

## HOST COMMUNITY AGREEMENT

This Host Community Agreement (the "Agreement") is entered into by and between the Town of Littleton (the "Town"), acting by and through its Board of Selectmen and David A. Guthrie, Christopher Finneral and Grimes Road, LLC along with their successors and assigns ("Developer") having its notice address at 487 Groton Road, Westford, Massachusetts 01886, on behalf of themselves, their successors and assigns. This Agreement represents the understanding between the Town and the Developer (the "Parties") with respect to: 1) the commitments by the Developer in connection with the development more specifically described below ("Durkee Property"), and 2) a Notice of Intent to Sell Pursuant to M.G.L. c. 61B, §9 (attached as Exhibit A) ("Kaye Property"), and the agreement by the Town to support said development.

### RECITALS

WHEREAS the Developer has contracted to purchase the Kaye Property, a parcel of land located on Foster Street, containing approximately 43 acres, and shown on Littleton Assessors Maps as parcel R08-13-0, and as further described in a Purchase and Sale Agreement between the seller, Brenda S. Diana, Trustee of the Charles F. Kaye Revocable Trust and the buyers, David A. Guthrie and Christopher Finneral (attached as Exhibit B).

WHEREAS the Developer proposes to develop the Durkee Property, a parcel of land located at 260 Foster Street, containing approximately 48.15 acres, and shown on Littleton Assessors Maps as parcel R08-15-0, and part of the Kaye Property, all as shown on the plan entitled: "Preliminary Plan of a Subdivision and Open Space Development- 260 Foster Street & Grimes Lane, Littleton, Massachusetts, 01460 Prepared for Grimes Road, LLC, Scale 1" = 80', Date: September 16, 2015, Hancock Associates" last revised December 10, 2015; and

WHEREAS the Town possesses a material interest in exercising its Right of First Refusal, but has elected to forego its right in consideration of the agreements with the Developer outlined below.

WHEREAS the Kaye Land is the subject to the Town's Right of First Refusal under M.G.L. Chapter 61B, §9; and

WHEREAS the Developer wishes to enter into this non-regulatory Agreement with the Town to memorialize its commitment through the alternate means discussed herein.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable considerations, the receipt of which is hereby acknowledged, the Parties, on behalf of themselves, their successors and assigns, hereby covenant and agree as set forth herein.

1. The Developer agrees to gift to the Town, a minimum of 11 acres of the Kaye Property substantially as shown on the Plan entitled: "Preliminary Plan of a Subdivision & Open Space Development 260 Foster Street & Grimes Lane Littleton, Massachusetts 01460" prepared for Grimes Road, LLC and dated September 16, 2015 (attached as Exhibit C) and access for six (6) feet of trail along the northerly property lines, also as shown on Exhibit C. Said gift shall be conveyed to the Town at the time at which the Developer (or such affiliated entity through which Developer takes title) has secured all permits it requires to develop the land described in Exhibit B.

2. On or before December 29, 2015, the Town will issue a Notice of Non-Exercise of its Right of First Refusal on the land described in Exhibit B in the form attached hereto as Exhibit D.

3. Entire Agreement. This Agreement reflects the entire agreement between the parties. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this Agreement.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

5. Invalidity of Particular Provisions. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, then in such event, this Agreement shall be deemed void and without recourse to the parties hereto except that any action taken hereunder shall be rescinded by the parties hereto.

6. Counterparts. This 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.

7. All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

Keith A. Bergman, Town Administrator  
Town of Littleton  
Town Office Building  
37 Shattuck Street, P.O. Box 1305  
Littleton, MA 01460

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### **RECITALS**

WHEREAS the Developer has contracted to purchase the Kaye Property, a parcel of land located on Foster Street, containing approximately 43 acres, and shown on Littleton Assessors Maps as parcel R08-13-0, and as further described in a Purchase and Sale Agreement between the seller, Brenda S. Diana, Trustee of the Charles F. Kaye Revocable Trust and the buyers, David A. Guthrie and Christopher Finneral (attached as Exhibit B).

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Keith A. Bergman, Town Administrator  
Town of Littleton  
Town Office Building  
37 Shattuck Street, P.O. Box 1305  
Littleton, MA 01460

with a copy to:

Thomas J. Harrington  
Miyares and Harrington LLP  
40 Grove Street  
Suite 190  
Wellesley, MA 02482

If to the Developer to:

Grimes Road, LLC  
487 Groton Lane  
Westford, MA 01460

With a copy to:

Elizabeth A. Ahern, Esq.  
Eliopoulos & Eliopoulos PC  
9 North Road  
Chelmsford, MA 01824

Each of the Parties shall have the right by notice to the others to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means.

8. The Developer may assign their rights and obligations under this Agreement to any other party or entity with the written permission of the Town, which shall not be unreasonably withheld.

*[Remainder of page intentionally left blank]*

Executed as an instrument under seal this 14 day of December, 2015.

DEVELOPER:

GRIMES ROAD LLC

By: DAVID A. GUTHRIE Manager 12/14/15

DAVID A. GUTHRIE, MANAGER

TOWN:

TOWN OF LITTLEON

By its Board of Selectmen

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James Karr, Chair



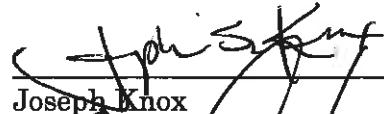
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Melissa Hebert, Vice Chair



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Paul Avella, Clerk



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Joseph Knox



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Charles DeCoste

**Exhibit A**

# **ADELSON LORIA & WEISMAN P.C.**

**ATTORNEYS AT LAW**

20 Park Plaza, Boston, Massachusetts 02116

Tel (617) 330-1625 · Fax (617) 330-1642 · E-mail: firm@alwfirm.com

August 21, 2015

By Certified Mail – Postage Prepaid

Board of Selectmen  
37 Shattuck Street, Room 307  
Littleton, MA 01460

*Certified Mail No. 7013 1090 0000 8616 6815*  
*Return Receipt Requested*

Board of Assessors  
37 Shattuck Street, Room 206  
Littleton, MA 01460

*Certified Mail No. 7013 1090 0000 8616 6822*  
*Return Receipt Requested*

Planning Board  
37 Shattuck Street, Room 303  
Littleton, MA 01460

*Certified Mail No. 7013 1090 0000 8616 6839*  
*Return Receipt Requested*

Conservation Commission  
37 Shattuck Street, Room 303  
Littleton, MA 01460

*Certified Mail No. 7013 1090 0000 8616 6846*  
*Return Receipt Requested*

Re: Notice of Intent to Sell Pursuant to M.G.L. Chapter 61B, Section 9/One Parcel of Land  
along Grimes Lane totaling approximately 43 acres and shown as Assessor's Map R-08,  
Parcel 13

To Whom It May Concern:

This firm is counsel for Brenda S. Diana, Trustee of The Charles F. Kaye Revocable Trust c/o Ropes & Gray LLP, 800 Boylston Street, Boston, MA 02199 (hereinafter referred to as "Seller"), in her capacity as seller of certain land in Littleton, Massachusetts. The purpose of this letter is to inform you of the Seller's intent to sell the following described parcel of land: the land located along Grimes Lane, Littleton, Middlesex County, Massachusetts comprised of approximately 43 acres +/- and shown on the enclosed portion of the applicable assessors' map (Exhibit A). The Buyer's proposed use of the land is for residential uses.

