

**GRANTOR:** Michael Minars, Trustee of Songwind Nominee  
Trust, u/d/t dated December 26, 2013  
**GRANTEE:** Sheriff's Meadow Foundation  
**ADDRESS OF  
PROPERTY:** 143 Obed Daggett Road, West Tisbury, MA  
**FOR GRANTOR'S  
TITLE SEE:** Dukes County Registry of Deeds at Book 1338,  
Page 699.

#### **AMENDED AND RESTATED CONSERVATION RESTRICTION**

**WHEREAS, Steven Rattner**, of New York, NY ("Rattner"), granted a Conservation Restriction to **Sheriff's Meadow Foundation**, a Massachusetts nonprofit corporation, with a principal office located at 57 David Avenue, Wakeman Conservation Center, Vineyard Haven, MA 02568, and a mailing address of P.O. Box 1088, Vineyard Haven, MA 02568 (the "Sheriff's Meadow Foundation"), which Conservation Restriction is dated December 12, 1991 and is recorded with the Dukes County Registry of Deeds in Book 570, Page 622 (the "Original Conservation Restriction"), encumbering 3.58 acres of land owned by Rattner, shown as the "Conservation Easement" area on Exhibit A, attached hereto, being a portion of the land described in a deed to Rattner, dated March 31, 1989 and recorded in the Dukes County Registry of Deeds in Book 519, Page 445 (the "Property"); and

**WHEREAS**, the Property is currently owned by Michael Minars, Trustee of Songwind Nominee Trust, u/d/t dated December 26, 2013, and recorded with the Dukes County Registry of Deeds in Book 1338, Page 703 ("Minars"), pursuant to a deed to Minars dated December 27, 2013 and recorded in the Dukes County Registry of Deeds in Book 1338, Page 699; and

**WHEREAS**, Minars and the Sheriff's Meadow Foundation wish to amend and restate the Original Conservation Restriction in order to add a reserved right and add certain other acreage, which additional acreage will conserve a larger area of both Critical Natural Landscape and BioMap 2 Core Habitat for Species of Special Conservation Concern, as illustrated on the Baseline Documentation Report referenced below, resulting in a net gain in conservation value.

**NOW, THEREFORE**, for nominal consideration of Ten (\$10.00) Dollars, the receipt and sufficiency of which are hereby acknowledged, the parties agree that this Amended and Restated Conservation Restriction replaces the Original Conservation Restriction in its entirety:

**MICHAEL MINARS, TRUSTEE OF SONGWIND NOMINEE TRUST**, u/d/t dated December 26, 2013, and recorded with the Dukes County Registry of Deeds in Book 1338, Page 703, c/o Rattner Family Office, 650 Madison Avenue, New York, NY 10022, being the sole owner, for my successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to **SHERIFF’S MEADOW FOUNDATION**, a Massachusetts nonprofit corporation, with a principal office located at 57 David Avenue, Wakeman Conservation Center, Vineyard Haven, MA 02568, and a mailing address of P.O. Box 1088, Vineyard Haven, MA 02568, their permitted successors and assigns (“Grantee”), for nominal consideration of Ten (\$10.00) Dollars, **IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES**, the following Amended and Restated Conservation Restriction solely on a  $\pm 12.09$  acre portion of the Property (“Premises”), which Premises is more particularly described in Exhibit B and shown on a plan of land entitled “Conservation Land in West Tisbury, Mass. Prepared for Sheriff’s Meadow Foundation, Inc. November 26, 2019 Scale 1”=150’ Vineyard Land Surveying & Engineering 12 Cournoyer Road, P.O. Box 421, West Tisbury, MA 02575,” which plan is filed with the Dukes County Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_, and a reduced copy of which plan is attached hereto as Exhibit C and incorporated herein by reference.

