

GRANTOR: Littleton Conservation Trust

GRANTEE: Town of Littleton, Board of Water Commissioners

ADDRESS OF PREMISES: **Parcel C and Parcel D** on the plan entitled “Open Space Development Plan of Land in Littleton, Mass., Prepared for Emily B. Cobb Trust B”, as referenced herein

GRANTOR’S TITLE: Middlesex South Registry of Deeds 37573, Page 533

**AMENDMENT TO DEED WITH
CONSERVATION RESTRICTION AND EASEMENTS
(DOCUMENT A)**

Whereas, on January 6, 2003, Robert C. Cobb, Jr. and John A. Perkins, as Trustees of the Emily B. Cobb Trust B, with their respective heirs, successors and assigns, (hereinafter collectively referred to as the “Grantor”) granted, with quitclaim covenants, to the Littleton Conservation Commission, having a mailing addressing of 37 Shattuck Street, Littleton, Massachusetts 01460, a certain Conservation Restriction, recorded at the Middlesex South District Registry of Deeds (the “Registry”) in Book 37573, Page 553 (the “Conservation Restriction”), in perpetuity and exclusivity for the purposes set forth therein, over a 21.46 acre portion of Grantor’s land located in the Town of Littleton and more precisely defined as those parcels shown as “Parcel C” and Parcel D on the on a plan entitled “Open Space Development Plan of Land in Littleton, Mass., Prepared for Emily B. Cobb Trust B, Scale: 1” = 80’”, containing six (6) sheets, dated April, 2001 and July, 2001, plan number L-2964, prepared by David E. Ross Associates, Inc., certified by David Edwards Ross on July 31, 2001, and recorded at the Registry as Plan Number 1180 of 2001 (the “Open Space Development Plan”);

Whereas, by the same instrument, the Trustees of the Emily B. Cobb Trust B, granted to the Littleton Conservation Trust, a Massachusetts charitable corporation having an address of P.O. Box 594, Littleton, Massachusetts 01460, with its successors and permitted assigns (“LCT”) with quitclaim covenants, Parcel C and Parcel D as shown on the Open Space Development Plan;

Whereas, the Town of Littleton, acting by and through its Board of Water Commissioners seeks to install public water supply wells on Lots 10 and 11 as shown on the Open Space Development Plan (the “Water Supply Parcels”);

Whereas, due to the installation of wells on the Water Supply Parcels, a portion of Parcel D will be located in the MassDEP approved protection Zone I for public drinking water supplies. These Zones are defined by 310 CMR 22.00 as areas of land which must be protected to ensure public health and is more fully depicted as **[REFERENCE TO ZONE I MAP]**

Whereas, LCT, and its successors and permitted assigns (the “Grantor”) agrees to grant certain rights to the Littleton Board of Water Commissioners, with an address of 39 Ayer Road,

Littleton, Massachusetts 01460, together with its successors and permitted assigns (“Littleton Board of Water Commissioners”) to ensure that the use of the area within the Zone I Area complies with the obligations of 310 CMR 22.21;

Whereas, LCT further agrees to grant certain access rights to the Littleton Board of Water Commissioners to permit access to and use of the Zone I Area;

Whereas, the Grantor, the Littleton Conservation Commission, the Littleton Board of Water Commissioners, and the Executive Office of Energy and Environmental Affairs have determined that such amendments to the Conservation Restriction will have a positive effect upon the public interest; and

Now, therefore, in consideration of the agreements and covenants set forth herein, and other goods and valuable consideration, the receipt and adequacy of which is hereby acknowledge, the Grantor, the Littleton Conservation Commission, and the Littleton Board of Water Commissioners agree as follows:

1. The Conservation Restriction is hereby amended as follows:

A. Section II is hereby amended by adding a new paragraph after the first full paragraph in the Section to read as follows:

Further, Grantor hereby grants, with quitclaim covenants, to the Littleton Board of Water Commissioners, with an address of 39 Ayer Road, Littleton, Massachusetts 01460, together with its successors and permitted assigns, hereinafter collectively referred to as the “Board of Water Commissioners”, in perpetuity and exclusively for the purposes set forth herein, the following described Conservation Restriction over such portions of the Premises located within the Massachusetts Department of Environmental Protection’s approved protection Zone I for public drinking water supplies only, as shown on [PLAN] and attached as Exhibit X (the “Zone I Area”).