The name, address and phone number of the Seller are as follows:

Brenda S. Diana, Trustee of  
The Charles F. Kaye Revocable Trust  
c/o Ropes & Gray LLP  
800 Boylston Street  
Boston, MA 02199  
Telephone Number: 617-951-7221

Please address follow up communication, including, but not limited to a notice of non-exercise, as follows:

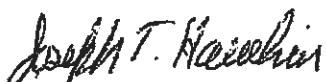
Joseph T. Hawkins, Esq.  
Adelson Loria & Weisman, P.C.  
20 Park Plaza  
Boston, MA 02116.

Enclosed, please find a certified copy of an executed purchase and sale agreement (Exhibit B) specifying the purchase price and all terms and conditions of the proposed sale of the Subject Land.

Pursuant to M.G.L. Chapter 61B, Section 9, the Town shall have a period of one hundred and twenty (120) days to exercise its first refusal option to meet the bona fide offer for the Subject Land.

Thank you for your attention to this matter.

Best regards,



Joseph T. Hawkins.

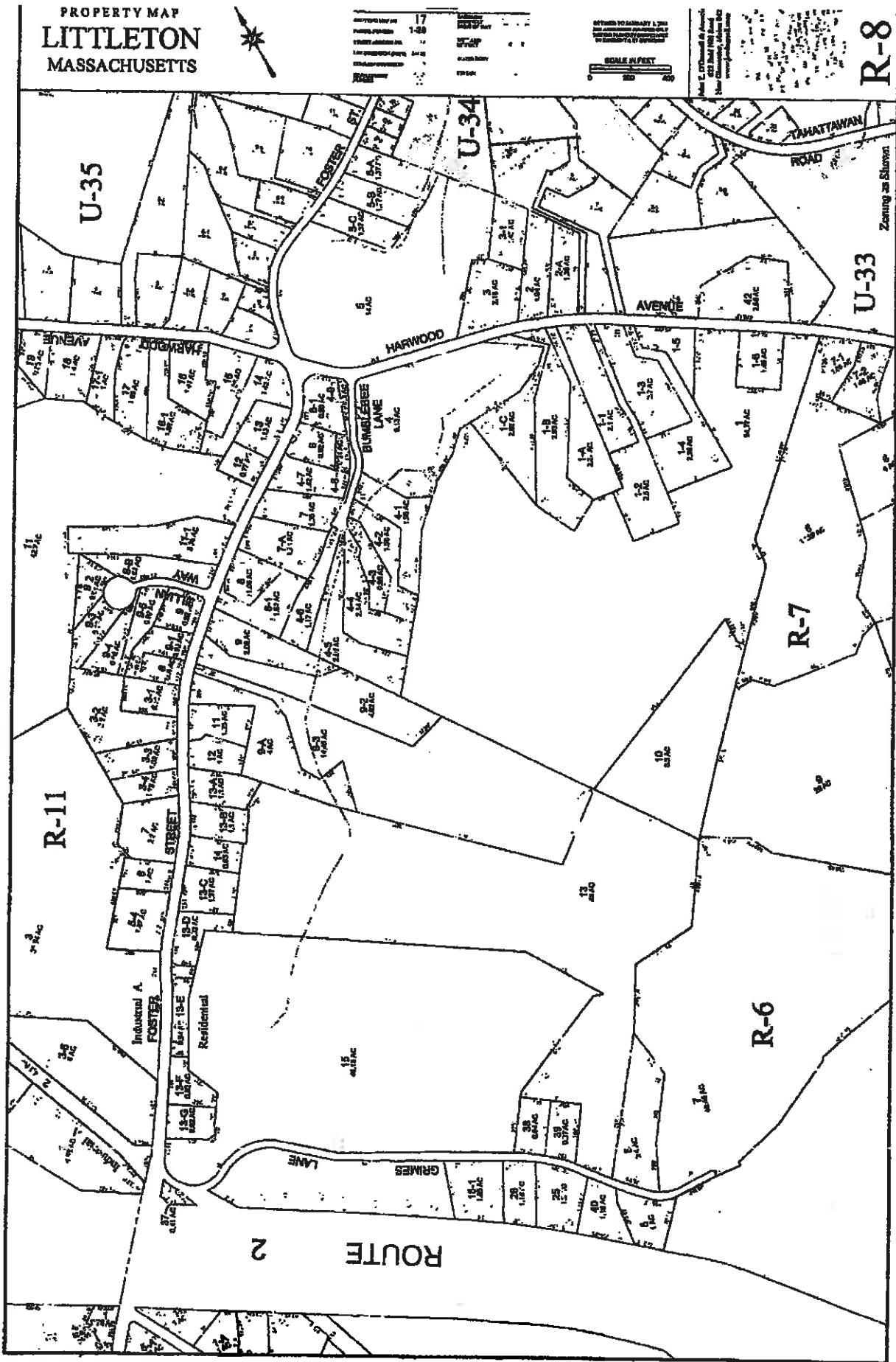
Enclosures (as stated)

# **Exhibit A**

PROPERTY MAP  
**LITTLETON**  
MASSACHUSETTS



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The plans shown on this map are preliminary and subject to change. They are provided for information and planning purposes only. The Commonwealth and its municipalities are not responsible for the results or interpretation of the data.

# **Exhibit B**

STANDARD FORM  
PURCHASE AND SALE AGREEMENT

This 10 day of August, 2015

1. PARTIES  
AND MAILING  
ADDRESSES

(fill in)

2. DESCRIPTION  
(fill in and include  
title reference)

3. BUILDINGS,  
STRUCTURES,  
IMPROVEMENTS,  
FIXTURES

Brenda S. Diana, Trustee of The Charles F. Kaye Revocable Trust  
with an address c/o Ropes & Gray LLP, 800 Boylston Street, Boston, MA 02199  
hereinafter called the SELLER, agrees to SELL and

David A. Guthrie and Christopher Finnern, with an address 487 Groton Road, Westford, MA 01886

hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises: the land located along Grimes Lane, Littleton, Middlesex County, Massachusetts consisting of one parcel of land totaling approximately 43 acres and shown as Assessor's Map R-08, Parcel 13. For SELLER's title, see deed recorded with the Middlesex Southern District Registry of Deeds in Book 21275, Page 286.

~~Included in the sale as a part of said premises are the buildings, structures, and improvements now thereon, if any, and the fixtures belonging to SELLER and used in connection therewith including, if any, all wall-to-wall carpeting, drapery rods, automatic garage door openers, venetian blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners and fixtures appurtenant thereto; hot water heaters, plumbing and bathroom fixtures, garbage disposers, electric and other lighting fixtures, mantels, outside television antenna, fences, gates, trees, shrubs, plants, and, ONLY IF BUILT IN, refrigerators, air conditioning equipment, ventilators, dishwashers, washing machines and dryers, and~~

~~but excluding~~

4. TITLE DEED

(fill in)

\* Include here by specific reference any restrictions, easements, rights and obligations in party walls not included in (b), leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER's breach of SELLER's covenants in leases where necessary.