**I. PURPOSES:**

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

**The conservation values include the following:**

- Open Space Protection. The Premises contributes to the protection of the scenic and natural character of Cedar Tree Neck Sanctuary and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved, including a portion of the J. Percy Moore, Kathleen Carter Moore and Marion Hamilton Carter Preserve.
- BioMap2. The Premises consists of 9.05 acres of “Core Habitat,” containing “Species of Conservation Concern,” and  $\pm 12.09$  acres of “Critical Natural Landscape,” containing “Landscape Blocks,” all as defined by the Massachusetts Natural Heritage and Endangered Species Program. BioMap2, published in 2010, was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural

communities, and a diversity of ecosystems. *BioMap2* is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan.

- Historical Purposes. The conservation restriction on the Premises protects a Native American burial ground.

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

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

### A. Prohibited Acts and Uses

Subject to the exceptions set forth herein (including without limitation paragraph II.B. below), the Grantor will not perform or allow others in its control to perform the following acts and uses which are prohibited on, above, and below the Premises:

- see page 5*
- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
  - (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;
  - (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
  - (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
  - (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;

- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;
- (7) Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Premises for business, residential or industrial use, or for more than *de minimis* commercial recreation;
- (9) The disruption, removal, or destruction of any stone walls or granite fence posts on the Premises;
- (10) Any other use of the Premises or activity which is inconsistent with the purpose of this Amended Conservation Restriction or which would impair the conservation values.

→ **B. Reserved Rights and Exceptions**

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

- (1) Vegetation Management. The selective minimal removing of brush, mowing, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or for esthetic purposes with the prior approval of the Grantee, or to preserve the present condition of the Premises as documented in the Baseline Report.
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Amended Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream, or the Native American Burial Ground shown on Exhibit C. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (4) Wildlife Habitat Improvement. With the prior written permission of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife,

wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;

- (5) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, after consultation with the Wampanoag Tribe of Gay Head (Aquinnah) and following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).
- (6) Trails. With prior approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than 4 feet;
- (7) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, and the protected conservation values.
- (8) Outdoor Passive Recreational Activities. Hunting, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
- (9) Subdivision. With prior approval of the Grantee, subdivision of the Premises in which case the Grantor shall make reference to this Amended Conservation Restriction in the deed of conveyance;
- (10) Roadway. The right to use, maintain and repair the roadway (the "Roadway") shown on Exhibit "C" as the 'Existing Road' and with the approval of the Grantee, to relocate the Roadway and/or install utility lines in the Roadway;
- (11) Tennis Court. The right to construct, use, maintain and replace a tennis court, which may be hard-surfaced, in the location approximately as shown on Exhibit "C." Such right shall also include, but shall not be limited to, the right to construct, install, use, maintain and replace: (i) an accessory structure used in connection with such tennis court, such as a storage shed; (ii) a pervious road leading to the tennis court and storage shed; (iii) a dryland terrace within a twenty (20') radius surrounding the tennis court and accessory structure; (iv) retaining wall(s), if necessary, in connection with the construction of the tennis court and/or accessory structure; and (v) utilities used in connection with the tennis court and/or accessory structure; and associated and necessary grading, tree removal and drainage. The tennis court, all of the improvements described in items (i) – (v) above and the associated and necessary grading, tree removal and drainage described above shall be located and/or performed within the area shown as "Proposed Limit of Work" on Exhibit "C." The tennis court shall not have outdoor lighting and shall not be enclosed or roofed in any way. Such tennis court, accessory structure and access road shall be located



outside of the 100' wetland buffer zone and the wetland resources areas as shown on Exhibit "D".

- (12) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph B shall seek to minimize disturbance to the conservation values and other natural features within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph B, any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report.
- (13) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (14) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph B shall follow, when available and if applicable, established, up to date, and regionally-applicable best management practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

**C. Notice and Approval.**

1. Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Amended Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Amended Conservation Restriction.
2. Deemed Denial. Grantee agrees to use reasonable diligence to respond to Grantor's request within 60 days of delivery. Grantee's failure to respond within the sixty (60) calendar day period shall be deemed a denial of the request (hereinafter, a "Deemed Denial"). A Deemed Denial is not final or binding on Grantee, and Grantor may submit the same or a similar request for approval.

### **III. LEGAL REMEDIES OF THE GRANTEE**

#### **A. Legal and Injunctive Relief.**

The rights hereby granted shall include the right to enforce this Amended Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Amended Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Amended Conservation Restriction.

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

#### **B. Non-Waiver.**

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

#### **C. Disclaimer of Liability**

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

#### **D. Acts Beyond the Grantor's Control**

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

#### IV. ACCESS

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

The Grantee shall have the right, with prior written consent of the Grantor or its assigns, to provide educational programs, such as nature walks on the Premises, to which the general public will be invited. It is understood that the Grantee will be permitted to conduct a minimum of one but not more than two programs annually. At these times, the temporary parking of not more than two vehicles is permitted. Except as aforesaid, no rights to enter the Premises are granted hereby to the Grantee, to the public or to any other person.

#### V. EXTINGUISHMENT

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

B. Proceeds. Grantor and Grantee agree that the donation of this Amended Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Amended Conservation Restriction bears to the value of the unrestricted Premises (determined as of the date hereof). Such proportionate value of the Grantee's property right shall remain constant.

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



allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

## **VI. DURATION & ASSIGNABILITY**

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

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

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

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

## **VII. SUBSEQUENT TRANSFERS**

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

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

## **VIII. ESTOPPEL CERTIFICATES**

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

## **IX. NON MERGER**

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

## **X. AMENDMENT**

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

## **XI. EFFECTIVE DATE**

This Amended 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 in a timely manner in the Dukes County Registry of Deeds.

## **XII. NOTICES**

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

To Grantor: Michael Minars, Trustee of Songwind Nominee Trust  
c/o Rattner Family Office  
650 Madison Avenue  
New York NY 10022

To Grantee: Sheriff's Meadow Foundation  
57 David Avenue  
Wakeman Conservation Center  
P.O. Box 1088  
Vineyard Haven, MA 02568

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

### **XIII. GENERAL PROVISIONS**

A. Controlling Law. The interpretation and performance of this Amended 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 Amended Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Amended Conservation Restriction and the policy and purposes of Chapter 184, Sections 31, 32, and 33 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Amended Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

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

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

### **XIV. MISCELLANEOUS**

A. Pre-existing Public Rights. Approval of this Amended Conservation Restriction pursuant to Chapter 184, Section 32 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the

existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Amended Conservation Restriction.

B. Homestead. The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Chapter 188 Section 10(e) of the Massachusetts General Laws.

C. Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Amended Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

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

Signature pages:

Grantor  
Grantee Acceptance  
Approval by Town of West Tisbury Board of Selectmen  
Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Sketch Plan of Original Conservation Restriction Premises  
Exhibit B: Legal Description of the Premises  
Exhibit C: Sketch Plan of Premises  
Exhibit D: Sketch Plan of Premises Showing Wetland Buffers

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Michael Minars, Trustee of Songwind  
Nominee Trust

COMMONWEALTH OF MASSACHUSETTS

County of Dukes County, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Michael Minars, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Trustee of Songwind Nominee Trust.

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

**ACCEPTANCE OF GRANT**

This Amended Conservation Restriction from Michael Minars, Trustee of Songwind Nominee Trust, was accepted by Sheriff's Meadow Foundation, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Sheriff's Meadow Foundation,

By: \_\_\_\_\_  
Brien O'Brien, President, duly authorized

By: \_\_\_\_\_  
Walter Looney, Jr., Treasurer, duly authorized

**COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Brien O'Brien, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as President of Sheriff's Meadow Foundation.

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

COMMONWEALTH OF MASSACHUSETTS

County of Dukes County, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Walter Looney, Jr., and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Treasurer of Sheriff's Meadow Foundation.

