

Middlesex South Registry of Deeds

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Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

GRANTOR: Wheeler Self Storage, LLC
GRANTEE: Town of Burlington Conservation
Commission
ADDRESS OF PREMISES: 7 Wheeler Road
FOR GRANTOR'S TITLE SEE: Middlesex South
Registry of Deeds at Book 75187, page 388

CONSERVATION RESTRICTION

Wheeler Self Storage, LLC, a Delaware limited liability company with an address of 1900 Crown Colony Drive, Suite 405, Quincy, MA 02169, being the sole owner and constituting all of the owner(s) of the Premises as defined here, for its successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grants, with QUITCLAIM COVENANTS, to the Town of Burlington, acting by and through the Conservation Commission by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, with an address of 29 Center Street, Burlington, Massachusetts, their permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in the Town of Burlington containing a 9.00+/- acre portion of an 11.03+/- acre property ("Premises"), which Premises is more particularly described in Exhibit A and shown as the "Proposed Conservation Restriction / Conservation Easement Area = 9.00 Acres" on a plan of land entitled "Conservation Easement Plan" as prepared by BL Companies, dated October 24th 2020, a reduced copy of which is included herewith as Exhibit B, both of which exhibits are incorporated herein and attached hereto.

I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to ensure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its conservation and preservation values ("conservation values").

This Conservation Restriction is required by the following permits and related documents related to the development of an 116,641+/- square foot, five-story self-storage facility with associated surface parking and on-site infrastructure improvements ("Permitted Development"): Site Plan

issued by the Planning Board and filed with the Town Clerk on May 25, 2018 ("Site Plan"); Special Permit filed with the Burlington Town Clerk on May 25, 2018 and recorded at the Middlesex South Registry of Deeds as Book 71169 Page 489 ("Special Permit"); and Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection (DEP) and recorded at the Middlesex South Registry of Deeds as Book 73760 Page 445 ("Order"). The "Site Plan", "Special Permit" and "Order" are hereinafter collectively referred to as the "Project Decisions".

The conservation values include the following:

The conservation values are summarized below. The Permitted Development located outside the Premises is limited to approximately two acres on the eastern portion of the 4.38 acres located to the east of Rounder Way.

- Open Space Protection. The Premises contributes to the protection of the scenic and natural character of the Vine Brook Watershed area and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts approximately 20 acres of protected open space located on the south side of Blanchard Road.
- Flood Plain Protection. The majority of the Premises lies within the 100-year floodplain of the Vine Brook Watershed. The protection of this floodplain will ensure the continued availability of flood storage during major storm events. Compensatory flood storage basins will be constructed on the Premises will encompass approximately 64,379 square feet, and will provide approximately 179,254 cubic feet of flood storage, representing an increase in flood storage capacity on the Premises, and assisting with flood management.
- Soils. The majority of the Premises is identified as Prime Farmland Soils by the USDA Natural Resources Conservation Service. The soils will not be disturbed except for the construction of compensatory flood stage basins as described above. The preservation of the Premises will conserve soils that contribute important landscape characteristics to the overall beneficial ecological integrity of the Premises and assist in improving biodiversity, sediment retention, and pollution prevention.
- Water Resources. The protection of the riparian corridor afforded by this CR will enhance Vine Brook Watershed by preserving aesthetic as well as physical characteristics that contribute to overall stream health. The contributing landscape located on the Premises will remain undisturbed riparian and wetland habitat on the Premises along Vine Brook, which contribute to the health of the area's water quality.
- Water Quality Protection. The Premises is within a medium and high yield aquifer and is within a Zone II Wellhead Protection Area (PWS 3048000), as defined by DEP. The preservation of this portion of the Premises will contribute beneficial recharge of groundwater supplies and local aquifers.
- Biodiversity and Resource Protection. The Premises provides important wildlife habitat as part of the larger protected area linked to the adjacent 20-acre parcel and to the larger

ecosystem associated with the Mary Cummins Park. The Premises represents diminishing habitat within urbanized settings that is critical to preservation of existing migratory and resident avian species. The Premises includes a largely undisturbed woodland adjacent to wetlands and mixed understory of native woodland plants supporting nesting sites for avian species as well as rearing and foraging opportunities for local and transient mammals.

- Furtherance of Government Policy. Protection of the Premises furthers the Town of Burlington's Open Space and Recreation Plan, including the goals of: conservation, recreation, agriculture, and for the scenic quality and contribution to the overall character of the town.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report entitled "Environmental Resources Report, dated October 23, 2017, revised February 16, 2018 prepared by BL Companies" ("Baseline Report"), consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

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

A. Prohibited Acts and Uses

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

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;

- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;
- (7) Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel except as permitted under the Project Decisions and any amendments thereof;
- (8) The use of the Premises for business, residential or industrial use, or for more than *de minimis* commercial recreation;
- (9) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

B. Reserved Rights and Exceptions

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

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Report, woods roads, fence lines and trails and meadows;
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;

- (4) Wildlife Habitat Improvement. With the prior written approval of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (5) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).
- (6) Trails. The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior written approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than four (4) feet;
- (7) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the protected conservation values;
- (8) Outdoor Passive Recreational Activities. Walking and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
- (9) Existing Roadway and Driveways. The installation, maintenance, and repair of roadways, driveways, and sidewalks, including but not limited to paving, repaving, widening, and curbing, and utility installation, all to be limited to those areas identified as Proposed 25' Wide Easement to the Town of Burlington for Roadway Improvements and Proposed 50' Wide Easement For Maintenance and Repair of Rounder Way on the plan in Exhibit B;
- (10) Compensatory Flood Storage Basins. The construction, installation, and maintenance of compensatory flood storage basins as such work is shown on the land development plans titled "Permitting Documents for Proposed Self-Storage Facility in the Town of Burlington, Massachusetts" as prepared by BL Companies and dated October 23, 2017, revised to May 19, 2020, as amended from time to time, on record with the Town of Burlington Conservation Commission and attached as Exhibit C and as shown on the plans referenced in the Order. More specifically, such activities may include tree removal, clearing and grubbing, earthwork, the installation of erosion controls, and landscaping.
- (11) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph II(B) shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph II(B), any disturbed

areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report.

- (12) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph II(B) shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (13) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph II(B) shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Notice and Approval.

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

Subject to any applicable law or regulation, failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not impair the conservation values or purposes of this Conservation Restriction.

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

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

Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

B. Non-Waiver.

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

C. Disclaimer of Liability

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

D. Acts Beyond the Grantor's Control

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

IV. ACCESS

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

The Grantor grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph II(B)(8) provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the purposes and conservation values of this Conservation Restriction. Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph II(B)(8). The Grantor's right to grant public access across the Premises is subject to the restrictions described in this Conservation Restriction. Any public use which is permitted by the terms of this Conservation Restriction constitutes permission to use the Premises for purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantee hereto benefit from exculpation from liability to the extent provided in such section. The Grantee may require the Grantor to post the Premises against any use that may result in rutting or erosion or other damage to the natural resources of the Premises.

V. EXTINGUISHMENT

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph V(B), subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

B. Proceeds. Grantor and Grantee agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted Premises. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds will be distributed only after complying with the terms of any gift, grant, or other funding requirements.

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

VI. DURATION & ASSIGNABILITY

A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the assignee is not an owner of the fee in the Property, and the assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

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

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

VIII. ESTOPPEL CERTIFICATES

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

IX. NON MERGER

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

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Art. 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South Registry of Deeds.

XI. EFFECTIVE DATE

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

XII. NOTICES

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

To Grantor: Wheeler Self Storage, LLC
1900 Crown Colony Drive, Suite 405
Quincy, MA 02169

To Grantee: Town of Burlington
 Conservation Commission
 Attention: Conservation Administrator
 Town Hall Annex
 25 Center Street
 Burlington, Massachusetts 01803

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

XIII. GENERAL PROVISIONS

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

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

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

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

XIV. MISCELLANEOUS

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

B. Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease,

financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

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

Signature pages:

Grantor

Grantee Acceptance

Approval by Board of Selectmen

Approval by Conservation Commission

Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Plan of the Premises

Exhibit C: Reduced Copy of Compensatory Flood Storage Basins Plan

WITNESS my hand and seal this 5 day of May, 2021,

Wheeler Self Storage, LLC

By:

Jay O. Hirsh, its Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss:

On this 5 day of May, 2021, before me, the undersigned notary public, personally appeared Jay O. Hirsh, and proved to me through satisfactory evidence of identification which was drivers License to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Kristina K. Cartwright
Notary Public Kristina K. Cartwright
My Commission Expires: 7-8-2027



ACCEPTANCE OF GRANT BY TOWN OF BURLINGTON CONSERVATION COMMISSION

We, the undersigned, being a majority of the Conservation Commission of the Town of Burlington, Massachusetts, hereby certify that at a public meeting duly held on May 13, 2021, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from Wheeler Self Storage, LLC pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby accept the foregoing Conservation Restriction.

BURLINGTON CONSERVATION COMMISSION:

Larry Cohen
Larry Cohen, Chair

William Boivin
William Boivin, Vice-chair

Indra Deb, Member

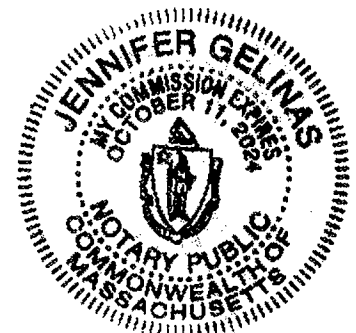
Gail Lima
Gail Lima, Member

Ed LoTurco
Ed LoTurco, Member

Jennifer O'Riorden, Member

Don Bernstein, Member

Kent Moffatt, Associate



COMMONWEALTH OF MASSACHUSETTS

Middlesex South, ss:

On this 18th day of MAY, 2021, before me, the undersigned notary public, personally appeared Larry Cohen, and proved to me through satisfactory evidence of identification which was personally known to me to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.


Jennifer Gelinas
Notary Public


My Commission Expires: 10-11-2024

APPROVAL OF SELECT BOARD OF TOWN OF BURLINGTON


We, the undersigned, being a majority of the Select Board of the Town of Burlington, hereby certify that at a public meeting duly held on May 24, 2021, the Select Board voted to approve the foregoing Conservation Restriction from Wheeler Self Storage, LLC to the Town of Burlington, acting by and through its Conservation Commission, in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

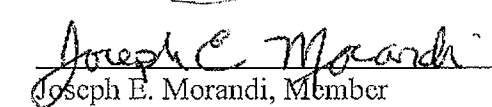
SELECT BOARD:


 James M. Tigges, Chair


 Nicholas C. Priest, Vice Chair


 Robert C. Hogan, Member

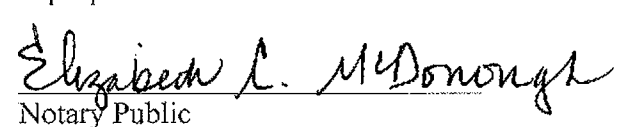
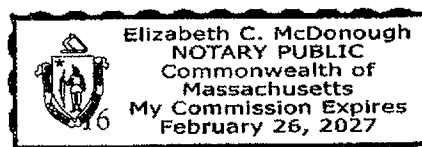

 Michael S. Runyan, Member


 Joseph E. Morandi, Member

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

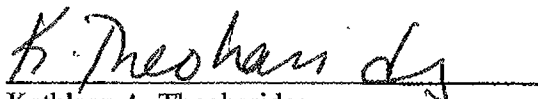
On this 24th day of May, 2021, before me, the undersigned notary public, personally appeared above Board of Selectmen, and proved to me through satisfactory evidence of identification which was personally known to me to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.


 Elizabeth C. McDonough
 Notary Public
 My Commission Expires:


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

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Wheeler Self Storage, LLC to the Town of Burlington, acting by and through its Conservation Commission, has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: June 11th, 2021

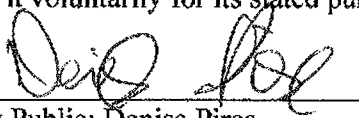


Kathleen A. Theoharides
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this 11th day of June, 2021, before me, the undersigned notary public, personally appeared Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.



Notary Public: Denise Pires
My Commission Expires: December 28th, 2023

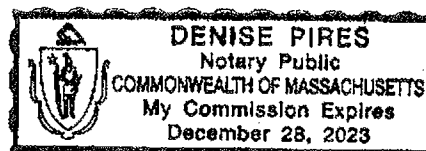


EXHIBIT A

LEGAL DESCRIPTION
Conservation Restriction Premises
7 Wheeler Road
Burlington, Massachusetts

A certain tract or parcel of land situated in the Town of Burlington, County of Middlesex, Commonwealth of Massachusetts, containing 9.00 acres, and being bounded and described as follows:

Beginning at a granite monument on the northerly street line of Wheeler Road;

Thence running along said northerly street line of Wheeler Road South 35°38'34" West a distance of 493.94 feet to a point; along a curve to the right, having a radius of 380.00 feet, an arc length of 7.74 feet, a delta angle of 01°10'01", and a chord bearing of South 36°13'34" West, a chord distance of 7.74 feet to a point;

Thence running along land now or formerly RLJ Burlington Hotel, LLC North 24°10'48" West a distance of 758.92 feet to a point;

Thence running along land now or formerly Patriot Power, LLC the following four (4) courses and distances: North 83°48'11" East a distance of 441.80 feet to a point; South 82°15'08" East a distance of 197.68 feet to a point; North 28°56'32" East a distance of 110.81 feet to a point; North 40°08'52" East a distance of 251.34 feet to a point;

Thence running through land now or formerly First Burlington Limited Partnership South 49°51'08" East a distance of 324.26 feet to a point on said northerly street line of Wheeler Road;

Thence running along said northerly street line of Wheeler Road the following (3) courses and distances: along a curve to the left, having a radius of 580.00 feet, an arc length of 75.26 feet, a delta angle of 07°26'02", and a chord bearing of South 58°47'51" West, a chord distance of 75.20 feet to a point; South 55°04'49" West a distance of 332.32 feet to a point; along a curve to the left, having a radius of 660.00 feet, an arc length of 223.90 feet, a delta angle of 19°26'14", and a chord bearing of South 45°21'42" West, a chord distance of 222.83 feet to the point and place of beginning.

EXHIBIT B – Reduced Copy of Plan of the Premises

