

92
e



2014 00009772

Bk: 63210 Pg: 96 Doc: AGR
Page: 1 of 92 01/24/2014 12:00 PM

PRESERVATION RESTRICTION AGREEMENT
between the TOWN OF WESTON
by and through the WESTON HISTORICAL COMMISSION
and JAMES L. WILDER III AND ELIZABETH PERKINS WILDER,
OWNERS OF 118 CONANT ROAD

This Preservation Restriction Agreement ("Restriction" or "Agreement") made this 8th day of January 2014, between **James L. Wilder III and Elizabeth Perkins Wilder**, husband and wife, having an address of 118 Conant Road, Weston, Massachusetts 02493 (hereinafter referred to as the "Grantor") and the **Town of Weston**, a municipal corporation, acting by and through its Historical Commission, having its place of business at Weston Town Hall, P.O. Box 378, Weston, Massachusetts 02493 (hereinafter referred to as the "Commission").

WITNESSETH

WHEREAS, the Grantor is the owner in fee simple of certain real property with improvements thereon known as the Walker/Conant Homestead, 118 Conant Road, Weston, Middlesex County, Massachusetts, as described in a deed dated August 3, 2012, recorded August 10, 2012, with the Middlesex South Registry of Deeds in Book 59734 Page 583 (hereinafter referred to as the "Property"), said Property including a two-and-a-half-story wood frame house dating c. 1731, enlarged c. 1740 (hereinafter referred to as the "Residence"), and containing approximately 3.16 acres identified in Town of Weston assessor's records as Parcel 017_062_000;

WHEREAS, the original 18th century house and its subsequent additions have been determined to represent an architectural resource of considerable importance to the Town, being an important example of Colonial Saltbox domestic construction, featuring notable exterior and interior details;

WHEREAS, the Residence stands as a significant and rare example of pre-1750 wood frame domestic architecture, unique for its intact quality and pastoral landscape;

WHEREAS, the Property is located in a visible spot on historic Conant Road, a designated Weston scenic (formerly rural) road, and contributes to the character of the historic streetscape;

WHEREAS, taken together, the Residence, the landscape and the historic location constitute a unique and irreplaceable historic resource, the essential substance and character of which the Town wishes to preserve;

WHEREAS the Property's conservation and preservation values are documented in reports, drawings, and photographs (hereinafter the "Baseline Documentation") incorporated herein by reference, which Baseline Documentation the parties agree provides an accurate representation of the Property as of the date of this Agreement. The Baseline Documentation shall be used for purposes of reference in design and construction and for assistance in review. In the event of any discrepancy between the two counterparts produced, the counterpart retained by the Commission shall control. The Baseline Documentation, which is attached hereto and made a part hereof, as Exhibit A, consists of the following:

- Property Deed dated August 3, 2012, recorded August 10, 2012 with the Middlesex South Registry of Deeds in Book 59734, Page 583, attached hereto as Exhibit A-1;
- Town of Weston GIS Map for Parcel 017_062_000, attached hereto as Exhibit A-2;
- An aerial view of the Property showing lot lines, attached hereto as Exhibit A-3;
- An aerial view of the Property showing the topography with two foot contours; attached hereto as Exhibit A-4;
- Massachusetts Historical Commission Inventory Form B, attached hereto as Exhibit A-5;
- Photographs of the existing exterior construction and landscaping, and photographs of the 2013 new construction rear addition, attached hereto as Exhibit A-6.
- Copy of existing floor plans and elevations, attached hereto as Exhibit A-7.
- Copy of architectural drawings of Wilder Residence (Elevations and Plans), attached hereto as Exhibit A-8.

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Property and on its heirs, successors and assigns, to its right, title and interest therein, with respect to maintenance, protection, and preservation of the Property in order to protect the architectural, archaeological and historical heritage of the Property and so that said restrictions, obligations and duties shall serve the public interest in a manner consistent with the purposes of M.G.L. Chapter 184, Sections 31, 32 and 33, hereinafter referred to as the Act and under M.G.L. Chapter 40, Section 8D;

WHEREAS, the Commission is a government body organized under the laws of the Commonwealth of Massachusetts and is authorized to accept preservation restrictions under the Act; and

WHEREAS, the Grantor and the Commission together agree to preserve the Property in accordance with "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (36 CFR 67 and 68), as these may be amended from time to time (hereinafter the "Secretary's Standards"), and in accordance with the "Guidelines: Standards and Procedures for Maintenance and Improvements" (hereinafter the "Standards and Procedures" or "Guidelines"), said Standards and Procedures attached hereto and made a part hereof as Exhibit B-1. Also, the Grantor and the Commission together agree to abide by a plan entitled "Permissible Modification Locations: Preservation Restriction Agreement" dated April 10, 2013 (hereinafter "Modifications Plan") which is attached hereto and made a part hereof as Exhibit B-2 and which is based on a certified plot plan dated September 18, 2012 ("Certified Plot Plan of Land – Existing Conditions") which is attached hereto and made a part hereof as Exhibit B-3.

NOW, THEREFORE, for good and valuable consideration in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) paid, the Grantor conveys to the Town of Weston, acting by and through its Historical Commission, the following preservation restrictions that shall apply in perpetuity to the Property.

1. PURPOSE

The Purpose of this Restriction is to assure that the architectural, historic, cultural, and associated open space features of the Property will be retained and maintained forever substantially in their current condition for conservation and preservation purposes and to prevent any use or change of the Property that will significantly impair or interfere with the Property's preservation values ("Purpose of the Restriction").

2. GRANTOR'S COVENANTS

2.1 Grant of Covenant: The Grantor covenants with the Town of Weston, acting by and through its Historical Commission, to preserve the Property in accordance with the Secretary's Standards and in accordance with the Standards and Procedures.

2.2 Modifications to the Property: The Grantor covenants that any and all modifications to the Property shall be done in accordance with the Modifications Plan.

2.3 Maintenance of Property: The Grantor agrees at all times to maintain the Residence in the same or better structural condition and state of repair as existing on the effective date of this Restriction. The Grantor also agrees to maintain the Property's landscaping in good appearance in accordance with Section 5 of the Standards and Procedures. The Grantor agrees to assume any and all cost of continued maintenance, repair and administration of the Property so as to preserve the characteristics that contribute to the architectural, archaeological and historical integrity of the Property in a manner satisfactory to the Commission according to the Secretary's Standards. The Grantor may seek financial assistance from any source available to it. The Commission does not assume any obligation for maintaining, repairing or administering the Property.

Subject to the casualty provisions of Paragraphs 7 and 8 hereof, the Grantor's obligation to maintain the Property shall require replacement, rebuilding, repair and reconstruction of the Residence whenever necessary in accordance with the Secretary's Standards and in accordance with the Standards and Procedures.

2.4 Prohibited Activities: The following acts or uses are expressly forbidden on, over, or under the Property, except as expressly permitted under this Paragraph, or otherwise in this Agreement:

- a. The Residence shall not be demolished, removed or razed except in accordance with Paragraphs 7 and 8.
- b. Nothing shall be erected or allowed to grow on the Property that would impair the visibility of the Property and the Residence from the street.
- c. No other buildings or structures, including camping accommodations or mobile homes, shall be erected or placed on the Property hereafter except for temporary structures required for the maintenance or repair of the Property, such as construction trailers, and as may be permitted under the Guidelines.
- d. The dumping of ashes, trash, rubbish or any other unsightly or offensive material is prohibited.
- e. No above-ground utility transmission lines, except those reasonably necessary for service to the existing Residence may be installed on the Property, with the exception of those utility lines installed in accordance with easements recorded prior to the date hereof.
- f. The Property shall not be subdivided and the Property shall not be devised or conveyed except as one unit.
- g. The conduct of archaeological activities on the Property, including without limitation, survey, excavation and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor and approved in writing by the State Archaeologist of the Massachusetts Historical Commission (Massachusetts General Laws Chapter 9, Section 27C; 950 CMR 70.00).

2.5 Inspection: The Grantor agrees that the Commission may inspect the exterior of the Property from time to time upon reasonable notice to determine whether the Grantor is in compliance with the terms of this Agreement.

