



*Maxwell Conservation Trust
292 Clapp Road, Scituate, MA 02066*

Wheelwright 47.6 Acre Proposal

OFFICE RECEIVED
2009 OCT 30 A 10: 04
SCITUATE, MASS.

SCITUATE COMMUNITY PRESERVATION COMMITTEE

Fiscal 2010 APPLICATION FOR FUNDING

Project Name: Wheelwright 47.6 Acre Proposal

CPA funding requested: \$809,200 (REQUIRED) 47.6 ac. @\$17,000./acre
Total project cost: up to \$5,000 (REQUIRED) for legal fees for Maxwell Conservation Trust
\$814,200 (REQUIRED)

Other Funding Sources Applied For/Obtained:

Grants: \$ Applied For Obtained
Other (describe) \$ Applied For Obtained

Basis for project cost (i.e. appraisal, construction estimate, etc. - please attach all documentation supporting estimated project cost and basis)

Category (check all that apply): X Open Space Historical Housing Recreation

Lot and Plat:
Assessors Map #: 10-1-8 & 10-1-9 * 11-1-2 11-1-11
Number of acres in parcel: 14.4 ac. * 21.2 ac. 12 ac.
Number of proposed housing units: *
Current Zoning Classification: *
(* REQUIRED IF APPLICABLE TO PROPOSED PROJECT)

Name of Applicant: Dustin Wheelwright and Maxwell Conservation Trust

Contact Name: Cynde Robbins
Address: 292 Clapp Rd, Scituate, Ma. 02066
Phone: 781-545-4167 E-Mail: Cynde.Robbins@Comcast.net

By signing below, the Applicant agrees to the terms and conditions and all other requirements of this Application and agrees to be bound thereby if funding is granted for the Project.

Applicant's Signature: Dustin Wheelwright Date: 10/29/09
Printed Name: Dustin Wheelwright
Title: Trustee - owner

Cynde Robbins
Director, Maxwell Conservation Trust

Detailed Description of the Project

- The subject property is 47.6 acres, consisting of three parcels. The Ella Bates Pasture is 14.4 acres, the Wheelwright Pasture is 21.2 acres, and the Barn Pasture is 12 acres. These properties are located in the Bates Lane area in the West End of Scituate. The Ella Bates Pasture and the Barn Pasture both border the Scituate Cohasset town line. The Wheelwright Pasture abuts the Bates Lane "T", and all three parcels are surrounded by or abut previously protected conservation land.
- These properties have been owned by the Wheelwright family and farmed by them for many, many years. We are currently researching plot plans for the parcels. The deed for the Barn Pasture refers to a plan done in the early 1900's by Tower and our attorneys are trying to locate that plan through engineers who purchased Tower Engineering.
The other 2 parcels are shown on another plan which was done in 1970 but not filed. We hope to have engineering plans to show you when we meet to discuss the project.
- The applicant requests that all 3 parcels be purchased at this time and does not wish to sell any of these parcels separately.
- The acquisition of these parcels will benefit the town of Scituate as follows: This acreage will be part of the largest remaining unfragmented forest in Scituate. Currently, there are approximately 250 acres of conserved forest in the Bates Lane area. This would add another 47 acres, and further protect this important greenway area for recreation, wildlife habitat preservation, and water resource protection. This land is primarily uplands. An Environmental Report is being written by Danena Engineering and will be made available to the committee at a later date. Sections of these parcels are in a Water Resource Zone.
- This project is consistent with and supports the goals of the Scituate Open Space and Master Plans.
- The amount of \$17,000/ac requested has historically been the amount supported by CPC appraisals for open space acquisition in this area.
- Ella Bates and Wheelwright Pastures could be developed through an easement off Indian Winds. Barn Pasture could be developed with access through property on Mill Lane in Cohasset currently owned by Dustin Wheelwright.
- The Bates Lane Conservation Area has over 3 miles of active trails, which are utilized by a broad range of the community. Boy Scout Troops have been involved in Eagle Scout projects on the trails and have built kiosks. The Scituate Recreation Department sponsors walks seasonally. A bridge across a large rip rap area was built in the Spring of 2009 by volunteers with funding from the Carl Pipes Memorial Fund and Maxwell Conservation Trust. This has improved accessibility to that particular area, especially for seniors. Maxwell Conservation Trust has had the trails mapped and marked for ease of navigation.

- The applicant requests that Maxwell Conservation Trust hold the Conservation Restriction for these parcels.

Project Budget Information

- The Cohasset Water Commissioners have been approached regarding the purchase of this acreage, and they have indicated that they will not be able to contribute toward this purchase.
- Included in this project is reimbursement to Maxwell Conservation Trust for legal costs associated with this project, up to \$5,000.
- The applicant is requesting that any surveys required by CPC be funded by the committee.