Said premises are to be conveyed by a good and sufficient fiduciary deed running to the BUYER, or to the nominees designated by the BUYER by written notice to the SELLER at least seven (7) days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
- (b) Existing rights and obligations in party walls which are not the subject of written agreement;
- (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (d) Any liens for municipal betterments assessed after the date of this agreement;
- (e) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the current use of said premises;
- (f) Record title matters existing prior to July 16, 2015

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

6. REGISTERED  
TITLE

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.

7. PURCHASE PRICE

(fill in); space is  
allowed to write  
out the amounts  
if desired

The agreed purchase price for said premises is Eight Hundred Fifty Thousand (\$850,000.00) Dollars, of which

\$ 82,500.00	have been paid as a deposit this day;
\$ 2,500.00	have been paid with Offer to Purchase; and
\$765,000.00	are to be paid at the time of delivery of the deed by attorney's conveyancing IOLTA check or via wire transfer.

\$850,000.00      TOTAL

CERTIFIED TRUE COPY  
*[Handwritten Signature]*

**8. TIME FOR  
PERFORMANCE;  
DELIVERY OF  
DEED (fill in)**

Such deed is to be delivered at 12:00 Noon on the 30th day (the "Closing Date") after the receipt of evidence of the Town's waiver of its rights under MGL Chapter 61B (see paragraph 9 of Rider A); said closing will occur at the BUYER's Counsel's office or some other place within the Commonwealth of Massachusetts as the parties may agree.

**9. POSSESSION AND  
CONDITION OF  
PREMISES.**

(attach a list of  
exceptions, if any)

**10. EXTENSION TO  
PERFECT TITLE  
OR MAKE  
PREMISES  
CONFORM  
(Change period of  
time if desired).**

If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto, unless the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of up to thirty (30) days. SELLER shall not be required to spend in excess of \$1,000.00 in order to comply with the provisions of this Paragraph.

**11. FAILURE TO  
PERFECT TITLE  
OR MAKE  
PREMISES  
CONFORM, etc.**  
**12. BUYER's  
ELECTION TO  
ACCEPT TITLE**

If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title.

**13. ACCEPTANCE  
OF DEED**

The acceptance of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

**14. USE OF  
MONEY TO  
CLEAR TITLE**

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed or, within a reasonable time thereafter, in accordance with customary conveyancing practice.

**15. INSURANCE  
(Insert amount  
list additional  
types of insurance  
and amounts as  
agreed)**

Until the delivery of the deed, the SELLER shall maintain insurance on said premises as follows:

Type of Insurance \_\_\_\_\_ Amount of Coverage \_\_\_\_\_

(a) Fire and extended Coverage \_\_\_\_\_ \$ as presently insured  
(b) \_\_\_\_\_

**16. ADJUSTMENTS  
(list operating ex-  
penses, if any, or  
attach schedule)**

Taxes for the then current fiscal year shall be apportioned as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed.

**17. ADJUSTMENT  
OF UNASSESSED  
AND  
ABATED TAXES**

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

**18. BROKER'S FEE**  
*(fill in fee with dollar amount or percentage; also name of Brokerage firm(s))*

A Broker's fee for professional services of \$ \_\_\_\_\_ (\_\_\_\_ %) of the sales price is due from the SELLER to \_\_\_\_\_ but only if, at and when the closing occurs, the deed is recorded and full consideration is paid to SELLER and not otherwise.

the Broker herein, but if the SELLER pursuant to the terms of clause 21 hereof retains the deposits made hereunder by the BUYER, said Broker(s) shall be entitled to receive from the SELLER an amount equal to one-half the amount so retained or an amount equal to the Broker's fee for professional services according to the contract, whichever is the lesser.

**19. BROKER(S)  
WARRANTY**  
*(fill in name)*

The Broker(s) named herein warrant(s) that the Broker(s) is/are duly licensed as such by the Commonwealth of Massachusetts.

**20. DEPOSIT**  
*(fill in name)*

All deposits made hereunder shall be held in escrow by Adelson, Loria & Weissman PC, as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this agreement pending written instructions mutually given by the SELLER and the BUYER or by a court of competent jurisdiction. All deposits shall be held in a federally insured, non interest-bearing account.

**21. BUYER'S  
DEFAULT;  
DAMAGES**

If the BUYER shall fail to fulfill the BUYER's agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages unless within thirty days after the time for performance of this agreement or any extension hereof, the SELLER otherwise notifies the BUYER in writing, and this shall be SELLER's sole and exclusive remedy at law or in equity for any breach by BUYER under this Agreement.

**22. RELEASE BY  
HUSBAND OR  
WIFE**

The SELLER's spouse hereby agrees to join in said deed and to release and convey all statutory and other rights and interests in said premises.

**23. BROKER AS  
PARTY**

The Broker(s) named herein join(s) in this agreement and become(s) a party hereto, insofar as any provisions of this agreement expressly apply to the Broker(s), and to any amendments or modifications of such provisions to which the Broker(s) agree(s) in writing.

**24. LIABILITY OF  
TRUSTEE,  
SHAREHOLDER,  
BENEFICIARY, etc.**

If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

**25. WARRANTIES AND  
REPRESENTATIONS**  
*(fill in); if none, state "none"; if any listed, indicate by whom each warranty or representation was made*

The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has he relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either the SELLER or the Broker(s): NONE

**26. MORTGAGE  
CONTINGENCY  
CLAUSE**

*(omit if not provided for in Offer to Purchase)*

No FINANCING CONTINGENCY. BUYER agrees and represents that BUYER's obligations under this Agreement are not contingent upon any financing in connection with the purchase of the premises.

**27. CONSTRUCTION  
OF AGREEMENT**

This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

**28. LEAD PAINT  
LAW**

The parties acknowledge that, under Massachusetts law, whenever a child or children under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner of said premises must remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age.

**29. SMOKE AND CARBON  
MONOXIDE DETECTORS**

The SELLER shall, at the time of the delivery of the deed, deliver a certificate from the fire department of the city or town in which said premises are located stating that said premises have been equipped with approved smoke and carbon monoxide detectors in conformity with applicable law, or that the premises are otherwise exempt by law.

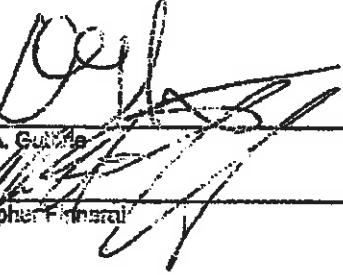
**30. ADDITIONAL  
PROVISIONS**

The Rider A attached hereto, is incorporated herein by reference.

**FOR RESIDENTIAL PROPERTY CONSTRUCTED PRIOR TO 1978, BUYER MUST ALSO HAVE SIGNED  
LEAD PAINT "PROPERTY TRANSFER NOTIFICATION CERTIFICATION"**

**NOTICE:** This is a legal document that creates binding obligations. If not understood, consult an attorney.

**BUYER**

By:   
David A. Gutierrez

Christopher Finstad

**SELLER** Brenda S. Diana, Trustee of The Charles F. Kaye Revocable Trust, and not individually

**EXTENSION OF TIME FOR PERFORMANCE**

**Date**

The time for the performance of the foregoing agreement is extended until \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_  
day of \_\_\_\_\_ 200\_\_\_\_\_, time still being of the essence of this agreement as extended.  
This extension, executed in multiple counterparts, is intended to take effect as a sealed instrument.