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

**APPROVAL OF BOARD OF SELECTMEN**

We, the undersigned, being a majority of the Board of Selectmen of the Town of West Tisbury, hereby certify that at a public meeting duly held on \_\_\_\_\_, 2020, the Board of Selectmen voted to approve the foregoing Amended Conservation Restriction from Michael Minars, Trustee of Songwind Nominee Trust, to Sheriff's Meadow Foundation in the public interest pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

WEST TISBURY  
BOARD OF SELECTMEN:

\_\_\_\_\_  
Cynthia Mitchell, Chair

\_\_\_\_\_  
Skipper Manter

\_\_\_\_\_  
Kent A. Healy

**COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Cynthia Mitchell, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Chair of the West Tisbury Board of Selectmen.

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



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

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Amended Conservation Restriction from Michael Minars, Trustee of Songwind Nominee Trust, to Sheriff's Meadow Foundation has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
KATHLEEN A. THEOHARIDES  
Secretary of Energy and Environmental Affairs

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared KATHLEEN A. THEOHARIDES, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

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

**EXHIBIT A**

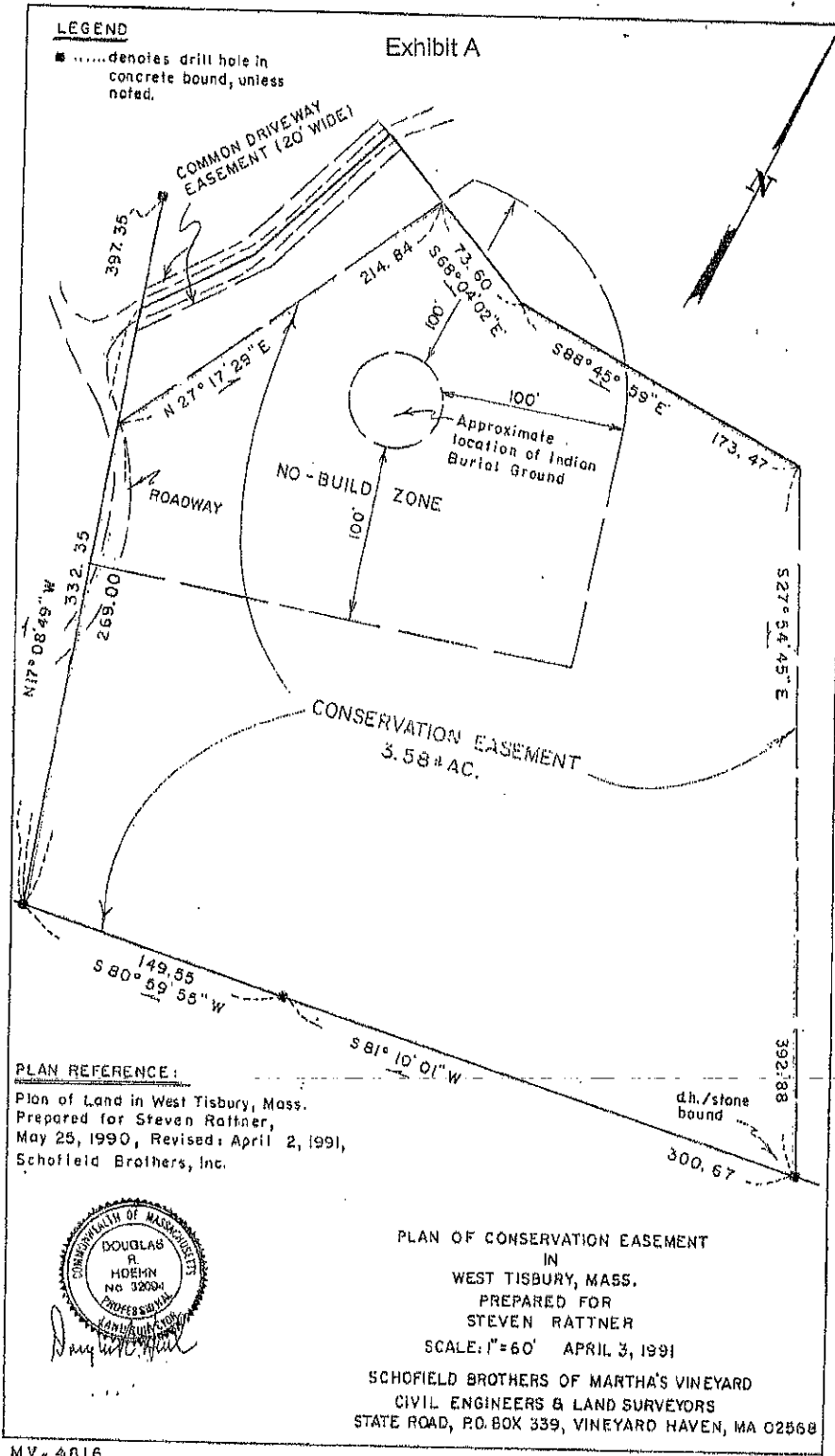
Original Conservation Restriction Exhibit:

“Plan of Conservation Easement in West Tisbury, Mass.  
Prepared for Steven Rattner Scale: 1”=60’ April 3, 1991  
Schofield Brothers of Martha’s Vineyard  
Civil Engineers & Land Surveyors  
State Road, P.O. Box 339, Vineyard Haven, MA 02568”

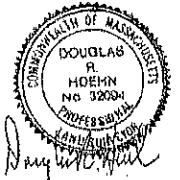
(attached)

Exhibit A

**LEGEND**  
■ ..... denotes drill hole in concrete bound, unless noted.



**PLAN REFERENCE:**  
 Plan of Land in West Tisbury, Mass.  
 Prepared for Steven Rattner,  
 May 25, 1990, Revised: April 2, 1991,  
 Schofield Brothers, Inc.



**PLAN OF CONSERVATION EASEMENT**  
 IN  
 WEST TISBURY, MASS.  
 PREPARED FOR  
 STEVEN RATTNER  
 SCALE: 1"=60' APRIL 3, 1991  
 SCHOFIELD BROTHERS OF MARTHA'S VINEYARD  
 CIVIL ENGINEERS & LAND SURVEYORS  
 STATE ROAD, P.O. BOX 339, VINEYARD HAVEN, MA 02568

## **EXHIBIT B**

### Legal Description of Premises

The Premises subject to this Amended Conservation Restriction is the land shown as “Conservation Area”, containing approximately 12.09 acres, shown on a plan of land entitled “Conservation Land in West Tisbury, Mass. Prepared for Sheriffs Meadow Foundation, Inc. November 26, 2019 Scale 1”=150’ Vineyard Land Surveying & Engineering 12 Cournoyer Road, P.O. Box 421, West Tisbury, MA 02575” (the “Plan”).

Being a portion of the premises described in a deed from P. Maureen White, Trustee of The Songwind Realty Trust Agreement, to Michael Minars, Trustee of Songwind Nominee Trust, dated December 27, 2013, and recorded with the Dukes County Registry of Deeds in Book 1338, Page 699.

**EXHIBIT C**

“Conservation Land in West Tisbury, Mass. Prepared for Sheriffs Meadow Foundation, Inc.  
November 26, 2019 Scale 1”=150’ Vineyard Land Surveying & Engineering 12 Cournoyer  
Road, P.O. Box 421, West Tisbury, MA 02575”

(reduced copy attached)

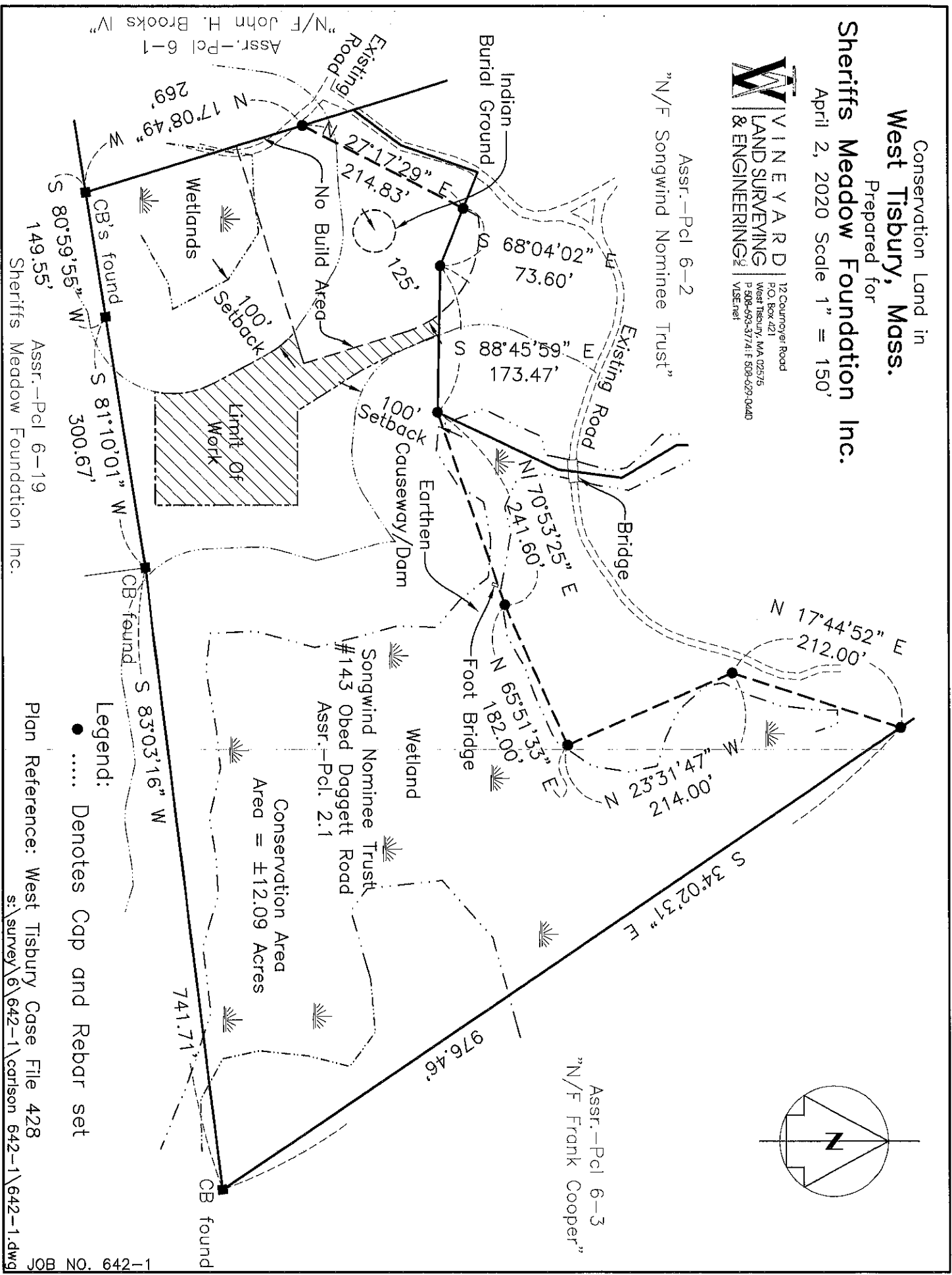
For official full size plan see Dukes County Registry of Deeds Plan Book \_\_\_\_\_ Page \_\_\_\_\_

Exhibit C marked to show 100ft BZ

Conservation Land in  
**West Tisbury, Mass.**

Prepared for  
**Sheriffs Meadow Foundation Inc.**  
 April 2, 2020 Scale 1" = 150'

**WINEYARD** 12 Courtoyer Road  
**LAND SURVEYING & ENGINEERING** P.O. Box 421  
 West Tisbury, MA 02575  
 P 508-693-3774; F 508-629-0440  
 VLSE.net



