall provide the Agent and the other party in writing the names of their respective authorized signatories in connection with disbursements requested under this paragraph 2. The Conservators and the City shall confirm to the agent and the other party in writing at least annually the names of such signatories, and shall notify the Agent and the other party in writing within ten (10) days of any change in such signatories. Failure by the Conservators or the City to designate their respective authorized signatories within fifteen (15) days after having been requested in writing to do so by the Agent, shall be deemed to be consent by such party to any subsequent action taken by the Agent pursuant to the provisions of this Agreement in which written authorization is required by a party; provided that, if only one party designates its respective authorized signatory to the Agent, the Agent shall not take any subsequent action without first obtaining the written consent of that party's authorized signatory.

3. **Liability of Escrow Agent.** The parties agree that the Agent shall not be liable for any breach of any term of this Agreement, except in the event of willful, wanton, or gross misconduct. Notwithstanding any other provisions of this Agreement,

the Agent may make disbursements from the Fund when directed in writing by Conservators pursuant to the provisions of paragraph 2(a) and 2(b) hereof.

Without intention to limit the generality of the foregoing in any respect, the Agent acting in good faith shall not be responsible or liable in any manner for sufficiency, correctness, genuineness, or validity of any instrument or signature on such instrument deposited with or delivered to it under this Agreement, or with respect to form or execution of same, or the identity, authority, or rights of any person executing or depositing or delivering the same. The Agent may act in reliance on any instrument purporting to be genuine and may assume that any person purporting to give any written notice, advice, or instruction in connection with the provisions of this Agreement has been duly authorized to do so. The Agent may consult with, and obtain advice from Agent's legal counsel in the event of any dispute or question as to construction of any of the provisions of or Agent's duties under this Agreement, and Agent shall not incur any liability if Agent acts or omits to act under this Agreement in good faith in accordance with the opinion and instruction of such counsel. If the Agent shall consult with or obtain such advice from such legal counsel, the reasonable fees and disbursements of such legal counsel shall be split equally by the City and the Conservators from the amounts set aside under this Agreement.

4. **Costs.** The parties agree that in the event the Agent incurs costs in the enforcement of this Agreement, or in relation to any litigation or dispute arising out of this Agreement, those costs shall be split equally by the City and the Conservators from the funds set aside under this Agreement. In all other respects, so long as the parties are reasonable and act in good faith in connection with their responsibilities under this Agreement, the Agent shall serve without compensation.

5. **In General.**

a. The interpretation and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

b. No violation of the terms of the Agreement or disagreement about any of its provisions shall have any effect on the enforceability of the Restriction.

c. If any provision of this Agreement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Agreement shall not be affected thereby.

d. This Agreement sets forth the entire agreement of the parties with respect to its terms, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein. No alteration or variation of this Agreement shall be valid or binding unless contained in an amendment in writing signed by all parties hereto.

e. 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 certified mail return receipt requested, postage prepaid, addressed as follows:

To the City: Parks and Recreation Commissioner
124 Vernon Street
Newton, MA 02458

With a copy to: City Solicitor
City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

To the Conservators: President
Newton Conservators, Inc.
P.O. Box 590011
Newton Centre, MA 02459

or to such other address as either party from time to time shall designate by written notice to the other. Notice shall be deemed given and received as of the date of its manual delivery or as of the date of its mailing. Provided however, if the President of the Conservators should change at any time and the Conservators have not notified the City of a change, then the City shall take reasonable steps to learn the current President's address. If unable to do so, it will send notice to the President at that President's address listed in the last filed Annual Report with the Commonwealth of Massachusetts, Secretary of State.

f. Each party shall, from time to time, execute, acknowledge, and deliver such further instruments, and perform such additional acts, as the other party may reasonably request in order to effectuate the intent of this agreement. Consent by each not to be unreasonably withheld.

g. The parties will do all acts necessary to enable the Agent to comply with this agreement.

h. In the event of a disagreement between the parties, the Agent may hold the monies until the parties agree or a court orders the release of said funds.

This Agreement may be executed in counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but both of which together shall constitute one instrument.

IN WITNESS WHEREOF, the City and the Conservators have set their hands under seal on four like originals on the dates set forth below.

NEWTON CONSERVATORS, INC.

By: Beth Wilkinson
Beth Wilkinson
Its: President

5-14-15
Date

CITY OF NEWTON:

By: Robert J. DeRubeis
Robert J. DeRubeis
Its: Parks and Recreation Commissioner

5-19-15
Date

APPROVED

By: Setti D. Warren
Setti D. Warren
Its: Mayor

6-3-15
Date

ESCROW AGENT

Ruth Barnett
Ruth Barnett

6/30/15
Date

NEWTON CONSERVATORS INC
C/O KATHERINE HOWARD, TREASURER
P O BOX 590011
NEWTON MA 02459



CITY OF NEWTON

Eastern Bank
Lynn, MA 01901
53-179/113

CHECK DATE
06/16/15

CHECK NO.
395933

AMOUNT \$ ****30,000.00*

CHECK IS VOID IF NOT CASHED WITHIN ONE YEAR

PAY THE SUM OF THIRTY THOUSAND DOLLARS & ZERO CENTS

TO THE ORDER OF
NEWTON CONSERVATORS INC
C/O KATHERINE HOWARD, TREASURER
P O BOX 590011
NEWTON MA 02459

⑈395933⑈ ⑆011301798⑆ 10087484⑈

38450

CHECK NO. 395933

Account	Purchase Order	Invoice Number	Amount	Description
21D60216 5810		06112015	30,000.00	WABAN HILL RES.