**SELLER (or spouse)**

**SELLER**

**BUYER**

**BUYER**

**Broker(s)**

RIDER "A"

to

PURCHASE AND SALE AGREEMENT

Dated August 13, 2015

BUYER: David A. Guthrie and Christopher Finnean

SELLER: Brenda S. Diana, Trustee of The Charles F. Kaye Revocable Trust

PREMISES: the land located along Grimes Lane, Littleton, Middlesex County, Massachusetts consisting of one parcel of land totaling approximately 43 acres +/- and shown as Assessor's Map R-08, Parcel 13 (the "Premises")

*This document constitutes a rider to said Purchase and Sale Agreement and is executed contemporaneously with said Agreement. In the event of a conflict between the Agreement and this Rider, the Rider shall control.*

**1. AGREEMENT NOT TO BE RECORDED**

If the BUYER either makes an assignment of its rights under this Agreement or records a copy of this Agreement with the Registry of Deeds, the SELLER at its option may declare SELLER's obligations hereunder to be null and void and all payments made hereunder may be retained by SELLER as liquidated damages. The designation of a title nominee pursuant to Paragraph 4 of the Agreement shall not be deemed an assignment by the BUYER within the meaning of this Paragraph.

**2. BROKERS**

The BUYER and SELLER each represent and warrant to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. Each agrees to indemnify the other against and to hold the other harmless from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other in connection with this transaction arising out of the contacts of each with any real estate brokers (other than the broker stated in Paragraph 18 hereof). The provisions of this paragraph shall survive delivery of the deed.

**3. NOTICES**

All notices required hereunder shall be deemed to have been duly given if in writing and delivered by hand, sent by facsimile, by e-mail, Federal Express or other recognized overnight delivery service or mailed by registered or certified mail, return receipt requested; all charges prepaid, addressed to BUYER or SELLER at their respective addresses designated above, and:

in case of SELLER, to:

Joseph T. Hawkins, Esq.  
Adelson Loria & Weisman PC  
29 Park Plaza, Suite 820  
Boston, MA 02116  
(P) 617-330-1625 ext. 131  
(f) 617-330-1642

jhawkins@alwfirm.com

in case of BUYER, to:

Elizabeth A. Ahern, Esq.  
Eliopoulos & Eliopoulos PC  
9 North Road  
Chelmsford, MA 01824  
(p) 978-250-3800  
(f) 978-244-0007  
elizabeth@eliopouloslaw.com

**4. STANDARDS**

Any matter or practice arising under or relating to this Agreement that is the subject of a title or practice standard of the Massachusetts Real Estate Bar Association shall be governed by such standard to the extent applicable, unless specifically provided otherwise in this Agreement.

**5. TITLE INSURANCE/DOCUMENTS**

SELLER agrees at the closing to execute a statement under oath to any title insurance company issuing a policy to BUYER and/or BUYER's mortgagee and/or the BUYER individually to the effect that: (1) there are no tenants, lessees or parties in possession of the Premises, (2) SELLER has no knowledge of any work having been done to the Premises which would entitle anyone now or hereafter to claim a mechanics' or materialmen's lien on the Premises; and SELLER agrees to indemnify and hold harmless the title insurance company for any loss, costs, or damages sustained as a result of issuing a policy without exceptions covered by such representations; and (3) that SELLER is not a foreign person subject to the withholding provisions of the Internal Revenue Code of 1986, as amended (FIRPTA).

**6. INSPECTION/CONDITION OF PROPERTY**

- i. **No Reliance.** The Property is to be sold pursuant to this Agreement AS IS, WHERE IS, with all faults and defects and without representation or warranty of any kind including, without limitation, as to the fitness or suitability for any particular use or purpose. BUYER expressly acknowledges and agrees that neither SELLER nor any agent of SELLER, nor any other party purportedly acting on behalf of SELLER, has made, and BUYER is not relying upon, any guarantee, representation, or warranty of any kind whatsoever, express or implied, as to any matter concerning the Property or any component thereof, including, without limitation, acreage or square footage, the operation or the costs or results of the operation of the Property, any economic forecast or projection concerning earnings, rents, value of profits, the land use restrictions, or zoning affecting the Property, the enforceability of any contract or other agreement or right assigned hereunder, the compliance of the Property or any part thereof with any laws, statutes, rules, ordinances, decrees, judgments, or orders applicable thereto, or the use, existence, or prior use or existence of any hazardous substances therein or thereon. BUYER acknowledges and agrees that has BUYER fully inspected the Premises and undertaken such title and survey work and other examinations of law and other due diligence as BUYER thinks appropriate. BUYER further acknowledges that except as expressly provided herein, any information provided to BUYER by SELLER or any representative of SELLER has been provided to BUYER for informational purposes only, without any recourse, guarantee, representation, or warranty, and that SELLER does not

represent, warrant, or guarantee the contents of or opinions contained in, the accuracy or completeness of, or the methodology used to produce, any such information.

- ii **Release of SELLER.** By consummating the Closing, BUYER shall be deemed to have assumed the risk that adverse matters (including, but not limited to, adverse physical and environmental conditions) may not have been revealed by BUYER's Investigations, and BUYER, upon Closing, shall, except as otherwise expressly provided in this Agreement, be deemed to have waived, relinquished, and released SELLER and each of the SELLER Parties from and against any and all claims, demands, causes of action (including, without limitation, causes of action in tort), losses, damages, liabilities, costs, and expenses (including, without limitation, attorneys' fees and court costs) of any and every kind or character, known or unknown, that BUYER might have asserted or alleged against SELLER or any of the SELLER Parties at any time by reason of or arising out of any latent or patent physical conditions, violations of any applicable legal requirement, and any and all other acts, omissions, events, circumstances, or matters regarding the Property.

## **7. SIGNATURES/AUTHORITY**

By executing this Agreement, the BUYER and SELLER hereby grant to their attorneys the actual authority to bind them for the sole limited purpose of allowing them to cancel, grant extensions, modify or amend this Agreement in writing, and the BUYER and SELLER shall be able to rely upon the signatures of said attorneys as binding unless they have actual knowledge that the principals have disclaimed the authority granted herein to bind them. Further, for purposes of this Agreement, email transmissions and/or facsimile signatures on this and on other written instruments shall be binding.

## **8. DEPOSIT**

Any retention of deposits pursuant to Paragraph 21 of this Agreement shall be SELLER's sole and exclusive remedy at law or equity. The parties acknowledge and agree that SELLER has no adequate remedy in the event of BUYER's default under this Agreement because it is impossible to exactly calculate the damages which would accrue to SELLER in such event. Therefore, acknowledging this fact the Parties agree that: (i) the deposit hereunder is the best estimate of such damages which would accrue to SELLER in the event of a default, (ii) said deposit represents damages and not a penalty against buyer, and (iii) the Parties have been afforded the opportunity to consult an attorney with regard to the provisions of this Paragraph.

The escrow agent shall not be liable for any loss suffered with respect to the escrow account or for any action or inaction taken by the escrow agent in good faith with respect to the account or deposit.

In the event of a dispute relating to the deposit held by the escrow agent named in Paragraph 20, the escrow agent shall have the right to retain the deposit pending the receipt of written instructions agreed to and signed by SELLER and BUYER or of a court order directing the distribution of the deposit. In the alternative, the escrow agent may resign at any time by transferring the deposit to a successor escrow agent reasonably acceptable to SELLER and BUYER which successor agrees in writing to act as escrow agent. BUYER and SELLER jointly and severally agree to indemnify and hold the escrow agent harmless for any and all costs and expenses, including reasonable attorney's fees, incurred in connection with any such dispute.

## **9. 61B NOTICE**

The BUYER's obligation to purchase and SELLER's obligations to sell the Premises are subject to the provisions of MGL Chapter 61B, as applicable to the Premises. SELLER agrees to initiate the notice

letter to the necessary town authorities in accordance with MGL Chapter 61B within four (4) business days of receipt of a fully executed copy of this Agreement. BUYER agrees to cooperate with SELLER in providing any information required in connection with SELLER's aforementioned notice letter. SELLER shall be solely responsible for any and all roll-back taxes which may be assessed. This Agreement is contingent upon the Town's waiver of any and all rights of assignment under Chapter 61B. In the event the Town waives its rights to purchase or assign, Seller shall deliver at closing evidence of compliance with Chapter 61B Section 9 in the form of either an affidavit under the aforesaid section or a Notice of Non-Exercise executed by the town. In the event the town exercises its right of first refusal as set forth in the aforesaid statute, this Agreement shall be rendered null and void and any deposits made by BUYER shall be immediately refunded to BUYER.

#### **10. FIDUCIARY**

The SELLER is executing this Agreement in a fiduciary capacity, and only the Trust represented shall be bound, and neither the Trustee nor any shareholder or beneficiary of said Trust shall be personally liable for any obligation, express or implied, hereunder.

#### **11 REPRESENTATIONS OF SELLER.**

Seller hereby represents to SELLER's actual knowledge without independent inquiry or investigation and no constructive or imputed knowledge shall be attributed to SELLER, that:

- (a) SELLER has full power and authority to enter into and perform this Agreement and all documents, instruments and contracts entered into or to be entered into by it pursuant to this Agreement and to carry out the transactions contemplated hereby. This Agreement is, and all documents to be executed by SELLER and delivered to BUYER at the Closing will be on the Closing Date, duly authorized, executed and delivered by SELLER and all consents and approvals of trust beneficiaries have been obtained. This Agreement is, and all documents to be executed by SELLER and delivered to BUYER at the Closing will be the legal, valid and binding obligations of SELLER, enforceable in accordance with their respective terms will not violate any provisions of any trust, judicial order or any other thing to which SELLER is a party or to or by which SELLER or the Property is subject or bound.
- (b) SELLER has not received any written notice of any moratorium, condemnation proceeding or proceedings or agreement in the nature of eminent domain or for the dedication of any part of the Property to any public or quasi-public agency ("Taking") in connection with the Property.
- (c) SELLER has not received any written notice of any assessments or special assessments (including, without limitation, assessments for municipal improvements) filed, pending or proposed against the Property or any portion thereof, including, without limitation, any street improvement or special district assessments.
- (d) SELLER has not received any written notice of any action, suit, or proceeding against or affecting SELLER or the Property before or by any federal or state court, commission, regulatory body, administrative agency or other governmental body, wherein an unfavorable ruling, decision or finding may reasonably be expected to have a material adverse affect on the use and development of the Property for residential purposes.
- (e) There are no management, service, supply, maintenance or other contracts with respect to or affecting the Property and which would be binding upon BUYER or the Property after the Closing.
- (f) There are no SELLER has no knowledge of any underground storage tanks in, on, under or about the Property.

**[Signatures Appear on the Following Page]**

**SELLER**

Everda S. Diana  
Everda S. Diana, Trustee of The Charles F.  
Kaye Revocable Trust, and not individually

**BUYER**

DAG  
David A. Guthrie

CF  
Christopher Finneran

**Exhibit B**

STANDARD FORM  
PURCHASE AND SALE AGREEMENT

This 10 day of August, 2015

1. PARTIES  
AND MAILING  
ADDRESSES

(fill in)

Brenda S. Diana, Trustee of The Charles F. Kaye Revocable Trust  
with an address c/o Ropes & Gray LLP, 800 Boylston Street, Boston, MA 02199  
hereinafter called the SELLER, agrees to SELL and

2. DESCRIPTION  
(fill in and include  
title reference)

hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises: the land located along Grimes Lane, Littleton, Middlesex County, Massachusetts consisting of one parcel of land totaling approximately 43 acres and shown as Assessor's Map R-08, Parcel 13. For SELLER's title, see deed recorded with the Middlesex Southern District Registry of Deeds in Book 21275, Page 286.

3. BUILDINGS,  
STRUCTURES,  
IMPROVEMENTS,  
FIXTURES

included in the sale as a part of said premises are the buildings, structures, and improvements now thereon, if any, and the fixtures belonging to SELLER and used in connection therewith including, if any, all wall-to-wall carpeting, drapery rods, automatic garage door openers, venetian blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners and fixtures appurtenant thereto; hot water heaters, plumbing and bathroom fixtures, garbage disposers, electric and other lighting fixtures, mantles, outside television antennas, fences, gates, trees, shrubs, plants, and, ONLY IF BUILT IN, refrigerators, air conditioning equipment, ventifiers, dishwashers, washing machines and dryers; and

out-excluding.

4. TITLE DEED

(fill in)

\* Include here by specific reference any restrictions, easements, rights and obligations in party walls not included in (b), leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER's breach of SELLER's covenants in leases where necessary.

Said premises are to be conveyed by a good and sufficient fiduciary deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven (7) days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
- (b) Existing rights and obligations in party walls which are not the subject of written agreement;
- (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (d) Any liens for municipal betterments assessed after the date of this agreement;
- (e) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the current use of said premises;
- (f) Record title matters existing prior to July 16, 2015

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

6. REGISTERED  
TITLE

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.

7. PURCHASE PRICE

(fill in); space is  
allowed to write  
out the amounts  
if desired

The agreed purchase price for said premises is Eight Hundred Fifty Thousand (\$850,000.00) Dollars, of which

\$ 82,500.00	have been paid as a deposit this day;
\$ 2,500.00	have been paid with Offer to Purchase; and
\$765,000.00	are to be paid at the time of delivery of the deed by attorney's conveyancing IOLTA check or via wire transfer.

\$850,000.00      TOTAL

CERTIFIED TRUE COPY  
8/20/15

**8. TIME FOR  
PERFORMANCE;  
DELIVERY OF  
DEED (initials)**

Such deed is to be delivered at 12:00 Noon on the 30th day (the "Closing Date") after the receipt of evidence of the Town's waiver of its rights under MGL Chapter 61B (see paragraph 9 of Rider A); said closing will occur at the BUYER's Counsel's office or some other place within the Commonwealth of Massachusetts as the parties may agree.

**9. POSSESSION AND  
CONDITION OF  
PREMISES.**

*(attach a list of  
exceptions, if any)*

**10. EXTENSION TO  
PERFECT TITLE  
OR MAKE  
PREMISES  
CONFORM  
(Change period of  
time if desired).**

Full possession of said premises free of all tenants and occupants, ~~except as herein provided~~, is to be delivered at the time of the delivery of the deed.

