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**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES**

**Local Acquisitions for Natural Diversity (LAND) PROGRAM
(Formerly the Self-Help Program)**

PROJECT AGREEMENT

Made this 6th day of January, 2015, between the City of Worcester, with an address of 455 Main Street, Worcester, MA 01608, hereinafter referred to as the PARTICIPANT, and the Commonwealth of Massachusetts acting by and through the Secretary of the Executive Office of Energy and Environmental Affairs, hereinafter referred to as the COMMONWEALTH, with an address of 100 Cambridge St., Suite 900, Boston, MA, 02114.

Premises: Approximately 22.7+/- acres of land including any buildings thereon located at 50, 0, and 48R Tory Fort Lane, in the City of Worcester,
_____ County, Massachusetts. For Participant's Title, see;

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Land Court Certificate _____.

In the _____ County Registry of Deeds /
Land Court Registry District

WHEREAS, the PARTICIPANT has established a Conservation Commission under Massachusetts General Laws Chapter 40, § 8C and has made application to the COMMONWEALTH for assistance under the Massachusetts Local Acquisitions for Natural Diversity Program (LAND) pursuant to Massachusetts General Laws Chapter 132A, § 11, as amended, for a project briefly described as follows: **Worcester LAND #14: This project shall consist of the acquisition of a conservation restriction on 22.7± acres of land located in the City of Worcester, known as the Donker Farm project, for permanent conservation and public passive recreation purposes, by the City of Worcester, hereinafter referred to as the PROJECT.**

WHEREAS, the COMMONWEALTH has reviewed said application and found the PROJECT to be in conformance with the purposes of Massachusetts General Laws

(4) MR. 53643-361

Chapter 132A, § 11, as amended, and the LAND Program policies and regulation, 301 CMR 5.00.

WHEREAS, the COMMONWEALTH has approved said application and has obligated certain funds in the amount of **four hundred thousand dollars (\$400,000)** which funds are authorized and subject to 2008 Massachusetts Acts and Resolves, Chapter 312 and 2014 Massachusetts Acts and Resolves, Chapter 286.

WITNESSETH:

1. The COMMONWEALTH and the PARTICIPANT mutually agree to perform the terms and conditions of this Agreement in accordance with the Massachusetts LAND Program, its policies and applicable statutes and regulations, including 301 CMR 5.00, Massachusetts General Laws Chapter 132A, § 11, as amended, Massachusetts General Laws Chapter 40, C 8C, the 2008 Massachusetts Acts and Resolves, Chapter 312, §2A Account 2000-7013 and 201 Massachusetts Acts and Resolves, Chapter 286, §2, 2000-7066: local acquisition for natural diversity (LAND) grant program.
2. The PARTICIPANT agrees to perform the PROJECT described above by authorizing its CONSERVATION COMMISSION to manage, maintain, and operate the PROJECT in accordance with the terms, conditions and obligations contained in the PARTICIPANT'S application(s), as approved, including any promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances made a part thereof, and the PARTICIPANT'S award letter, and furthermore, in accordance with any special terms and conditions attached to and incorporated in this Agreement. No significant deviations from the PROJECT shall be undertaken without advance approval by the COMMONWEALTH.
3. The PARTICIPANT agrees that the facilities of the PROJECT shall be open to the general public and shall not be limited to residents of the PARTICIPANT. The PARTICIPANT shall prominently display on the PROJECT a sign, designated by the COMMONWEALTH, which sets forth the terms of public access and indicates that the PROJECT received LAND funds.
4. The PARTICIPANT hereby covenants and agrees that the Project, including the property and any and all associated facilities and improvements, shall be devoted to conservation and passive recreation purposes in perpetuity, within the meaning of Article 97 of the Commonwealth's Declaration of Rights, and shall not be used for other purposes or otherwise disposed of except in accordance with the provisions of said Article 97. The PARTICIPANT hereby agrees that any property or facilities comprising the PROJECT will not be used for purposes other than those stipulated herein or otherwise disposed of unless the PARTICIPANT receives the appropriate authorization from the General Court, and the approval of the Secretary of Energy & Environmental Affairs.
5. The PARTICIPANT acknowledges that in the event that the PROJECT ceases to be used, either in whole or in part, for the purposes stated herein, all interest in the property shall revert to the Commonwealth, unless the Secretary demands specific performance of the grant contract, or determines, according to the

process described in CMR301 5.09, that replacement of the PROJECT as described in section 6 below is more appropriate.

6. The PARTICIPANT further agrees that, in the event the property or facilities comprised by the PROJECT are used for purposes other than those described herein, the PARTICIPANT shall provide other property and facilities of at least equal value and utility to be available to the general public for conservation and recreational purposes, under care and control of its Conservation Commission, provided that the equal value and utility and the proposed use of said other property and facilities is specifically agreed to by the Secretary of Energy & Environmental Affairs.
7. Failure by the PARTICIPANT to comply with the terms and conditions of this Agreement or the policies or regulation of the LAND Program may, at the sole option of the COMMONWEALTH, suspend or terminate all obligations of the COMMONWEALTH hereunder.
8. PARTICIPANT and COMMONWEALTH acknowledge that the benefit desired by the COMMONWEALTH from the full compliance by the PARTICIPANT is the existence, protection, and the net increase of conservation land, and furthermore that such benefit exceeds to an immeasurable and unascertainable extent the dollar value of the funding provided by this Agreement. The PARTICIPANT agrees that payment of money damages by the PARTICIPANT to the COMMONWEALTH would be an inadequate remedy for a breach of this Agreement by the PARTICIPANT, and, therefore, the COMMONWEALTH may enforce the terms and conditions of this Agreement by requiring specific performance of the PARTICIPANT'S obligations.
9. The PARTICIPANT agrees to record a copy of this agreement at the appropriate Registry of Deeds or Land Court Registry District and to provide proof of such recording to the COMMONWEALTH. Said proof of recording of this Project Agreement shall include evidence that the Project Agreement has been marginally noted on or permanently referenced to any prior deed, restriction, conveyance or other instrument affecting the Project area. Failure to do so shall not impair the validity or enforcement of this agreement.