B. Section I.1 shall be amended by inserting a new subsection (g), as follows:

- (g) A portion of the Premises is located in the MassDEP approved protection Zone I for public drinking water supplies. These Zones are defined by 310 CMR 22.00 as areas of land which must be protected to ensure public health. The portion of the Premises within the Zone I are restricted to protect the groundwater and drinking water quality.

C. Section I.2 shall be amended by inserting a new subsection (k), as follows:

- (k) In addition to those uses outlined in Section I.2(a)-(j), within the Zone I Area, the following acts and uses are prohibited:
- (i) all activities and uses of the Zone I Area, not related to the operation or maintenance of the water supply;
 - (ii) Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories;
 - (iii) Using the Zone I Area towards building or development requirements on this or any other parcel;
 - (iv) Storing or applying fertilizers as defined in Section 64 of Chapter 128 of the Massachusetts General Laws, storing or applying animal manure; and storing or applying pesticides defined by the Federal Insecticide, Fungicide and Rodenticide Act and those listed on the Massachusetts Department of Agriculture's Groundwater Protection List;
 - (v) Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
 - (vi) Using the Zone I Area for residential or industrial purposes not expressly permitted in Section I.3(l);
 - (vii) Removing native species, trees or grasses except for occasional removal activities related to the protection of the water supply or the conservation of the Zone I Area; and
 - (viii) Any use of the Zone I Area which is inconsistent with the purpose of this Conservation Restriction for public drinking water supply purposes or any activity that would materially impair its Conservation Values.

D. Section I.3 shall be amended by striking the first paragraph in its entirety and inserting, in place thereof, the following:

Exceptions to Otherwise Prohibited Acts and Uses. The following acts and uses otherwise prohibited in Section I, Paragraph 2 shall be permitted on the portion of the Premises located outside of the Zone I Area, provided that such acts or uses do not materially impair significant conservation interests. Only those acts and uses listed in Section I, Paragraph 3(l) shall be permitted on the portion of the Premises

located in the Zone I Area and provided that such acts or uses do not materially impair the conservation interests relative to the Zone I Area and the operation of a public drinking supply well.

E. Section I.3 shall be amended by inserting a new subsections (l) as follows:

- (l) The uses specified below shall be permitted within the Zone I Area only if such acts or uses do not materially impair the conservation interests relative to the Zone I Area and the operation of a public drinking supply well:
 - (i) Activities conducted by the Town of Littleton Board of Water Commissioners or the Town of Littleton Water Department or its designee, which are necessary and incidental to the construction, installation, operation, maintenance, inspection, repair, replacement and protection of wells and associated infrastructure necessary and incidental to the use of a public water supply, including the construction and installation of monitoring wells, consistent with the requirements of Massachusetts Drinking Water Regulations 310 CMR 22.00;
 - (ii) The installation, maintenance, and replacement of signage with respect to drinking water supply protection and public access;
 - (iii) Vegetation maintenance including pruning, trimming, cutting, mowing, and removing brush and non-native, nuisance or invasive species to prevent, control and manage hazards, disease, insect or fire damage, to maintain and provide access to the Zone I Area; and
 - (iv) Acts and uses listed in Section I, Paragraphs 3(a), (b), (e), and (h).

F. Section I.5(a)(ii) shall be amended to read as follows:

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Conservation Commission, the Board of Water Commissioners, and the LCT shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Conservation Commission, the Board of Water Commissioners, and the LCT shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed among the Conservation Commission, the Board of Water Commissioners and LCT as follows: one half of the proceeds to the LCT and one half to the Town of

Littleton, such funds to be placed in the general fund and to be appropriated and used in a manner consistent with the conservation purposes set forth herein.

- G. Section I.5(b) shall be amended by striking the phrase “of the Conservation Commission” in the title to the Section, by adding the phrase “and Board of Water Commissioners” after the phrase “Conservation Commission” everywhere such phrase appears in the Section, and by inserting a new paragraph, as follows:

The Board of Water Commissioners shall have no authority to enforce this Conservation Restriction over those portions of the Premises not located within the Zone I Area. The Conservation Commission and the Board of Water Commissions shall have independent authority to enforce this Conservation Restriction over the portion of the Premises located within the Zone I Area.