If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto, unless the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of up to thirty (30) days. SELLER shall not be required to spend in excess of \$1,000.00 in order to comply with the provisions of this Paragraph.

**11. FAILURE TO  
PERFECT TITLE  
OR MAKE  
PREMISES  
CONFORM, etc.**

**12. BUYER's  
ELECTION TO  
ACCEPT TITLE**

**13. ACCEPTANCE  
OF DEED**

**14. USE OF  
MONEY TO  
CLEAR TITLE**

**15. INSURANCE  
(insert amount  
(list additional  
types of insurance  
and amounts as  
agreed))**

**16. ADJUSTMENTS  
(list operating ex-  
penses, if any, or  
attach schedule)**

If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title.

The acceptance of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed or, within a reasonable time thereafter, in accordance with customary conveyancing practice.

Until the delivery of the deed, the SELLER shall maintain insurance on said premises as follows:

Type of Insurance \_\_\_\_\_ Amount of Coverage \_\_\_\_\_

(a) Fire and extended Coverage \_\_\_\_\_ \$ as presently insured  
(b) \_\_\_\_\_

Taxes for the then current fiscal year shall be apportioned as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed.

17. ADJUSTMENT  
OF UNASSESSED  
AND  
ABATED TAXES

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

18. BROKER'S FEE  
(fill in fee with  
dollar amount or  
percentage; also  
name of Brokerage  
firm(s))

A Broker's fee for professional services of \$ \_\_\_\_\_ ( % ) of the sales price  
is due from the SELLER to \_\_\_\_\_ but only if, as and when the closing  
occurs, the deed is recorded and full consideration is paid to SELLER and not otherwise.

the Broker(s) herein, but if the SELLER pursuant to the terms of clause 21 hereof retains the deposits made hereunder by the BUYER, said Broker(s) shall be entitled to receive from the SELLER an amount equal to one-half the amount so retained or an amount equal to the Broker's fee for professional services according to the contract, whichever is the lesser.

The Broker(s) named herein  
warrant(s) that the Broker(s) is/are duly licensed as such by the Commonwealth of Massachusetts.

19. BROKER(S)  
WARRANTY  
(fill in name)

20. DEPOSIT  
(fill in name)

All deposits made hereunder shall be held in escrow by Adelson, Loria & Weisman PC, as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this agreement pending written instructions mutually given by the SELLER and the BUYER or by a court of competent jurisdiction. All deposits shall be held in a federally insured, non interest-bearing account.

21. BUYER'S  
DEFAULT;  
DAMAGES

If the BUYER shall fail to fulfill the BUYER's agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages unless within thirty days after the time for performance of this agreement or any extension hereof, the SELLER otherwise notifies the BUYER in writing, and this shall be SELLER's sole and exclusive remedy at law or in equity for any breach by BUYER under this Agreement.

22. RELEASE BY  
HUSBAND OR  
WIFE

23. BROKER AS  
PARTY

24. LIABILITY OF  
TRUSTEE,  
SHAREHOLDER,  
BENEFICIARY, etc.

25. WARRANTIES AND  
REPRESENTATIONS  
(fill in); if none, state  
"none"; if any listed,  
Indicate by whom each  
warranty or represen-  
tation was made

The SELLER's spouse hereby agrees to join in said deed and to release and convey all statutory and other rights and interests in said premises.

The Broker(s) named herein join(s) in this agreement and become(s) a party hereto, insofar as any provisions of this agreement expressly apply to the Broker(s), and to any amendments or modifications of such provisions to which the Broker(s) agree(s) in writing.

If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has he relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either the SELLER or the Broker(s): NONE

26. MORTGAGE  
CONTINGENCY  
CLAUSE  
(omit if not  
provided for  
in Offer to  
Purchase)

No FINANCING CONTINGENCY. BUYER agrees and represents that BUYER's obligations under this Agreement are not contingent upon any financing in connection with the purchase of the premises.

**27. CONSTRUCTION  
OF AGREEMENT**

This Instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

**28. LEAD PAINT  
LAW**

The parties acknowledge that, under Massachusetts law, whenever a child or children under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner of said premises must remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age.

**29. SMOKE AND CARBON  
MONOXIDE DETECTORS**

The SELLER shall, at the time of the delivery of the deed, deliver a certificate from the fire department of the city or town in which said premises are located stating that said premises have been equipped with approved smoke and carbon monoxide detectors in conformity with applicable law, or that the premises are otherwise exempt by law.

**30. ADDITIONAL  
PROVISIONS**

The Rider A attached hereto, is incorporated herein by reference.

**FOR RESIDENTIAL PROPERTY CONSTRUCTED PRIOR TO 1978. BUYER MUST ALSO HAVE SIGNED  
LEAD PAINT "PROPERTY TRANSFER NOTIFICATION CERTIFICATION"**

**NOTICE:** This is a legal document that creates binding obligations. If not understood, consult an attorney.

SELLER

By:  
David A. Gaudet  
Christopher F. Finsal

SELLER Brenda S. Diana, Trustee of The Charles F. Kays Revocable Trust, and not individually

**EXTENSION OF TIME FOR PERFORMANCE**

The time for the performance of the foregoing agreement is extended until \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_  
day of \_\_\_\_\_ 200\_\_\_\_\_, time still being of the essence of this agreement as extended.  
This extension, executed in multiple counterparts, is intended to take effect as a sealed instrument.

SELLER (or spouse)

SELLER

BUYER

BUYER

Broker(s)

RIDER "A"

to

PURCHASE AND SALE AGREEMENT

Dated August 13, 2015

BUYER: David A. Guthrie and Christopher Funeral

SELLER: Brenda S. Diana, Trustee of The Charles F. Kaye Revocable Trust

PREMISES: the land located along Grimes Lane, Littleton, Middlesex County, Massachusetts consisting of one parcel of land totaling approximately 43 acres +/- and shown as Assessor's Map R-08, Parcel 13 (the "Premises")

*This document constitutes a rider to said Purchase and Sale Agreement and is executed contemporaneously with said Agreement. In the event of a conflict between the Agreement and this Rider, the Rider shall control.*

**1. AGREEMENT NOT TO BE RECORDED**

If the BUYER either makes an assignment of its rights under this Agreement or records a copy of this Agreement with the Registry of Deeds, the SELLER at its option may declare SELLER's obligations hereunder to be null and void and all payments made hereunder may be retained by SELLER as liquidated damages. The designation of a title nominee pursuant to Paragraph 4 of the Agreement shall not be deemed an assignment by the BUYER within the meaning of this Paragraph.

**2. BROKERS**

The BUYER and SELLER each represent and warrant to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. Each agrees to indemnify the other against and to hold the other harmless from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other in connection with this transaction arising out of the contacts of each with any real estate brokers (other than the broker stated in Paragraph 18 hereof). The provisions of this paragraph shall survive delivery of the deed.