PURCHASE AND SALE AGREEMENT

1. **PARTIES:** This 22nd day of October, 2009, **Dustin Wheelwright, Trustee of Wheelwright Family Realty Trust** under a declaration of trust dated September 10, 2009 recorded with Plymouth County Registry of deeds in Book 31853, Page 162 hereinafter called the SELLER, agrees to SELL and The Maxwell Land Trust, Ltd., a Massachusetts non-profit corporation hereinafter called the BUYER or PURCHASER, agrees to BUY with the express right to assign, at any time, all rights of BUYER hereunder to the Town of Scituate, Scituate, Massachusetts, upon the terms hereinafter set forth, the following described premises:
2. **DESCRIPTION:** Two certain parcels of land in the Town of Scituate, Massachusetts, one parcel containing 14.4+ acres and the second parcel containing 21.2 Acres as shown on a plan entitled "Plan of Land in Scituate, Massachusetts, Prepared for Wheelwright and Wheelwright" dated October 20, 1970 prepared by Perkins Engineering Inc, Eng'rs and Surveyors, recorded with the Plymouth Registry of Deeds as Plan _____ of 19 ____. Plan Book _____ (hereinafter the "Premises" or the "Property").
3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES:** Land is unimproved.
4. **TITLE DEED:** The Premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER and said deed shall convey a good and clear record and marketable and insurable title thereto, free from encumbrances, except (a) Provisions of existing building and zoning laws; (b) Such taxes for the then current year as are not due and payable on the date of delivery of such deed; (c) Any liens for municipal betterments assessed after the date of this agreement; (d) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the proposed use of the Premises by the Town of Scituate for community preservation conservation.
5. **PLANS:** If the deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.
6. **REGISTERED TITLE:** In addition to the foregoing, if the title to the Premises is registered, the deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of the Premises, and the SELLER shall deliver with the deed, all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.
7. **PURCHASE PRICE:**

Subject to subparagraph (b) hereof, the agreed purchase price for said premises is: Six Hundred Five Thousand Two Hundred and No Cents (\$605,200.00) Dollars.

\$ 1.00	have been paid this day as a deposit and
<u>\$ 605,199.00</u>	are to be paid at the time of delivery of the deed in cash, or by certified,
	cashier's, conveyancing attorney's, treasurer's or bank check.
<u>\$ 605,200.00</u>	TOTAL

(b) The parties acknowledge that there is not a current survey of Premises and that the purchase price is predicated on a price of \$17,000.00 per acre. The parties agree to have a survey of the Premises completed at the Buyer's expense and to the extent the survey determines that the Premises is greater or lesser than the 35.7 acres the purchase prices shall be adjusted to equal \$17,000.00 multiplied by the number of acres as determined by the survey.

8. TIME FOR PERFORMANCE: Such deed is to be delivered at 10:00 o'clock A.M. on July 15, 2010 at the Plymouth County Registry of Deeds in Plymouth, Massachusetts, unless BUYER shall notify Seller of some other place within said county at least one (1) day prior to said date set for delivery. It is agreed that time is of the essence of this agreement. Notwithstanding, Seller agrees to deliver the deed on an earlier date specified by Buyer by written notice at least thirty (30) days in advance, such notice to specify the time and date for such closing. Time is the essence of this Agreement.

9. POSSESSION AND CONDITION: Full possession of the Premises free of all tenants and occupants except as herein provided, is to be delivered at the time of delivery of the deed. The BUYER shall be entitled to an inspection of the Premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.

10. EXTENSIONS: If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Premises all as herein stipulated, or if at the time of delivery of the deed the Premises do not conform with the provisions hereof, then the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty (30) days, provided that if any such extension causes any of the Buyer's financing or subdivision approvals to lapse, the Buyer may terminate this agreement and receive a refund of all deposit hereunder. Reasonable efforts shall not require the Seller to expend in excess of five percent (5%) of the purchase price, exclusive of sums for the discharge of any monetary liens or mortgages.

11. FAILURE TO DELIVER: If at the expiration of the extended time, if any, the SELLER shall have failed to so remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on the Premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

12. BUYER'S ELECTION: The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the Premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the Premises shall have been damaged by fire or casualty insured against, then the SELLER shall, unless the SELLER has previously restored the premises to their former condition, either; (a) pay over or assign to the BUYER, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by the SELLER for any partial restoration, or (b) if a holder of a mortgage on said premises shall not permit the insurance proceeds or a part thereof to be used to restore the said premises to their former condition or to be paid over or assigned to the BUYER, give to the BUYER a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amounts reasonably expended by the SELLER for any partial restoration.

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

14. USE OF MONEY TO CLEAR TITLE: To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed, or within a reasonable time thereafter in accordance with normal conveyancing practices in the Commonwealth of Massachusetts.

15. INSURANCE: Buyer shall provide Seller with insurance certificates to Seller's reasonable satisfaction, remaining in full force and effect during the term of this agreement, before any entrance is made upon the Premises, such certificates naming Seller as an additional insured.

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

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

18. BROKER'S: Buyer and Seller each warrant and represent to the other that such party has not employed a real estate broker or agent in connection with the transaction contemplated hereby.

19. **BROKERS WARRANTY:** Deleted.

20. **DEPOSIT:** All deposits made hereunder shall be held in escrow by Sullivan & Sullivan, P.C. ("Escrow Agent"), subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement, provided however that in the event of any disagreement between the parties, the Escrow Agent may retain all deposits made under this agreement pending instructions mutually given by the Seller and the Buyer, or may pay same into a court of competent jurisdiction. In the event said sums are maintained in an interest bearing account, the party entitled to the deposit shall be entitled to the interest. In the event that Escrow Agent elects to place the funds in an interest bearing account, Buyer agrees to execute a form W-9 and any other forms reasonably required by Escrow Agent's bank to insure that interest on the deposit is properly reported according to Internal Revenue Service regulations.

21. **BUYER'S DEFAULT:** If the BUYER shall fail to fulfill the BUYER'S agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages and that shall be the SELLER'S sole and exclusive remedy at law or in equity for any default by BUYER under this agreement, provided that Buyer has delivered to Seller the copies of survey reports and plans and soil and other geological tests and reports and title abstracts.

22. **RELEASE BY HUSBAND OR WIFE:** Deleted .

23. **BROKER AS A PARTY:** Deleted.

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

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

26. **CONSTRUCTION OF AGREEMENT:** This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified and amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and

marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

27. OBLIGATION SUBJECT TO CPC FUNDING: The Buyer's obligations under this agreement are contingent upon the Buyer obtaining at his expense (i) funding from the Town of Scituate Community Preservation Committee ("CPC") or other such sources for at least \$17,000 per acre for no less than 35.6 acres of the Premises to be conveyed to the Town of Scituate, and (ii) approval of the Town of Scituate Annual Town Meeting, funding is not to be less than \$204,00.00 on or before May 15, 2010. If Buyer having used best efforts (i) has not received full and final funding from the CPC as set forth above, or (ii) fails to obtain Town Meeting approval for the CPC grant, then in any such event, Buyer may terminate this agreement by written notice to the Seller on or before the closing date or any extensions thereof, whereupon all deposits or payments made under this agreement shall be forthwith refunded by the Seller to the Buyer and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

28. EXTENSION and PAYMENTS: Deleted

29. REPRESENTATIONS AND WARRANTIES OF SELLER. SELLER represents and warrants to BUYER as follows, which representations and warranties shall be deemed made by SELLER to BUYER as of the date hereof and upon Closing, shall survive Closing for six months following the delivery and recording of the deed, and but for such representations and warranties, BUYER would not execute this Agreement:

a. this Agreement is and all agreements, instruments and documents herein provided to be executed by SELLER shall, upon consummation of the transaction contemplated under this Agreement, be duly authorized, executed and delivered by, and, upon delivery thereof, shall be binding upon and enforceable against SELLER in accordance with their respective terms;

b. SELLER has the legal right, power and authority to enter into this Agreement and to perform all of its obligations hereunder, and the execution and delivery of this Agreement and the performance by SELLER of its obligations hereunder shall not conflict with or result in a breach of any law or regulation, or order, judgment, writ, injunction or decree of any court or governmental instrumentality or any agreement or instrument to which SELLER is a party or by which SELLER is bound or to which SELLER or any portion of the Property is subject;

c. SELLER has not granted an option or other right to purchase or otherwise acquire any portion of the Property or any interest therein to any party which has not expired or been terminated, except BUYER pursuant to this Agreement.

d. that to the best of its actual knowledge and belief no toxic or hazardous substances have been generated, treated, stored or disposed of or otherwise deposited in or on the Property, by Seller or any person or entity under Seller's control, including without limitation the surface waters and subsurface waters of the Property and there are no substances or conditions in or on the Property which may support a claim or cause of action under the Comprehensive

Environmental Response, Compensation and Liability Act of 1980 (the "Super Fund Act") or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements;

e. that from the date of this Agreement to the date of Closing, SELLER shall not grant any interest in the Property to any party whatsoever and SELLER shall not create or allow any liens or encumbrances to be placed on the Property without prior written consent of BUYER, such consent not to be unreasonably withheld;

f. that SELLER is not a foreign person and is not in any manner controlled by a foreign person within the meaning of Section 1445 of the Internal Revenue Code;

g. SELLER has not received any notice of violation of any applicable law pertaining to the Property or any portion thereof, which provisions of such notice have not been complied with, nor does SELLER have knowledge of any such violation thereof;

h. there are no parties in possession of the Property or any portion thereof as tenants under leases or licensees under license agreements or under any other agreement or arrangement;

30. NOTICES. Each notice, request, demand, instruction or other document required or permitted to be given hereunder ("Notice") shall be in writing and shall be delivered personally (including messenger or courier service with evidence of receipt) or sent by depositing it with the United States Postal Service certified or registered mail, return receipt requested, with adequate postage prepaid, addressed to the parties at their respective addresses set forth below and marked to the designated individual's attention. Each Notice shall be effective upon being so deposited, but the time period in which a response to any such Notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the Notice by the addressee thereof, if delivered personally, or two (2) business days after deposit in the mails, if mailed. Rejection or other refusal by the addressee to accept or the inability of the United States Postal Service to deliver because of changed address of which no Notice was given shall be deemed to be the receipt of the Notice sent. Either party shall have the right from time to time to change the address to which Notices to it shall be sent by giving Notice to the other party of the changed address at least ten (10) days prior to such change.

To SELLER:

Dustin E. Wheelwright
321 A Beechwood Street
Cohasset, MA 02025

Copy to SELLER'S Attorney:

Walter L. Sullivan, Esquire
Sullivan & Sullivan, P.C.
80 Washington Street, Suite No. 7
Norwell, Massachusetts 02061

To BUYER:

The Maxwell Land Trust, Ltd.
292 Clapp Road

31. RIGHT OF ENTRY; INSPECTION. Subject to satisfaction of the provisions of section 15 hereof, BUYER and/or contractors shall have the right and privilege to enter upon the Premises at all reasonable times to inspect the Premises and to conduct soil and other geological, engineering, environmental, landscaping, wetlands and related tests or studies and surveying in connection with determining the suitability of the Property for Buyer's intended use. All such tests shall be at Buyer's expense. BUYER shall notify SELLER on each occasion that entry is to be made.

32. SURVIVING CLAUSES: All covenants, undertakings, indemnifications, representations or warranties contained herein shall survive the Closing and shall not be merged in or extinguished by: (i) the deed given in performance hereof, or (ii) termination of this Agreement, subject to the provisions of section 29 hereof.

33. SELLER'S DOCUMENTATION AT CLOSING: SELLER agrees to execute at closing such affidavits and certifications as are customarily required of a seller at a closing conducted in the greater metropolitan area of Boston, Massachusetts, including without limitation:

Mechanic's Lien and Persons in Possession Affidavit,
Taxpayer Information (1099S) Form,
Affidavit of Non-Foreign Status,
RESPA settlement statement,

Such other documents as may be reasonably or normally required by the Buyer's attorney, or the closing agent.

34. CONDITION OF TITLE: Any title matter which is the subject of a title standard of the Real Estate Bar Association of Massachusetts (REBA) at the time for delivery of the deed shall be covered by those title standards to the extent applicable. Any matter or practice arising under or relating to this agreement which is the subject of a practice standard of REBA shall be governed by such standard to the extent applicable. Without limiting any other provision of this Agreement, the premises shall not be considered to be in compliance with the provisions of this Agreement regarding title unless title to the Premises is insurable, for the benefit of the BUYER, by a nationally recognized title insurance company in a fee owner's policy of title insurance, without a so-called "creditor's rights exclusion or exception", at normal premium rates, in the American Land Title Association form currently in use, subject only to those printed exceptions to title normally included in the "jacket" to such form or policy not inconsistent with the provisions of this Agreement.

35. SELLER REPRESENTS THAT TO THE BEST OF ITS KNOWLEDGE:

a. No written notice or written communication, heretofore recited, has been received by Seller (or its agent's) from any public authority that (i) the premises are not zoned for their

present or intended use of (ii) there exists with respect to the premises any condition which violates any municipal, state or federal law, rule or regulation, or (iii) any insurance carrier of the premises regarding any dangerous, illegal or other condition requiring any corrective action;

b. Seller has no knowledge or any litigation or proceeding pending, or threatened against or relating to the premises;

c. There are no assessments for public improvements presently affecting the Premises of which the Seller has knowledge.

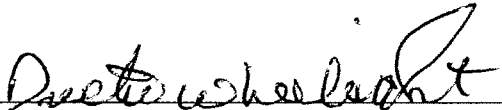
d. No underground oil or gas storage tank now exists on the premises, and Seller has no notice or knowledge of any release of hazardous materials or oil at, under or adjacent to the premises; or of the existence of an underground oil or gas storage tank at any time prior hereto;

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ~~13~~^{22nd} day of October, 2009.

SELLER:

BUYER:

The Maxwell Land Trust, Ltd.

By: 
Dustin Wheelwright

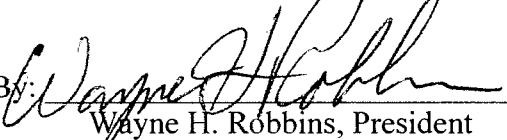
By: 
Wayne H. Robbins, President

EXHIBIT A

the vacant land in Scituate, Plymouth County, MA, on and off Long Lane and Bates Lane, and more particularly described as follows:

Parcel One:

The vacant land on and off Long Lane and Bates Lane Scituate containing 21.2 Acres as described in the deed from Frank S. Wheelwright dated March 16, 1990, recorded with Plymouth County Registry of Deeds in Book 9670, Page 167 and shown in the "Plan Of Land In Scituate, Massachusetts, Prepared for Wheelwright and Wheelwright" dated October 20, 1970, prepared by Perkins Engineering Inc, Eng'rs and Surveyors, recorded with said Registry of Deeds in Plan Book _____ Page _____.

Said Parcel is also shown on Scituate Assessors' Map 11 as 11-1-2

Parcel Two

The vacant land on and off Long Lane and Bates Lane Scituate containing 14.4 Acres as described in the deed from Frank S. Wheelwright dated March 16, 1990, recorded with Plymouth County Registry of Deeds in Book 9670, Page 167 and shown in the "Plan Of Land In Scituate, Massachusetts, Prepared for Wheelwright and Wheelwright" dated October 20, 1970, prepared by Perkins Engineering Inc, Eng'rs and Surveyors, recorded with said Registry of Deeds in Plan Book _____ Page _____.

Said Parcel Two is also shown on Scituate Assessors' Map as 10-1-8 and 10-1-9 and the contiguous 5.23 acres contiguous thereto.

For title, reference is made to the said deed from Frank S. Wheelwright dated March 16, 1990, recorded with Plymouth County Registry of Deeds in Book 9670, Page 167.

PURCHASE AND SALE AGREEMENT

1. **PARTIES:** This 22nd day of October, 2009, Dustin Wheelwright, hereinafter called the SELLER, agrees to SELL and The Maxwell Land Trust, Ltd., a Massachusetts non-profit corporation hereinafter called the BUYER or PURCHASER, agrees to BUY with the express right to assign, at any time, all rights of BUYER hereunder to the Town of Scituate, Scituate, Massachusetts, upon the terms hereinafter set forth, the following described premises:

2. **DESCRIPTION:** A certain parcel of land in the Town of Scituate, Massachusetts consisting of twelve (12) acres more or less and more particularly described in Exhibit "A" annexed hereto (hereinafter the "Premises" or the "Property").

3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES:** Land is unimproved.

4. **TITLE DEED:** The Premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER and said deed shall convey a good and clear record and marketable and insurable title thereto, free from encumbrances, except (a) Provisions of existing building and zoning laws; (b) Such taxes for the then current year as are not due and payable on the date of delivery of such deed; (c) Any liens for municipal betterments assessed after the date of this agreement; (d) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the proposed use of the Premises by the Town of Scituate for community preservation conservation.

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

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

7. **PURCHASE PRICE:**

(a) Subject to subparagraph (b) hereof, the agreed purchase price for said premises is: Two Hundred Four Thousand and No Cents (\$204,000.00) Dollars.

\$ 1.00	have been paid this day as a deposit and
\$ 203,999.00	are to be paid at the time of delivery of the deed in cash, or by certified, cashier's, conveyancing attorney's or treasurer's or bank check.
<u>\$ 204,000.00</u>	TOTAL

(b) The parties acknowledge that there is not a current survey of Premises and that the purchase price is predicated on a price of \$17,000.00 per acre. The parties agree to have a survey of the Premises completed at the Buyer's expense and to the extent the survey determines that the Premises is greater or lesser than the twelve (12) acres the purchase prices shall be adjusted to equal \$17,000.00 multiplied by the number of acres as determined by the survey.

8. TIME FOR PERFORMANCE: Such deed is to be delivered at 10:00 o'clock A.M. on July 15, 2010 at the Plymouth County Registry of Deeds in Plymouth, Massachusetts, unless BUYER shall notify Seller of some other place within said county at least one (1) day prior to said date set for delivery. It is agreed that time is of the essence of this agreement. Notwithstanding, Seller agrees to deliver the deed on an earlier date specified by Buyer by written notice at least thirty (30) days in advance, such notice to specify the time and date for such closing. Time is the essence of this Agreement.

9. POSSESSION AND CONDITION: Full possession of the Premises free of all tenants and occupants except as herein provided, is to be delivered at the time of delivery of the deed. The BUYER shall be entitled to an inspection of the Premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.

10. EXTENSIONS: If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Premises all as herein stipulated, or if at the time of delivery of the deed the Premises do not conform with the provisions hereof, then the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty (30) days, provided that if any such extension causes any of the Buyer's financing or subdivision approvals to lapse, the Buyer may terminate this agreement and receive a refund of all deposit hereunder. Reasonable efforts shall not require the Seller to expend in excess of five percent (5%) of the purchase price, exclusive of sums for the discharge of any monetary liens or mortgages.

11. FAILURE TO DELIVER: If at the expiration of the extended time, if any, the SELLER shall have failed to so remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on the Premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

12. BUYER'S ELECTION: The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the Premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the

provisions of this clause, if the Premises shall have been damaged by fire or casualty insured against, then the SELLER shall, unless the SELLER has previously restored the premises to their former condition, either; (a) pay over or assign to the BUYER, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by the SELLER for any partial restoration, or (b) if a holder of a mortgage on said premises shall not permit the insurance proceeds or a part thereof to be used to restore the said premises to their former condition or to be paid over or assigned to the BUYER, give to the BUYER a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amounts reasonably expended by the SELLER for any partial restoration.

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

14. USE OF MONEY TO CLEAR TITLE: To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed, or within a reasonable time thereafter in accordance with normal conveyancing practices in the Commonwealth of Massachusetts.

15. INSURANCE: Buyer shall provide Seller with insurance certificates to Seller's reasonable satisfaction, remaining in full force and effect during the term of this agreement, before any entrance is made upon the Premises, such certificates naming Seller as an additional insured.

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

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

18. BROKER'S: Buyer and Seller each warrant and represent to the other that such party has not employed a real estate broker or agent in connection with the transaction contemplated hereby.

19. BROKERS WARRANTY: Deleted.

20. DEPOSIT: All deposits made hereunder shall be held in escrow by Sullivan & Sullivan, P.C. ("Escrow Agent"), subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement, provided however that in the event of any disagreement between the parties, the Escrow Agent may retain all deposits made under this agreement pending instructions mutually given by the Seller and the Buyer, or may pay same into a court of competent jurisdiction. In the event said sums are maintained in an interest bearing account, the party entitled to the deposit shall be entitled to the interest. In the event that Escrow Agent elects to place the funds in an interest bearing account, Buyer agrees to execute a form W-9 and any other forms reasonably required by Escrow Agent's bank to insure that interest on the deposit is properly reported according to Internal Revenue Service regulations.

21. BUYER'S DEFAULT: If the BUYER shall fail to fulfill the BUYER'S agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages and that shall be the SELLER'S sole and exclusive remedy at law or in equity for any default by BUYER under this agreement, provided that Buyer has delivered to Seller the copies of survey reports and plans and soil and other geological tests and reports and title abstracts.

22. RELEASE BY HUSBAND OR WIFE: Deleted .

23. BROKER AS A PARTY: Deleted.

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

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

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

27. OBLIGATION SUBJECT TO CPC FUNDING: The Buyer's obligations under this agreement are contingent upon the Buyer obtaining at his expense (i) funding from the Town of Scituate Community Preservation Committee ("CPC") or other such sources for at least \$17,000 per acre for no less than 12 acres of the Premises to be conveyed to the Town of Scituate, and (ii) approval of the Town of Scituate Annual Town Meeting, funding is not to be less than \$204,00.00 on or before May 15, 2010. If Buyer having used best efforts, (i) has not received full and final funding from the CPC as set forth above, or (ii) fails to obtain Town Meeting approval for the CPC grant, then in any such event, Buyer may terminate this agreement by written notice to the Seller on or before the closing date or any extensions thereof, whereupon all deposits or payments made under this agreement shall be forthwith refunded by the Seller to the Buyer and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

28. EXTENSION and PAYMENTS: Deleted

29. REPRESENTATIONS AND WARRANTIES OF SELLER. SELLER represents and warrants to BUYER as follows, which representations and warranties shall be deemed made by SELLER to BUYER as of the date hereof and upon Closing, shall survive Closing for six months following the delivery and recording of the deed, and but for such representations and warranties, BUYER would not execute this Agreement:

a. this Agreement is and all agreements, instruments and documents herein provided to be executed by SELLER shall, upon consummation of the transaction contemplated under this Agreement, be duly authorized, executed and delivered by, and, upon delivery thereof, shall be binding upon and enforceable against SELLER in accordance with their respective terms;

b. SELLER has the legal right, power and authority to enter into this Agreement and to perform all of its obligations hereunder, and the execution and delivery of this Agreement and the performance by SELLER of its obligations hereunder shall not conflict with or result in a breach of any law or regulation, or order, judgment, writ, injunction or decree of any court or governmental instrumentality or any agreement or instrument to which SELLER is a party or by which SELLER is bound or to which SELLER or any portion of the Property is subject;

c. SELLER has not granted an option or other right to purchase or otherwise acquire any portion of the Property or any interest therein to any party which has not expired or been terminated, except BUYER pursuant to this Agreement.

d. that to the best of its actual knowledge and belief no toxic or hazardous substances have been generated, treated, stored or disposed of or otherwise deposited in or on the Property, by Seller or any person or entity under Seller's control, including without limitation the surface waters and subsurface waters of the Property and there are no substances or conditions in or on the Property which may support a claim or cause of action under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (the "Super Fund Act") or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements;

31. RIGHT OF ENTRY; INSPECTION. Subject to satisfaction of the provisions of section 15 hereof, BUYER and/or contractors shall have the right and privilege to enter upon the Premises at all reasonable times to inspect the Premises and to conduct soil and other geological, engineering, environmental, landscaping, wetlands and related tests or studies and surveying in connection with determining the suitability of the Property for Buyer's intended use. All such tests shall be at Buyer's expense. BUYER shall notify SELLER on each occasion that entry is to be made.

32. SURVIVING CLAUSES: All covenants, undertakings, indemnifications, representations or warranties contained herein shall survive the Closing and shall not be merged in or extinguished by: (i) the deed given in performance hereof, or (ii) termination of this Agreement, subject to the provisions of section 29 hereof.

33. SELLER'S DOCUMENTATION AT CLOSING: SELLER agrees to execute at closing such affidavits and certifications as are customarily required of a seller at a closing conducted in the greater metropolitan area of Boston, Massachusetts, including without limitation:

Mechanic's Lien and Persons in Possession Affidavit,

Taxpayer Information (1099S) Form,

Affidavit of Non-Foreign Status,

RESPA settlement statement,

Such other documents as may be reasonably or normally required by the Buyer's attorney, or the closing agent.

34. CONDITION OF TITLE: Any title matter which is the subject of a title standard of the Real Estate Bar Association of Massachusetts (REBA) at the time for delivery of the deed shall be covered by those title standards to the extent applicable. Any matter or practice arising under or relating to this agreement which is the subject of a practice standard of REBA shall be governed by such standard to the extent applicable. Without limiting any other provision of this Agreement, the premises shall not be considered to be in compliance with the provisions of this Agreement regarding title unless title to the Premises is insurable, for the benefit of the BUYER, by a nationally recognized title insurance company in a fee owner's policy of title insurance, without a so-called "creditor's rights exclusion or exception", at normal premium rates, in the American Land Title Association form currently in use, subject only to those printed exceptions to title normally included in the "jacket" to such form or policy not inconsistent with the provisions of this Agreement.