3. GRANTOR'S CONDITIONAL RIGHTS

3.1 Conditional Rights Requiring Approval by Commission: *Without the prior express written approval of the Commission, which approval may be withheld or conditioned in the sole discretion of the Commission, the Grantor shall not undertake any of the following actions:*

- a. increase or decrease the height of, make additions to, change the exterior construction materials or colors, or move, improve, alter, reconstruct or change the facades (including fenestration) and roofs of the Residence. With regard to house color, the goal of the Commission is to insure that an historically appropriate color is used.
- b. make permanent substantial topographical changes, such as, for example, excavation for the construction of roads and recreational facilities.
- c. change the use of the Property to a use other than single family residential, provided the Commission may consider a request for a change in use of the Property in light of existing planning and zoning regulations, and the Commission must determine that the proposed use: (i) does not impair the significant conservation and preservation values of the Property; and (ii) does not conflict with the Purpose of the Restriction.

3.2 Review of Grantor's Requests for Approval. Whenever approval of the Commission is required under this Restriction, Grantor shall request specific approval by the Commission not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. A request for such approval by the Grantor shall be reasonably detailed that it may form the basis for the Commission to approve or disapprove the request and to make an informed judgment as to its consistency with the Purpose of the Restriction. Specifically,

Grantor shall submit to the Commission for its approval two (2) copies of information (including plans, specifications and designs where appropriate) describing the nature, scope, design, location, timetable and any other material aspect of the proposed activity. Within sixty (60) days of receipt of Grantor's request for said approval, the Commission shall, in writing, grant or deny its approval, or request additional information relevant to the request and necessary to provide a basis for its decision. However, should the Commission determine that additional time is necessary in order to make its decision, the Commission shall notify the Grantor. The Commission's approval shall not be unreasonably withheld, and shall be granted upon a reasonable showing that the proposed activity shall not materially impair the Purpose of the Restriction. Failure of the Commission to make a decision within sixty (60) days from the date on which the request is accepted as complete by the Commission or notice of a time extension is received by the Grantor shall be deemed to constitute approval of the request as submitted, so long as the request sets forth the provisions of this Paragraph relating to deemed approval after the passage of time.

4. STANDARDS FOR REVIEW

The Commission shall apply the Secretary's Standards as well as the Standards and Procedures in exercising any authority created by this Restriction to inspect the Property; to review any request for construction, alteration, repair or maintenance; to review casualty damage or to reconstruct or approve reconstruction of the Residence following casualty damage,

5. PUBLIC ACCESS

Grantor shall not be required to provide public access to the Property.

6. GRANTOR'S RESERVED RIGHTS

Grantor's Reserved Rights Not Requiring Further Approval by Commission. Subject to the provisions of Paragraphs 2.3, 2.4 and 3.1, the following rights, uses, and activities of or by Grantor on, over, or under the Property are permitted by this Restriction without further approval by the Commission:

(a) the right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; (ii) do not substantially impair the conservation and preservation values of the Property; and (iii) are not inconsistent with the Purpose of the Restriction;

(b) pursuant to the provisions of Paragraph 2.3, the right to maintain and repair the Residence strictly according to the Secretary's Standards and the Standards and Procedures. As used in this subparagraph, the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Residence. The right to maintain and repair as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that existing prior to the maintenance and repair without the prior approval of the Commission in accordance with the provisions of Paragraphs 3.1 and 3.2;

(c) the right to continue all manner of existing residential use and enjoyment of the Residence and gardens, including but not limited to, the right to maintain existing driveways; the right to maintain existing utility lines; the right to cut, remove, and clear grass or other vegetation and to perform routine maintenance, landscaping, horticultural activities, and upkeep, consistent with the Purpose of the Restriction and with the Secretary's Standards and the Standards and Procedures.

7. CASUALTY DAMAGE OR DESTRUCTION; INSURANCE

In the event that the Residence or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify the Commission in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Residence and to protect public safety, shall be undertaken by Grantor without

the Commission's prior written approval of the work. Within thirty (30) days of the date of damage or destruction, if required by the Commission, Grantor at its expense shall submit to the Commission a written report prepared by a qualified restoration architect and an engineer who are acceptable to the Commission, which report shall include the following:

- (a) an assessment of the nature and extent of the damage;
- (b) a determination of the feasibility of the restoration of the Residence and/or reconstruction of damaged or destroyed portions of the Residence; and
- (c) a report of such restoration/reconstruction work necessary to return the Residence to the condition existing at the date hereof.