**3. NOTICES**

All notices required hereunder shall be deemed to have been duly given if in writing and delivered by hand, sent by facsimile, by e-mail, Federal Express or other recognized overnight delivery service or mailed by registered or certified mail, return receipt requested; all charges prepaid, addressed to BUYER or SELLER at their respective addresses designated above, and:

in case of SELLER, to:

Joseph T. Hawkins, Esq.  
Adelson Loria & Weisman PC  
20 Park Plaza, Suite 820  
Boston, MA 02116  
(p) 617-330-1625 ext. 131  
(f) 617-330-1642

jhawkins@alwfirm.com

in case of BUYER, to:

Elizabeth A. Ahern, Esq.  
Eliopoulos & Eliopoulos PC  
9 North Road  
Chelmsford, MA 01824  
(p) 978-250-3800  
(f) 978-244-0007  
elizabeth@eliopouloslaw.com

**4. STANDARDS**

Any matter or practice arising under or relating to this Agreement that is the subject of a title or practice standard of the Massachusetts Real Estate Bar Association shall be governed by such standard to the extent applicable, unless specifically provided otherwise in this Agreement.

**5. TITLE INSURANCE/DOCUMENTS**

SELLER agrees at the closing to execute a statement under oath to any title insurance company issuing a policy to BUYER and/or BUYER's mortgagee and/or the BUYER individually to the effect that: (1) there are no tenants, lessees or parties in possession of the Premises, (2) SELLER has no knowledge of any work having been done to the Premises which would entitle anyone now or hereafter to claim a mechanics' or materialmen's lien on the Premises; and SELLER agrees to indemnify and hold harmless the title insurance company for any loss, costs, or damages sustained as a result of issuing a policy without exceptions covered by such representations; and (3) that SELLER is not a foreign person subject to the withholding provisions of the Internal Revenue Code of 1986, as amended (FIRPTA).

**6. INSPECTION/CONDITION OF PROPERTY**

- i. **No Reliance.** The Property is to be sold pursuant to this Agreement AS IS, WHERE IS, with all faults and defects and without representation or warranty of any kind including, without limitation, as to the fitness or suitability for any particular use or purpose. BUYER expressly acknowledges and agrees that neither SELLER nor any agent of SELLER, nor any other party purportedly acting on behalf of SELLER, has made, and BUYER is not relying upon, any guarantee, representation, or warranty of any kind whatsoever, express or implied, as to any matter concerning the Property or any component thereof, including, without limitation, acreage or square footage, the operation or the costs or results of the operation of the Property, any economic forecast or projection concerning earnings, rents, value of profits, the land use restrictions, or zoning affecting the Property, the enforceability of any contract or other agreement or right assigned hereunder, the compliance of the Property or any part thereof with any laws, statutes, rules, ordinances, decrees, judgments, or orders applicable thereto, or the use, existence, or prior use or existence of any hazardous substances therein or thereon. BUYER acknowledges and agrees that has BUYER fully inspected the Premises and undertaken such title and survey work and other examinations of law and other due diligence as BUYER thinks appropriate. BUYER further acknowledges that except as expressly provided herein, any information provided to BUYER by SELLER or any representative of SELLER has been provided to BUYER for informational purposes only, without any recourse, guarantee, representation, or warranty, and that SELLER does not

represent, warrant, or guarantee the contents of or opinions contained in, the accuracy or completeness of, or the methodology used to produce, any such information.

ii Release of SELLER. By consummating the Closing, BUYER shall be deemed to have assumed the risk that adverse matters (including, but not limited to, adverse physical and environmental conditions) may not have been revealed by BUYER's Investigations, and BUYER, upon Closing, shall, except as otherwise expressly provided in this Agreement, be deemed to have waived, relinquished, and released SELLER and each of the SELLER Parties from and against any and all claims, demands, causes of action (including, without limitation, causes of action in tort), losses, damages, liabilities, costs, and expenses (including, without limitation, attorneys' fees and court costs) of any and every kind or character, known or unknown, that BUYER might have asserted or alleged against SELLER or any of the SELLER Parties at any time by reason of or arising out of any latent or patent physical conditions, violations of any applicable legal requirement, and any and all other acts, omissions, events, circumstances, or matters regarding the Property.

## 7. SIGNATURES/AUTHORITY

By executing this Agreement, the BUYER and SELLER hereby grant to their attorneys the actual authority to bind them for the sole limited purpose of allowing them to cancel, grant extensions, modify or amend this Agreement in writing, and the BUYER and SELLER shall be able to rely upon the signatures of said attorneys as binding unless they have actual knowledge that the principals have disclaimed the authority granted herein to bind them. Further, for purposes of this Agreement, email transmissions and/or facsimile signatures on this and on other written instruments shall be binding.

## 8. DEPOSIT

Any retention of deposits pursuant to Paragraph 21 of this Agreement shall be SELLER's sole and exclusive remedy at law or equity. The parties acknowledge and agree that SELLER has no adequate remedy in the event of BUYER's default under this Agreement because it is impossible to exactly calculate the damages which would accrue to SELLER in such event. Therefore, acknowledging this fact the Parties agree that: (i) the deposit hereunder is the best estimate of such damages which would accrue to SELLER in the event of a default, (ii) said deposit represents damages and not a penalty against buyer, and (iii) the Parties have been afforded the opportunity to consult an attorney with regard to the provisions of this Paragraph.

The escrow agent shall not be liable for any loss suffered with respect to the escrow account or for any action or inaction taken by the escrow agent in good faith with respect to the account or deposit.

In the event of a dispute relating to the deposit held by the escrow agent named in Paragraph 20, the escrow agent shall have the right to retain the deposit pending the receipt of written instructions agreed to and signed by SELLER and BUYER or of a court order directing the distribution of the deposit. In the alternative, the escrow agent may resign at any time by transferring the deposit to a successor escrow agent reasonably acceptable to SELLER and BUYER which successor agrees in writing to act as escrow agent. BUYER and SELLER jointly and severally agree to indemnify and hold the escrow agent harmless for any and all costs and expenses, including reasonable attorney's fees, incurred in connection with any such dispute.

## 9. 61B NOTICE

The BUYER's obligation to purchase and SELLER's obligations to sell the Premises are subject to the provisions of MGL Chapter 61B, as applicable to the Premises. SELLER agrees to initiate the notice

letter to the necessary town authorities in accordance with MGL Chapter 61B within four (4) business days of receipt of a fully executed copy of this Agreement. BUYER agrees to cooperate with SELLER in providing any information required in connection with SELLER's aforementioned notice letter. SELLER shall be solely responsible for any and all roll-back taxes which may be assessed. This Agreement is contingent upon the Town's waiver of any and all rights of assignment under Chapter 61B. In the event the Town waives its rights to purchase or assign, Seller shall deliver at closing evidence of compliance with Chapter 61B Section 9 in the form of either an affidavit under the aforesaid section or a Notice of Non-Exercise executed by the town. In the event the town exercises its right of first refusal as set forth in the aforesaid statute, this Agreement shall be rendered null and void and any deposits made by BUYER shall be immediately refunded to BUYER.

#### **10. FIDUCIARY**

The SELLER is executing this Agreement in a fiduciary capacity, and only the Trust represented shall be bound, and neither the Trustee nor any shareholder or beneficiary of said Trust shall be personally liable for any obligation, express or implied, hereunder.