- H. Section I.5(c) shall be amended by inserting the phrase “and Board of Water Commissioners” after the phrase “Conservation Commission” everywhere such phrase appears in the Section, and by striking the first instance of the word “does” and replacing it with the word “do”;
- I. Section I.5(d) shall be amended by adding the phrase “, Board of Water Commissioners” after the phrase “the LCT” in the second sentence;
- J. Section I.5(e) shall be amended by adding the phrase “and to the Board of Water Commissioners, where such transfer impacts the Zone I Area,” after the phrase “the Conservation Commission”

2. The Access Easement is hereby amended as follows:

- A. Section II.2 shall be amended by inserting a new subsection d. as follows

d. The Grantor, together with their successors and permitted assigns, grant, with quitclaim covenants to the Town of Littleton, acting by and through its Board of Water Commissioners, together with its successors and permitted assigns, an Access Easement over the Zone I Area located on Parcel D for the purposes of (1) accessing the Zone I Area, including the Zone I Area located on Lots 9-11, Lots 13-14, and Parcel B on the ANR Plan, (2) constructing, installing, maintaining, and operating wells and associated infrastructure necessary and incidental to the operation of a public water supply, including monitoring wells, consistent with the requirements of Massachusetts Drinking Water Regulations 310 CMR 22.00 within the Zone I Area only; (3) installing, maintaining, and replacing signs with respect to drinking water supply protection and public access; and (4) performing vegetation maintenance including pruning, trimming, cutting, mowing, and removing brush and non-native, nuisance or invasive species to

prevent, control and manage hazards, disease, insect or fire damage, to maintain access to the Zone I Area, as well as the condition of the Zone I Area.

3. Except as expressly amended by the foregoing, all other provisions contained within the Deed with Conservation Restriction and Easement recorded in the Registry at Book 37573, Page 553, shall remain in full force and effect.

Executed this _____ day of _____, 2022 under seal.

DRAFT

ACCEPTANCE OF AMENDMENT
LITTLETON CONSERVATION TRUST

The foregoing amendment to the Conservation Restriction and Access Easement by Littleton Conservation Trust this _____ day of _____, 2021.

By: _____

Its: _____, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

TOWN OF LITTLETON BOARD OF WATER COMMISSIONERS
ACCEPTANCE OF GRANT

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The foregoing Conservation Restriction and Access Easement was accepted by the Town of Littleton, Board of Water Commissioners, on this _____ day of _____

Chair, Board of Water Commissioners, duly authorized

COMMONWEALTH OF MASSACHUSETTS

_____ ss:

On this _____ day of _____, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that [s/he] signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

GRANT OF AMENDMENT

TOWN OF LITTLETON, CONSERVATION COMMISSION

The foregoing Conservation Restriction amendment was approved by the Town of Littleton's Conservation Commission on this _____ day of _____.

Chair, Conservation Commission, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose on b.

Notary Public

My Commission Expires:

APPROVAL OF TOWN OF LITTLETON SELECT BOARD

The undersigned, Chair of the Select Board of the Town of Littleton, hereby certifies that at a public meeting duly held on _____, the Select Board voted to approve the foregoing Conservation Restriction and Easement, acting by and through its Board of Water Commissioners in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

_____ Select Board _____ duly authorized.

COMMONWEALTH OF MASSACHUSETTS

_____, ss:

On this _____ day of _____ before me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [s/he] signed it voluntarily for its stated purpose as Select Board [Chairman/Chair].

Notary Public
My Commission Expires:

**APPROVAL BY THE MASSACHUSETTS DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

The undersigned _____ of the Massachusetts Department of Environmental Protection, hereby approves the foregoing Conservation Restriction is in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____

COMMONWEALTH OF MASSACHUSETTS

_____, ss:

On this ____ day of _____ before me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [s/he] signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

DRAFT

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

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

Dated: _____

Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose Name is signed on the proceeding or attached document, and acknowledged to me that [s/he] signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: