

**COFFIN CONSERVATION RESTRICTION  
TO  
SUDBURY VALLEY TRUSTEES**

**I. GRANTOR CLAUSE:**

**THE TOWN OF BEDFORD**, a Massachusetts municipal corporation having an address of 10 Mudge Way, Bedford, Middlesex County, Massachusetts, 01730, acting pursuant to M.G.L. Chapter 184 §31-33 and in accordance with the provisions of M.G.L Chapter 44B §12A as it may hereafter be amended (“Grantor”, which expression includes their successors and legal assigns), hereby grants, with quitclaim covenants, to **SUDBURY VALLEY TRUSTEES, INC.**, a Massachusetts not-for-profit corporation organized under the provisions of M.G.L. Chapter 180, with a mailing address of 18 Wolbach Road, Sudbury, Middlesex County, Massachusetts, 01776 (“Grantee”, which expression includes its successors and legal assigns), in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction on a parcel of land located at 32A Chelmsford Road in the Town of Bedford, Massachusetts, constituting approximately 11.63 acres, said parcel being described in order of taking recorded in the Middlesex South Registry of Deeds (the “Registry”) at Book 44396 Page 538 and shown as “Parcel B” on a plan of land entitled “Subdivision Plan of Land in Bedford, Mass.” prepared by Emmons, Fleming, & Bienvenu, Inc. Surveyors, dated June 1978 and recorded at the Registry as Plan Number 1275 of 1978 (the “Plan”) attached hereto in reduced form as Exhibit A (hereinafter referred to as the "Premises").

**II. PURPOSES:**

The acquisition and protection of the Premises has been made possible by funds generated in accordance with the Community Preservation Act (M.G.L. Chapter 44B), and that said acquisition requires the Premises to be protected with a conservation restriction. The purposes of this Conservation Restriction are to assure that, while permitting certain acts and uses described in Section III.B herein, the Premises will be subject to the prohibitions described in Section III.A hereof so that the Premises are retained in perpetuity predominantly in its natural, scenic, and open condition for fish and wildlife conservation, native habitat protection, management of forest resources as described herein, associated public recreation, and other conservation uses consistent with the spirit and intent of and subject to the protections of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and to prevent any use of the Premises that will significantly impair or interfere with the conservation values thereof. The conservation and permanent protection of the Premises will yield a significant public benefit for the following reasons:

- A. Important wetland and upland habitat for numerous indigenous and migrant wildlife; the area lies just upstream from the “Great Meadows: Billerica, Carlisle, & Concord Biodiversity Site” as identified in *SuAsCo Biodiversity Protection and Stewardship Plan* (Frances Clark, August 2000), as well as upstream from a “Supporting Natural Landscape” as identified in *Biomap: Guiding land conservation for biodiversity in*

*Massachusetts* (Massachusetts Division of Fisheries & Wildlife, Natural Heritage & Endangered Species Program, 2001);

- B. Vast wooded wetlands and bordering vegetated wetlands covering more than 80% of the property, which provides natural flood control to neighboring communities, groundwater recharge, and subsequent baseflow to Mill Brook and its tributary;
- C. Mill Brook and its tributary, which join on the premises to form a perennial tributary to the Concord River, bisects the property, with 1,200 linear feet of stream bank contained within;
- D. Important greenways connection to nearly 140 acres of adjacent conservation restricted land protected by the Town of Bedford's Conservation Commission, which in turn adjoins thousands of acres of federally-protected conservation land in the Great Meadows National Wildlife Refuge complex, as identified in the *Greenways Plan for the SuAsCo Watershed* (Sudbury Valley Trustees, April 2000);
- E. Free and open access to the public for passive recreational purposes as further outlined in Sections III and VI below.

### **III. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES:**

- A. Prohibited Acts and Uses. Subject to the exceptions set forth in paragraph B below, the following acts and uses are prohibited on the Premises:
  - 1. Constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure, utility, or facility on, under, or above 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 except as necessary for proper soil conservation and then only in a manner which does not impair the purposes of this Conservation Restriction;
  - 3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks;
  - 4. Cutting, removing or otherwise destroying trees, shrubs, grasses or other vegetation, including leaf litter;
  - 5. The conveyance of a part or portion of the Premises alone, or the division or subdivision of the Premises (as compared to the conveyance of the Premises in its entirety which shall be permitted) without the prior written consent of Grantee;

6. Activities detrimental to wildlife habitat, drainage, flood control, water conservation, water quality, erosion control or soil conservation including the use of motorized recreational vehicles, except for emergency vehicles;
  7. Commercial recreational activities;
  8. Any other activity on or use of the Premises that is inconsistent with the purposes of this Conservation Restriction.
- B. Reserved Rights: Notwithstanding any provisions of Paragraph A above, the Grantor reserves to itself and its successors the right to conduct or permit the following activities on and uses of the Premises, but only if such uses and activities do not materially impair the Purposes of this Conservation Restriction.
1. Excavation and removal from the Premises of soil, gravel or other mineral resource or natural deposit as may be incidental to the maintenance of good drainage, provided that (a) such activities follow generally accepted soil conservation practices, and (b) disturbed areas are re-vegetated with native plant materials.
  2. Limited and selective pruning and clearing for non-commercial purposes incidental to (a) forest fire prevention or management, (b) unpaved trail establishment, marking, and maintenance, (c) control or prevention of an imminent hazard to structure or life, (d) control or prevention of a grave or formidable disease, (e) control and removal of invasive or exotic species, or (e) otherwise to preserve the present condition of the Premises.
  3. Hiking, horseback riding, cross-country skiing and other non-motorized passive outdoor recreational and educational activities.
  4. Erection of signs by the Grantor or Grantee identifying Grantee as holder of the Conservation Restriction and Grantor as owners of the property and educating the public about the conservation values protected and uses allowed.

C. Permitted Acts and Uses:

All acts and uses not explicitly permitted by Section III, paragraph B are prohibited unless otherwise approved as described in Section IV below.

**IV. NOTICE AND APPROVAL:**

A. Notice of Intention to Undertake Certain Permitted Actions

Grantor agrees to notify Grantee, in writing, before exercising any right described under Section III as a permitted use that explicitly requires notice to Grantee. The purpose of requiring such notice is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is

consistent with the purposes of this Conservation Restriction. Whenever notice is required, Grantor shall notify Grantee in writing not less than forty-five (45) 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 Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction.

**B. Grantee's Approval**

Grantee shall grant or withhold their approval in writing within forty-five (45) days of receipt of Grantor's written request therefor. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the Purposes of this Conservation Restriction. Failure of Grantee to respond in writing within such forty-five (45) 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 the passage of time.

**V. 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 its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee(s).

**B. Reimbursement of Costs of Enforcement**

The Grantor, and thereafter its successors and assigns, covenant and agree to reimburse the Grantee for all reasonable costs and expenses (including without limitation counsel fees) incurred in enforcing this Conservation Restriction or in remedying or abating any violation thereof.

**C. Limit of Liability**

By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises, including with respect to compliance with hazardous materials or other environmental laws and regulations.

**D. Severability Clause**

If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

E. Non-Waiver

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.

**VI. ACCESS:**

The Grantee and its representatives are hereby granted the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of inspecting the same to determine compliance herewith. This Conservation Restriction also grants to the general public the right to enter upon the Premises for passive outdoor recreational purposes including, but not limited to, hiking, wildlife observation, cross-country skiing, horseback riding, and other non-motorized, passive outdoor recreational and educational activities (except for motorized wheelchairs or similar equipment reasonably necessary to enable handicapped members of the public to access the Premises or as otherwise outlined in Section III of this Conservation Restriction, which shall be allowed).

**VII. EXTINGUISHMENT:**

A. Grantee's Receipt of Property and Development Rights

The Grantor and the Grantee agree that the grant of this Conservation Restriction gives rise for purposes of this paragraph 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, determined at the time of the conveyance, bears to the value of the unrestricted Premises at that time, and represents all development rights associated with the Premises.

B. Value of Grantee's Property Right

Such proportionate value of the Grantee's property right shall remain constant.

C. Right of Grantee to Recover Proportional Value at Disposition

If any occurrence ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then the Grantee, on a subsequent sale, exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds equal to such proportionate value, subject, however, to any applicable law which expressly provides for a different disposition of proceeds.

D. 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.

E. Allocation of Expenses upon Disposition

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 shares equal to such proportionate value.

F. Continuing Trust of Grantee's Share of Proceeds of Conservation Restriction Disposition

The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes of this grant.

**VIII. 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 its successors and assigns 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 appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantor and its successors and assigns agrees itself to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instances and from time to time:

1. As a condition of any assignment, the Grantee requires that the purpose of this Conservation Restriction continue to be carried out; and
2. The assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the General Laws as an eligible donee to receive this Conservation Restriction directly; and
3. Grantee complies with the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

**IX. SUBSEQUENT TRANSFERS:**

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. Failure of the Grantor to do so shall not impair the validity of this Conservation Restriction or limit its enforceability in any way.