#### **11. REPRESENTATIONS OF SELLER.**

Seller hereby represents to SELLER's actual knowledge without independent inquiry or investigation and no constructive or imputed knowledge shall be attributed to SELLER, that:

- (a) SELLER has full power and authority to enter into and perform this Agreement and all documents, instruments and contracts entered into or to be entered into by it pursuant to this Agreement and to carry out the transactions contemplated hereby. This Agreement is, and all documents to be executed by SELLER and delivered to BUYER at the Closing will be on the Closing Date, duly authorized, executed and delivered by SELLER and all consents and approvals of trust beneficiaries have been obtained. This Agreement is, and all documents to be executed by SELLER and delivered to BUYER at the Closing will be the legal, valid and binding obligations of SELLER, enforceable in accordance with their respective terms will not violate any provisions of any trust, judicial order or any other thing to which SELLER is a party or to or by which SELLER or the Property is subject or bound.
- (b) SELLER has not received any written notice of any moratorium, condemnation proceeding or proceedings or agreement in the nature of eminent domain or for the dedication of any part of the Property to any public or quasi-public agency ("Taking") in connection with the Property.
- (c) SELLER has not received any written notice of any assessments or special assessments (including, without limitation, assessments for municipal improvements) filed, pending or proposed against the Property or any portion thereof, including, without limitation, any street improvement or special district assessments.
- (d) SELLER has not received any written notice of any action, suit, or proceeding against or affecting SELLER or the Property before or by any federal or state court, commission, regulatory body, administrative agency or other governmental body, wherein an unfavorable ruling, decision or finding may reasonably be expected to have a material adverse affect on the use and development of the Property for residential purposes.
- (e) There are no management, service, supply, maintenance or other contracts with respect to or affecting the Property and which would be binding upon BUYER or the Property after the Closing.
- (f) There are no SELLER has no knowledge of any underground storage tanks in, on, under or about the Property.

[Signatures Appear on the Following Page]

**SELLER**

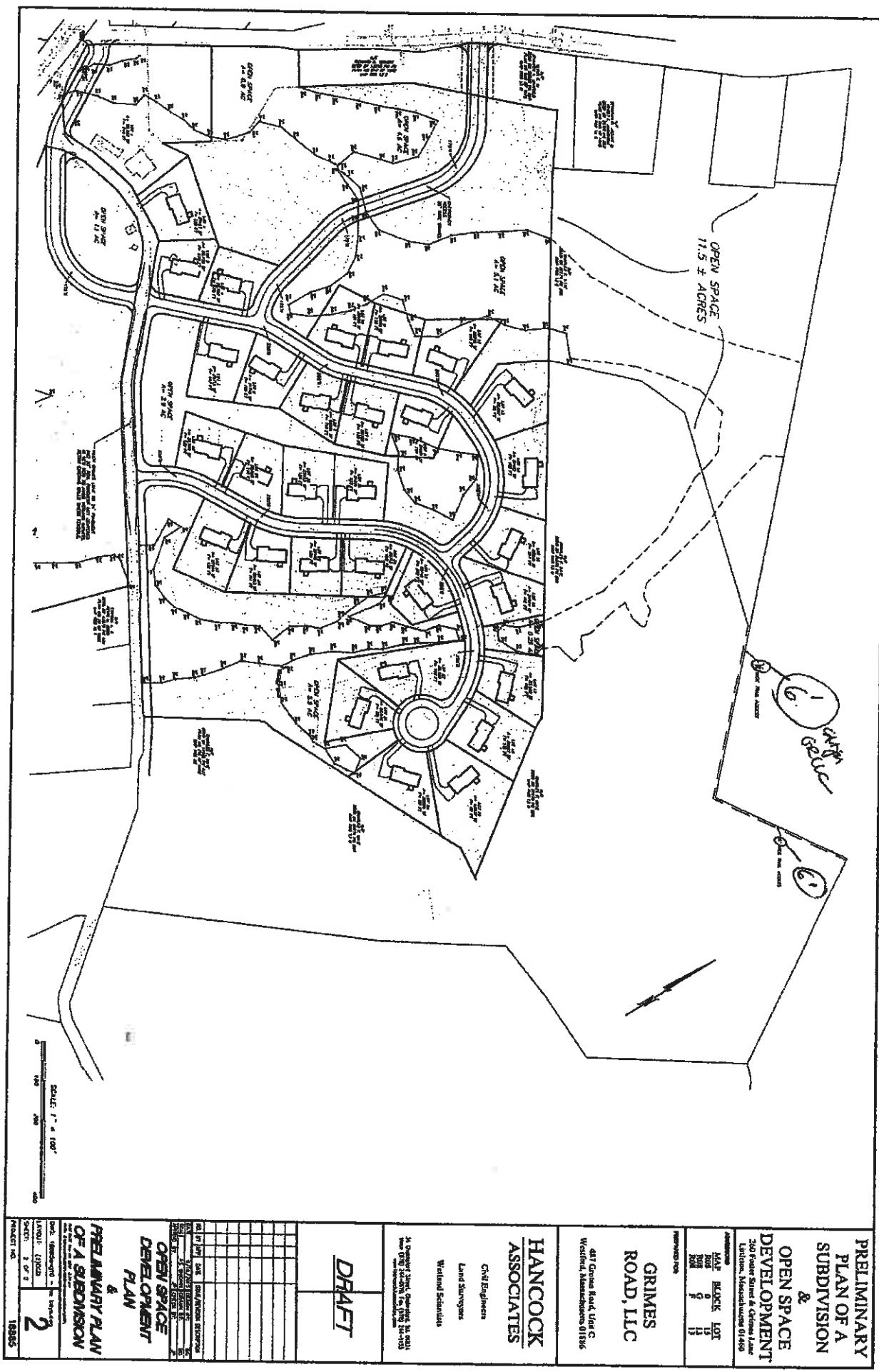
Everda S. Diana, Trustee of The Charles F. Kaye Revocable Trust, and not individually

**BUYER**

David A. Guthrie

Christopher Finneran

## **Exhibit C**



**Exhibit D**

\_\_\_\_\_, 2015

By Certified Mail – Postage Prepaid

Joseph T. Hawkins, Esq.  
Adelson Loria & Weisman, P.C.  
20 Park Plaza  
Boston, MA 02116

Re: Notice of Intent to Sell and Convert Pursuant to *M.G.L. c.61B, §9*  
One Parcel of Land Along Grimes Land, Assessor's Map R-08, Parcel  
13

Dear Mr. Hawkins:

Reference is made to your notice dated August 21, 2015, provided pursuant to Massachusetts General Laws Chapter 61B, Section 9 pertaining to the following parcel of land in Littleton, Massachusetts:

The land located along Grimes Land, Littleton, Middlesex County, Massachusetts consisting of one parcel of land totaling approximately 43 acres and shown as Assessor's Map R-08, Parcel 13.

The Property is owed by The Charles F. Kaye Revocable Trust and recorded with the Middlesex South District Registry of Deeds at Book 21275, Page 286.

Please be advised that at a duly posted and convened meeting of the Littleton Board of Selectmen on \_\_\_\_\_, 2015, a majority of the Board of Selectmen voted NOT TO EXERCISE THE OPTION to purchase the Property as provided by *M.G.L. c.61B, §9*. This notice is provided for purposes of recording this notice of non-exercise with the Middlesex South District Registry of Deeds.

Thank you for your attention to this matter.

[signature page to follow]

Date: October 5, 2015

Littleton Board of Selectmen

---

James Karr, Chair

---

Melissa Herbert, Vice Chair

---

Paul Avella, Clerk

---

Joseph Knox

---

Charles DeCoste