8. REVIEW AFTER CASUALTY DAMAGE OR DESTRUCTION

If, after reviewing the report provided in accordance with Paragraph 7 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Paragraph 9, Grantor and the Commission agree that the Purpose of the Restriction will be served by such restoration/reconstruction, Grantor and the Commission shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Residence in accordance with the plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Grantor.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Paragraph 9, Grantor and the Commission agree that restoration/reconstruction of the Residence is impractical or impossible, or agree that the Purpose of the Restriction would not be served by such restoration/reconstruction, Grantor may, with the prior written consent of the Commission, alter, demolish, remove or raze the Residence and/or construct new improvements on the Property. Grantor and the Commission may agree to extinguish this Restriction in accordance with the laws of the Commonwealth of Massachusetts and Paragraph 23.2 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Paragraph 9, Grantor and the Commission are unable to agree that the Purpose of the Restriction will or will not be served by such restoration/reconstruction, the matter may be referred by either party to mediation in accordance with the provisions of Paragraph 23.2 hereof.

9. INSURANCE

Grantor shall keep the Property insured by an insurance company rated "A1" or better by Best's for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to fully replace and restore the Property and Residence without cost or expense to Grantor or contribution or coinsurance from Grantor. Such insurance shall include the Commission's interest and name the Town of Weston as an additional insured. Grantor shall deliver to the Commission, within ten (10) business days of the Commission's written request therefore, certificates of such insurance coverage. Provided, however, that whenever the Property is encumbered with a mortgage nothing contained in this Paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

10. INDEMNIFICATION

Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, the Town, the Commission, their agents, representatives, employees, and independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person; physical damage to the Property; the presence or release in, on, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, polluting or contaminating substance;

or other injury or other damage occurring on or about the Property, unless such injury or damage is caused by the reckless conduct of the Commission or the Town or any agent, representative, employee or contractor of the Commission or the Town. In the event that Grantor is required to indemnify the Commission pursuant to the terms of this Paragraph, the amount of such indemnity, until discharged, shall constitute a lien on the Property with the same effect and priority as a mechanic's lien, to the extent permitted by law, provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage given in connection with a promissory note secured by the Property

11. TAXES

Grantor shall pay when due, all real property taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien against the Property.

12. ADMINISTRATION AND ENFORCEMENT; NOTICE

Any notice which either Grantor or the Commission may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by overnight courier, facsimile transmission (receipt of which is acknowledged in writing by the intended recipient), registered or certified mail with return receipt requested, or hand delivered, at the address specified for each party, above. Each party may change its address set forth herein by a notice to such effect to the other party.

13. EVIDENCE OF COMPLIANCE

Upon request by Grantor, the Commission shall promptly furnish Grantor with certification that, to the best of the Commission's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidences the status of this Restriction to the extent of the Commission's knowledge thereof.

14. INSPECTION

With the consent of the Grantor as to dates and times, representatives of the Commission shall be permitted at all reasonable times to inspect the exterior of the Property. Grantor

covenants not to withhold unreasonably its consent in determining dates and times for such inspection.

15. COMMISSION'S REMEDIES

The Commission may, following reasonable written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Restriction by ex parte, temporary, preliminary and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Property and Residence to the condition and appearance required under this Restriction. The Commission shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder.

In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with the Commission's enforcement of the terms of this Restriction, including all reasonable court costs, and attorney's, architectural, engineering and expert witness fees.

Exercise by the Commission of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

16. NOTICE FROM GOVERNMENT AUTHORITIES

Grantor shall deliver to the Commission copies of any notice of violation or lien relating to the Property received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by the Commission, Grantor shall promptly furnish the Commission with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

17. NOTICE OF PROPOSED SALE

Grantor shall promptly notify the Commission in writing of any proposed sale of the Property and provide the opportunity for the Commission to explain the terms of the Restriction to potential new owners prior to the closing of the sale.

18. LIENS

Any lien on the Property created pursuant to any paragraph of this Restriction may be confirmed by judgment and foreclosed by the Commission, as permitted by law; provided, however, that enforcement of the remedies available to the Town shall not jeopardize the priority of any recorded lien of mortgage given in connection with a promissory note secured by the Property.

19. PLAQUE

Grantor agrees that the Commission may provide and maintain a plaque on the Property, which plaque shall not exceed 24 by 24 inches in size, giving notice of the significance of the Property and the existence of this Restriction.