**X. ESTOPPEL CERTIFICATES:**

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

**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 General Laws have been obtained, and it has been recorded, or if registered land, it has been registered.

**XII. RECORDATION:**

The Grantor shall record this instrument in timely fashion in the Middlesex South Registry of Deeds.

**XIII. TERMINATION OF RIGHTS AND OBLIGATIONS:**

Notwithstanding anything to the contrary contained herein, the rights and obligations under this Conservation Restriction of any party holding any interest in the Premises terminate upon and to the extent of such party's transfer of its interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this Conservation Restriction, shall survive the transfer.

**XIV. MISCELLANEOUS:**

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 Purposes of this Conservation Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Entire Agreement

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

D. Captions

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

E. Pre-existing Rights of the Public

Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of 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.

F. Compliance with Applicable Law

The exercise of any right reserved under this Conservation Restriction by the Grantor or its successors and assigns shall be in compliance with the then-current Zoning By-Law of the Town of Bedford, the state Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40, as amended) and all other applicable federal, state, and local law.

G. 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 prepaid, addressed as follows:



To Grantor: Town of Bedford  
Conservation Commission  
10 Mudge Way  
Bedford, MA 01730

With a copy to: Michael Lehane, Esq.  
Murphy, Hesse, Toomey, & Lehane, LLP  
300 Crown Colony Drive, Suite 410  
P.O. Box 9126  
Quincy, MA 02269

To Grantee: Sudbury Valley Trustees, Inc.  
18 Wolbach Road  
Sudbury, MA 01776

With a copy to: Jonathan Book, Esq.  
Foley Hoag LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, MA 02210

Executed under seal this \_\_\_\_ day of \_\_\_\_\_, 2005.

THE TOWN OF BEDFORD

*By its Board of Selectmen:*

*By its Conservation Commission:*

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COMMONWEALTH OF MASSACHUSETTS, Middlesex County

On this \_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned notary public, personally appeared \_\_\_\_\_, Selectmen of the Town of Bedford, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the people whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS, Middlesex County

On this \_\_\_\_ day of \_\_\_\_\_, 2005, before me, the undersigned notary public, personally appeared \_\_\_\_\_, Conservation Commissioners of the Town of Bedford, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the people whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

**ACCEPTANCE OF GRANT:**

Sudbury Valley Trustees, Inc. accepts the above Conservation Restriction this \_\_\_\_ day of \_\_\_\_\_, 2005, by:

\_\_\_\_\_  
Ronald N. McAdow, *Executive Director*

COMMONWEALTH OF MASSACHUSETTS, Middlesex County

On this \_\_\_\_ day of \_\_\_\_\_, 2005, before me, the undersigned notary public, personally appeared Ronald N. McAdow, Executive Director of Sudbury Valley Trustees, Inc., proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS,  
COMMONWEALTH OF MASSACHUSETTS:**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to SUDBURY VALLEY TRUSTEES, INC. has been approved in the public interest pursuant to M.G.L. Ch. 184, 31-33.

\_\_\_\_\_  
Ellen Roy Herzfelder  
*Secretary of Environmental Affairs*

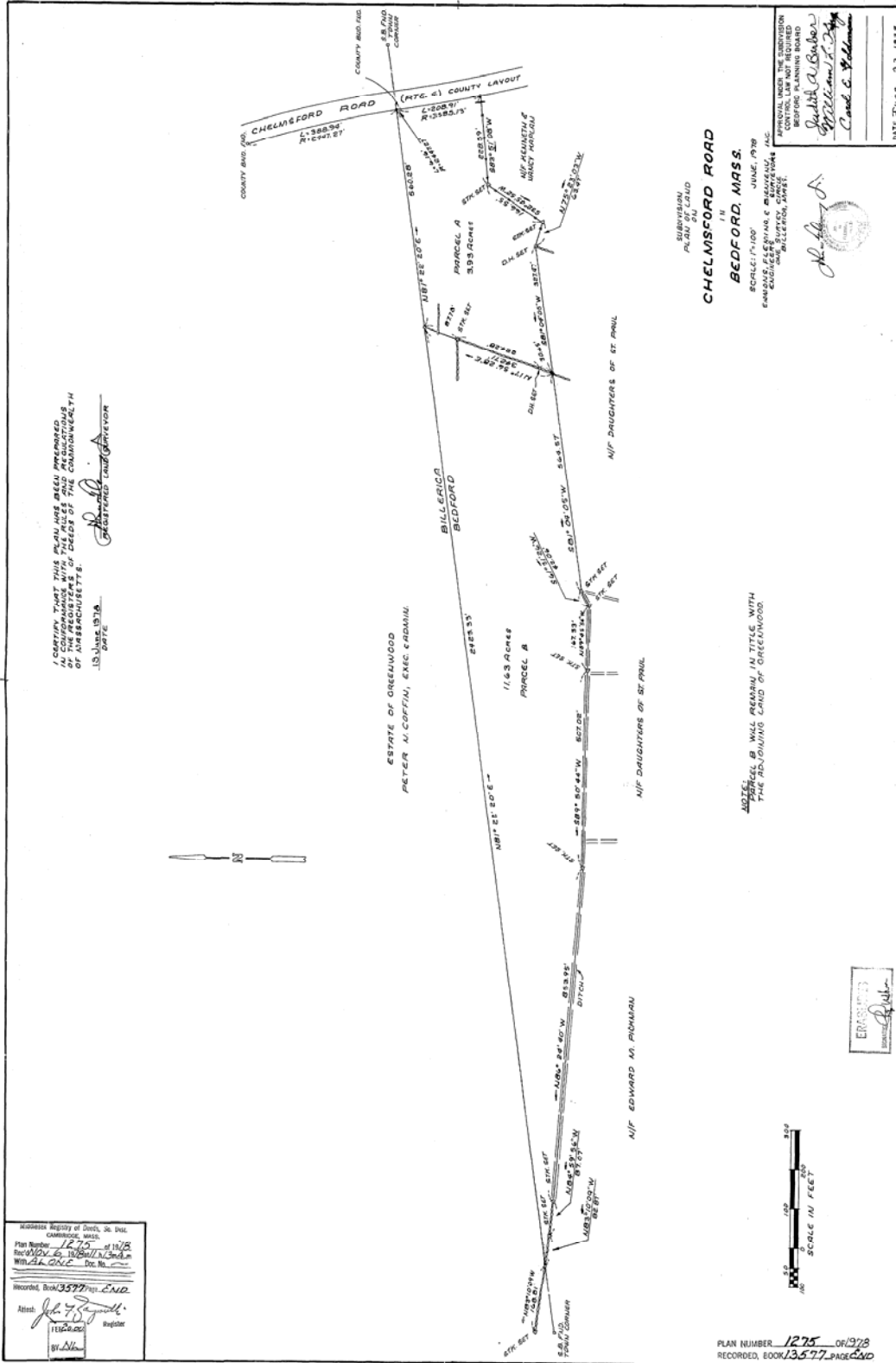
\_\_\_\_\_  
*Date*

COMMONWEALTH OF MASSACHUSETTS, \_\_\_\_\_ County

On this \_\_\_\_ day of \_\_\_\_\_, 2005, before me, the undersigned notary public, personally appeared Ellen Roy Herzfelder, Secretary of the Massachusetts Executive Office of Environmental Affairs, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

# Exhibit A



I CERTIFY THAT THIS PLAN HAS BEEN PREPARED  
 IN ACCORDANCE WITH THE REQUIREMENTS  
 OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH  
 OF MASSACHUSETTS.  
 15 JUNE 1978  
 [Signature]  
 REGISTERED LAND SURVEYOR

SUBDIVISION  
 PLAN OF LAND  
**CHELMSFORD ROAD**  
 IN  
**BEDFORD, MASS.**

SCALE: 1" = 100' JUNE, 1978  
 ENGINEER: SEYMOUR S. BRADEN, INC.  
 REGISTERED PROFESSIONAL ENGINEER  
 100 BULLOCK STREET  
 BOSTON, MASS.

APPROVAL UNDER THE SUBDIVISION  
 CONTROL ACT REQUIRED  
 [Signature]  
 [Signature]  
 DATE: June 23, 1978

NOTE:  
 PARCEL B WILL REMAIN IN TITLE WITH  
 THE ADJOINING LAND OF GREENWOOD

Massachusetts Registry of Deeds, 26, State  
 Courthouse, Woburn,  
 Plan Number 1275 of 1978  
 Rec'd 15 JUN 25 1978  
 Woburn, MASS. Vol. No. 13577  
 Recorded, Book 13577 Page 240  
 Attest: [Signature]  
 1112  
 Register

PLAN NUMBER 1275 OF 1978  
 RECORDED, BOOK 13577, PAGE 240