35. SELLER REPRESENTS THAT TO THE BEST OF ITS KNOWLEDGE:

a. No written notice or written communication, heretofore recited, has been received by Seller (or its agent's) from any public authority that (i) the premises are not zoned for their present or intended use of (ii) there exists with respect to the premises any condition which violates any municipal, state or federal law, rule or regulation, or (iii) any insurance carrier of the premises regarding any dangerous, illegal or other condition requiring any corrective action;

b. Seller has no knowledge or any litigation or proceeding pending, or threatened against or relating to the premises;

c. There are no assessments for public improvements presently affecting the Premises of which the Seller has knowledge.

d. No underground oil or gas storage tank now exists on the premises, and Seller has no notice or knowledge of any release of hazardous materials or oil at, under or adjacent to the premises; or of the existence of an underground oil or gas storage tank at any time prior hereto;

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ~~13~~²²th day of October, 2009.

SELLER:

BUYER:

The Maxwell Land Trust, Ltd.

By: 

Dustin Wheelwright

By: 

Wayne H. Robbins, President

EXHIBIT A

Certain parcel of land located in the Town of Scituate and bounded and described as follows:

- Easterly four hundred twelve (412) feet more or less by a stone wall and land now or formerly of Webster Bates;
- Southeasterly four hundred eight-four (484) feet more or less by a stone wall and land now or formerly of Webster Bates
- Southerly four hundred sixty-five and $5/10$ (465.5) feet more or less by a wire fence and land now or formerly of Webster Bates:
- Westerly five hundred forty-two (542) feet more or less by a stone wall and land now of Walter C. Wheelwright and Everett W. Wheelwright;
- Northerly by a stone wall and land now or formerly of Oliver and Cyrus Bates nine hundred thirty (930) feet and the town line between Scituate and Cohasset;

Containing about twelve(12) acres of land more or less, being shown on a plan by D.N. Tower, dated January, 1900, to which reference may be had for more particular description and being thereon as "Barn Pasture", together with all rights of way appurtenant thereto.

Received & Recorded
PLYMOUTH COUNTY
REGISTRY OF DEEDS
28 OCT 2009 09:01AM
JOHN R. BUCKLEY, JR.
REGISTER
Bk 37853 Pg 162-166

Wheelwright Family Realty Trust

DECLARATION OF TRUST

Dated: September 10, 2009

Place of Recording: Plymouth County
Registry of Deeds

1. The undersigned hereby DECLARES that he and his successors in trust will hold any and all property of every name, nature and description and any interest in any of the same that may be now or hereafter acquired by or conveyed or transferred to the undersigned or his successor or successors, as Trustee or Trustees hereunder, for the sole benefit of the beneficiaries hereunder from time to time, upon the terms, conditions and provisions, and subject to the limitations, hereof.

2. The term "Trustee" as used herein, shall mean the person or persons who from time to time shall be serving as Trustee or Trustees hereunder and all of the rights, powers, authority, privileges and immunities provided for hereunder for the Trustee may be exercised by such person or persons as shall appear to be the Trustee or Trustees at such time from the records of the Registry of Deeds or Registry District of the Land Court in which this Trustee shall be recorded or filed.

3. The beneficiaries of this Trust are the persons listed as the beneficiaries in the Schedule of Beneficiaries this day executed by them and the Trustee and filed with the Trustee and his successors and assigns, as herein provided for.

The beneficial interests of the Beneficiaries are as may now, or hereafter, be set forth in said Schedule of Beneficiaries, which shall be from time to time amended to reflect any change in the identity of the beneficiaries or in their respective interests hereunder. A certificate or other writing signed by the Trustee certifying or asserting to the identity of the beneficiaries or stating that any action has been approved by the beneficiaries shall be conclusive in favor of any person dealing with the Trustee or with any of the Trust property, and any such person may rely on such certificate without further inquiry.

4. Any beneficiary hereunder may serve as a Trustee.

5. This Trust shall be known as the **Wheelwright Family Realty Trust** and any transactions pertaining to its affairs may be conducted in that name.

6. The Trustee's Address is: 321 A Beechwood Street, Cohasset, MA 02025

7. The powers, duties and authority of the Trustee shall be as follows:

a) To hold the property transferred to, or acquired by, the Trustee, and to take such action with respect to any such property as from time to time is specifically directed by the Beneficiaries, provided that the Trustee shall not be required to take any action as so directed which will in the opinion of the Trustee involve the Trustee in any personal liability, unless the Trustee shall be first indemnified to the Trustee's satisfaction;

b) Without further direction of the beneficiaries, to do all things required to prepare the trust real estate for sale and to invoice, collect and receive from the beneficiaries their pro rata share of the expenses connected therewith.

c) To the extent of the funds in the Trustee's hands, from time to time to pay all taxes assessed against the Trust property, and any other proper obligations of the Trust;

d) To insure the Trust property against loss or damage by fire and other casualties in such amounts as the Trustee deems necessary;

e) Upon termination of the Trust, the Trustee shall thereupon convey the right, title and interest of the Trustee in the remaining trust property to the said Beneficiaries as tenants-in-common, the undivided interest of each Beneficiary to be proportionate to his or her respective Beneficial interest in the Trust, and similarly to distribute any funds or other assets which the trustee may then have in his possession.

8. This Trust shall terminate on the occurrence of any one of the following events:

a) The expiration of ten (10) years from the date hereof;

b) Delivery at any time to the Trustee of a notice of termination signed by any one or more of the Beneficiaries with a majority interest; or

c) Delivery at any time to the beneficiaries of a notice of termination signed by the Trustee.