20. BINDING EFFECT; ASSIGNMENT

Except as provided in Paragraphs 8 and 23.2, the obligations imposed by this Restriction shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Restriction shall extend to and be binding upon Grantor and the Commission, their respective successors and assigns claiming by, under or through Grantor and the Commission, and the words "Grantor" and "Commission" when used herein shall include all such persons. Any right, title or interest herein granted to the Commission also shall be deemed granted to each successor and assign of the Commission and each such following successor and assign thereof, and the word "Commission" shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Property by reason of a bona fide transfer, except as to any matter resulting from acts or omissions preceding transfer of the Property to such third party. The restrictions, stipulations and covenants contained in this Restriction shall be inserted by Grantor, by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Property or any

part thereof, including by way of example and not limitation, a lease of all or a portion of the Property.

21. ASSIGNMENT

The Commission may, with the approval of the Board of Selectmen and Town Meeting and without prior notice to Grantor, convey, assign or transfer this Restriction to a unit of federal, state or local government or to a similar local, state or national organization that is a charitable corporation or trust qualified under the Act, whose purposes include preservation of buildings and/or sites of historical significance, provided that any such conveyance, assignment or transfer requires that the Purpose for which the Restriction was granted will continue to be carried out.

22. RECORDING AND EFFECTIVE DATE

The Commission shall do and perform at its own cost all acts necessary to the prompt recording of this instrument with the Middlesex South Registry of Deeds. Grantor and the Commission intend that this Restriction shall take effect upon the day and year this instrument is recorded with said Deeds.

23. PERCENTAGE INTERESTS; EXTINGUISHMENT

23.1 Percentage Interests. For purposes of allocating proceeds pursuant to Paragraphs 23.2 and 23.3, Grantor and the Commission stipulate that as of the date of this Restriction, Grantor and the Commission are each vested with real property interests in the Property and that such interests have a stipulated percentage interest in the fair market value of the Property. Said percentage interests are determined by the ratio of the consideration paid for this Restriction to the value of the Property, and are included with the Baseline Documentation (on file with Grantor and the Commission). In the event capital improvements are made to the Property by the Grantor, the parties shall amend such percentage interests to reflect the value of any capital improvements.

23.2 Extinguishment. Grantor and the Commission hereby recognize that an unexpected change in the conditions surrounding the Property may make impossible the continued

ownership or use of the Property for the Purpose of the Restriction and necessitate extinguishment of the Restriction. Such a change in conditions may include, but is not limited to, partial or total destruction of the Residence resulting from casualty. Such an extinguishment must meet all of the requirements of the Act for extinguishment, must be the result of a judicial proceeding and shall entitle the Commission to share in any net proceeds resulting from the extinguishment in an amount that reflects its percentage interest in the fair market value of the Property, as such interest is determined under the provisions of Paragraph 23.1, adjusted, if necessary, to reflect a partial termination or extinguishment of this Restriction. All such proceeds received by the Commission shall be used by it in a manner consistent with the Commission's primary purposes or otherwise as required under the Community Preservation Act (M.G.L. Chapter 44B).

Net proceeds shall include, without limitation, net insurance proceeds, and proceeds from the sale or exchange by Grantor of any portion of the Property after the extinguishment.

In the event of extinguishment, the provisions of this Paragraph shall survive extinguishment and shall constitute a lien on the Property with the same effect and priority as a mechanic's lien, to the extent permitted by law, provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.

23.3 Condemnation. If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and the Commission shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. All expenses reasonably incurred by Grantor and the Commission in connection with such taking shall be paid out of the recovered proceeds. Grantor and the Commission shall be respectively entitled to compensation from the balance of the recovered proceeds in conformity with the provisions of Paragraphs 23.1 and 23.2 unless otherwise provided by

law. Provided, however, that if the Property is encumbered by a mortgage at the time of such condemnation, Grantor and the Commission shall be entitled to their respective percentage interests in any proceeds remaining after satisfaction of all mortgages.

24. INTERPRETATION

Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Restriction:

(a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of the Property shall not apply in the construction or interpretation of this Restriction and with respect to preservation of the Property thereunder, and this instrument shall be interpreted broadly to effect its purpose and the transfer of rights and the restrictions on use herein contained.