COMMONWEALTH OF MASSACHUSETTS

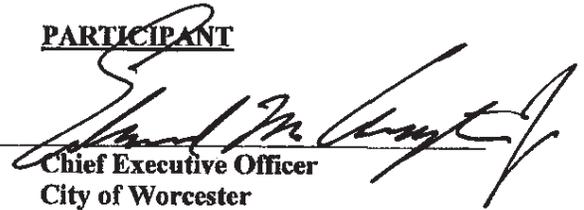
PARTICIPANT

BY



Maeve Vallely Bartlett, Secretary
Or Designee
Executive Office of Energy and
Environmental Affairs

BY



Chief Executive Officer
City of Worcester

DATE:

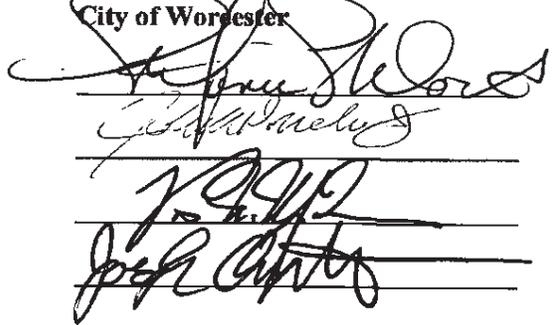
1/6/15

DATE:

12-23-14

BY

Conservation Commission
City of Worcester



DATE:

12-15-2014

Attach hereto evidence of authority to execute this contract on behalf of the **PARTICIPANT**. In the case of a municipality, a certified copy of the vote or votes of the governing body authorizing the **PROJECT**, appropriating municipal funds therefor, and authorizing execution of this Project Agreement by the Officer, Board, or Commission whose signature(s) appears above.

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CITY OF WORCESTER

Conservation Restriction – Donker Farm

WHEREAS: City Manager Edward M. Augustus, Jr., recommended that the City of Worcester apply to the Commonwealth's Executive Office of Energy & Environmental Affairs – Division of Conservation Services (Mass DCS) for a reimbursable L.A.N.D. (Local Acquisitions of Natural Diversity) grant, pursuant to M.G.L. c. 132A, § 11, for the purpose of acquiring a conservation restriction over eight parcels of land, approximately 23 acres, known as the Donker Farm; and

WHEREAS: the permanent preservation of open space and the preservation of one of the last operating farms in the city of Worcester is a priority of the Worcester City Council; and

WHEREAS: In June 2014, the City Council of the city of Worcester authorized the city manager to apply for, accept and expend such grant; and

WHEREAS: the purchase price of the conservation restriction is Six Hundred Twenty-eight Thousand Dollars (\$628,000.00); and

WHEREAS: Mass DCS has awarded such L.A.N.D. grant in the amount of Four Hundred Thousand Dollars (\$400,000.00) to the city of Worcester; and

WHEREAS: the local required contribution is Two Hundred Twenty-eight Thousand Dollars (\$228,000.00); and

WHEREAS: the Greater Worcester Land Trust, Inc., a Massachusetts Charitable Corporation (GWLT), has offered to donate half of the required local match in the amount of One Hundred Fourteen Thousand Dollars (\$114,000.00); and

WHEREAS: the city of Worcester will contribute the remaining local match in the amount of one Hundred Fourteen Thousand Dollars (\$114,000.00), conditioned on the GWLT granting a conservation restriction on the property to the city of Worcester;

NOW THEREFORE, BE IT RESOLVED That:

1. the city manager be and is hereby authorized and requested to expend One Hundred Fourteen Thousand Dollars (\$114,000.00) for the purchase of a conservation restriction over the Donker Farm, provided that the GWLT shall convey a conservation restriction on such land to the city of Worcester; and
2. the city manager be and is hereby authorized and requested to execute and accept delivery of the Conservation Restriction, said land to be acquired for conservation and passive outdoor recreation purposes, to be managed and controlled by the Worcester Conservation Commission according to M.G.L. c. 40, §8C; and
- 3 the city manager be and is hereby authorized to file all necessary information with the Massachusetts Secretary of Energy and Environmental Affairs – Division of Conservation Services under M.G.L. c. 132A, §11 relative to the L.A.N.D. grant; and
4. the city manager be and is hereby authorized to execute contracts or any amendments thereto to carry out the Donker Farm acquisition and Conservation Restriction in accordance with the terms, purposes and conditions of the Secretary of Energy & Environmental Affairs; and
5. the city manager be and is hereby authorized to take such action as necessary to carry out the terms, purposes and conditions of the L.A.N.D. grant.

In City Council

February 24, 2015

Order adopted by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest:


David J. Rushford
City Clerk

ATTEST: WORC. Anthony J. Vigliotti, Register