9. This Declaration of Trust may be amended from time to time by an instrument in writing, signed by all of the Beneficiaries, provided that such amendment shall not become effective until the instrument of amendment signed by all of the Beneficiaries and acknowledged by at least one of them, or a certificate of amendment signed and acknowledged by the Trustee, shall be recorded at the Registry of Deeds.

10. Any Trustee hereunder may resign at any time by an instrument in writing signed and acknowledged by such Trustee and delivered to the other Trustee(s) then serving, if any, and/or to each Beneficiary. Such resignation shall take effect on the later of the date specified therein or the date of the recording of such instrument with the Registry of Deeds.

a) Succeeding or additional Trustees may be appointed or any Trustee may be removed by an instrument or instruments in writing signed by all of the Beneficiaries, provided in each case that a certificate signed by any Trustee naming the Trustee or Trustees appointed or removed and in the case of an appointment, the acceptance in writing by the Trustee or Trustees appointed, shall be recorded in the Registry of Deeds. Upon the recording of such instrument, the legal title to the Trust Estate shall, without the necessity of any conveyance, be vested in said succeeding or additional Trustee or Trustees, with all the rights, powers, authority and privileges as if named as an original Trustee hereunder.

b. In the event there is no Trustee, either through the death or resignation of a sole Trustee without prior appointment of a successor Trustee or for any other cause, a person purporting to be a successor Trustee hereunder may record in the Registry of Deeds an affidavit, under pains and penalties of perjury, stating that he or she has been appointed by all of the Beneficiaries a successor Trustee. Such affidavit when recorded, together with an attorney's certificate under M.G.L. c. 183 section 5B, stating that such attorney has knowledge of the affairs of the Trust and that the person signing the affidavit has been appointed a Trustee by all of the Beneficiaries, shall have the same force and effect as if the certificate of a Trustee or Trustees required or permitted hereunder had been recorded and persons dealing with the Trust or Trustee Estate may always rely without further inquiry upon such an affidavit as so executed and recorded as to the matters stated herein.

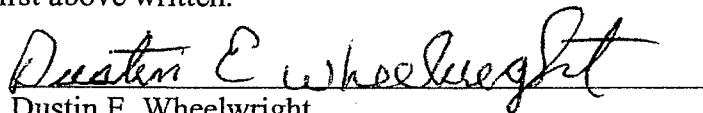
11. Any person dealing with the Trust property or the Trustee, may always rely on a Certificate signed by any person appearing from the records of such Registry of Deeds or Certificate of Title to be a Trustee hereunder, as to the identity of the Trustee or Trustees or Beneficiaries hereunder, or as to any direction by the Beneficiaries, or as to the terms of this Declaration of Trust or any amendment thereof, or as to the existence or non-existence of any fact or facts, which constitute conditions precedent to action by the Trustee or which are in any other manner germane to the affairs of the Trust. The termination of the Trust shall not be deemed to restrict the Trustee's power and authority to transfer and convey all property held by the Trustee to the Beneficiaries.

12. No Trustee shall be liable for any action or default whatsoever of any other Trustee or of any agent, employee or representative of the Trustee nor shall any Trustee be liable for any error of judgment or for anything done or omitted by such Trustee in good faith; and each Trustee shall be answerable and accountable only for his or her own individual receipts and for his or her own individual acts, neglects and defaults constituting a breach of trust knowingly committed by him or her in bad faith; and the Trustee and each agent, employee or representative of the Trustee shall be entitled to reimbursement out of the Trust property for his or her reasonable expenses and outlays and shall be indemnified and reimbursed for any personal loss, cost, liability, expense or damage by him or her or any of them incurred or suffered in the administration of the Trust property or in conducting any business or performing any act authorized or permitted by this Trust, but such indemnity or reimbursement shall be limited to the Trust property, and no beneficiary shall be personally or individually liable therefor to any extent.

13. Every act or thing done and every power exercised or obligation incurred by a Trustee in the administration of this Trust or in connection with any business property or concerns of this Trust, whether ostensibly in his or her own name or in his or her capacity as Trustee shall be done, exercised or incurred by him or her as a Trustee and not as an individual; and every person contracting or dealing with the Trustee or having any debt, claim or judgment against them, shall look only to the funds and property of the Trust for payment or satisfaction; and no Trustee or agent of the Trust shall ever be personally liable for or on account of any contract, debt, tort, claim, damage, judgment or decree arising out of or in connection with the Trust property or the conduct of the business of the Trust. A stipulation or notice to this effect may be inserted in any contract or instrument executed by the Trustee or their agents, but the omission thereof shall not render the Trustee or agent personally liable.

14. Wherever in this instrument the context so required the singular number includes the plural, and the plural number includes the singular, and the expression Trustee or Trustees shall refer to the Trustee or Trustees for the time being.

WITNESS the execution hereto under seal, in duplicate, by the Trustee hereunder, the day and year first above written.



Dustin E. Wheelwright


as trustee as aforesaid and not Individually

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS.

September 8, 2009

Then personally appeared the above named Dustin E. Wheelwright, before me, the undersigned notary public, to me personally known to be the person whose name is signed on the within document, and acknowledged to me that he signed it voluntarily for its stated purpose, and acknowledged such execution to be his free act and deed,



Walter L. Sullivan, Notary Public

My commission expires: March 3, 2011