(b) This instrument is executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by the Commission. In the event of any disparity between the counterparts produced, the counterpart retained by the Commission shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the agreement of the parties.

(c) This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their heirs, successors and assigns in perpetuity as to each term of this instrument whether this instrument be enforceable by reason of any statute, common law or private agreement either in existence now or at any time subsequent hereto.

(d) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any by-law or regulation relating to building materials, construction methods or use. In the event of any conflict between any such by-law or regulation and the terms hereof, Grantor promptly shall notify the Commission of such conflict and shall co-operate with the

Commission and the applicable governmental entity to accommodate the purposes of both this Restriction and such by-law or regulation.

25. AMENDMENT

Amendment. If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, Grantor and the Commission may by mutual written agreement jointly amend this Restriction, provided that no amendment shall be made that will adversely affect the qualification of this Restriction or the rights of the Commission under any applicable laws, including the Act and the laws of the Commonwealth of Massachusetts. Any such amendment shall be consistent with the protection of the conservation and preservation values of the Property and the Purpose of the Restriction; shall be approved as required under the Act; shall not affect its perpetual duration; shall not permit additional residential development on the Property; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural, historic, natural habitat, and open space values protected by this Agreement. Any such amendment shall be recorded with Middlesex South District Registry of Deeds. Nothing in this paragraph shall require Grantor or the Commission to agree to any amendment or to consult or negotiate regarding any amendment.

26. ARCHAEOLOGICAL ACTIVITIES

Archaeological Activities. The conduct of archaeological activities on the Property, including without limitation, survey, excavation and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor and approved in writing by the State Archaeologist of the Massachusetts Historical Commission (M.G.L. Ch.9, Section 27C, 950 CMR 70.00).

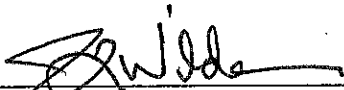
TO HAVE AND TO HOLD, the said Preservation Restriction, unto the said Commission and its successors and permitted assigns forever. This Preservation Restriction Agreement may be executed in several counterparts and by each party on a separate


counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument.

477625v2/WEST/0044

IN WITNESS WHEREOF, James L. Wilder III and Elizabeth Perkins Wilder have set their hands under seal on the day and year set forth below.

GRANTOR:



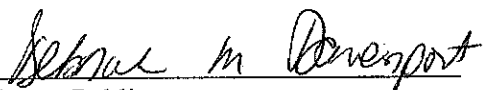
James L. Wilder III


Elizabeth Perkins Wilder

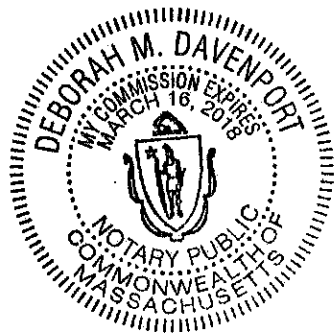
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 9th day of January, 2014, before me, the undersigned Notary Public, personally appeared James L. Wilder III and Elizabeth Perkins Wilder, as aforesaid, who proved to me through satisfactory evidence of identification, which was MA Drivers Lic., to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.



Notary Public
My Commission Expires: March 16, 2018



ACCEPTANCE OF PRESERVATION RESTRICTION

The Town of Weston, acting by and through the Weston Historical Commission, pursuant to G.L. c 40, §8D, pursuant to the vote under Article 33 of the 2010 Annual Town Meeting, a certified copy of which is attached hereto, hereby accepts the foregoing Preservation Restriction on this 8th day of January, 2014.

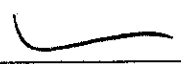
The Town of Weston, Acting by and through the Weston Historical Commission



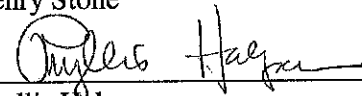
Marisa Morra



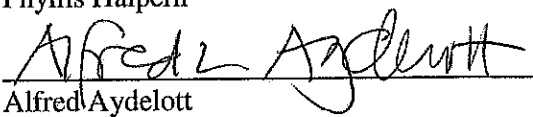
Alicia Primer



Henry Stone



Phyllis Halpern



Alfred Aydelott

Steve Wagner



Alan Fobes