Legend:  
 ● ..... Denotes Cap and Rebar set

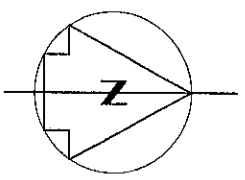
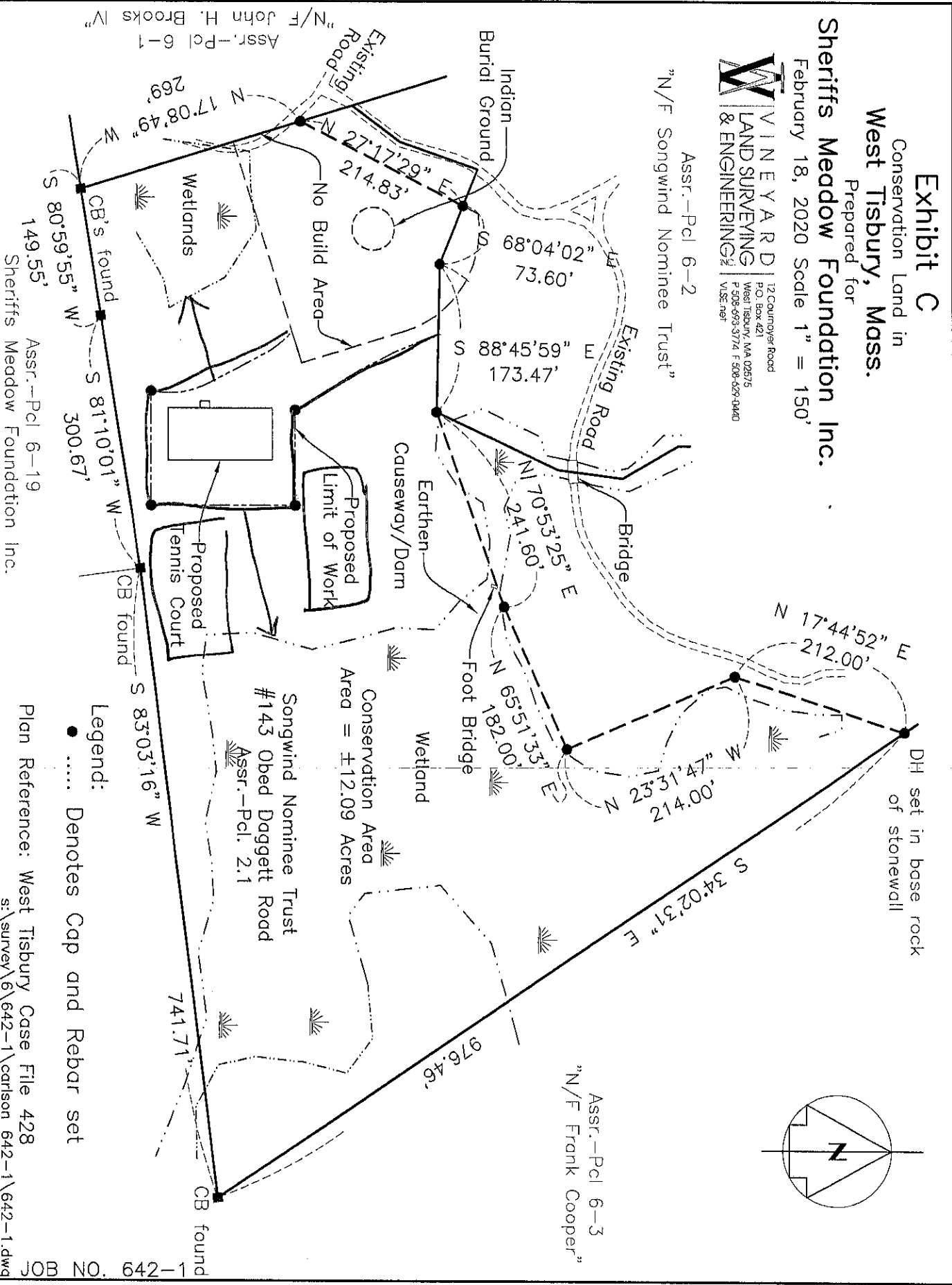
Plan Reference: West Tisbury Case File 428  
 s:\survey\6\642-1\corlison 642-1\642-1.dwg

# Exhibit C

Conservation Land in  
West Tisbury, Mass.

Prepared for  
**Sheriffs Meadow Foundation Inc.**  
February 18, 2020 Scale 1" = 150'

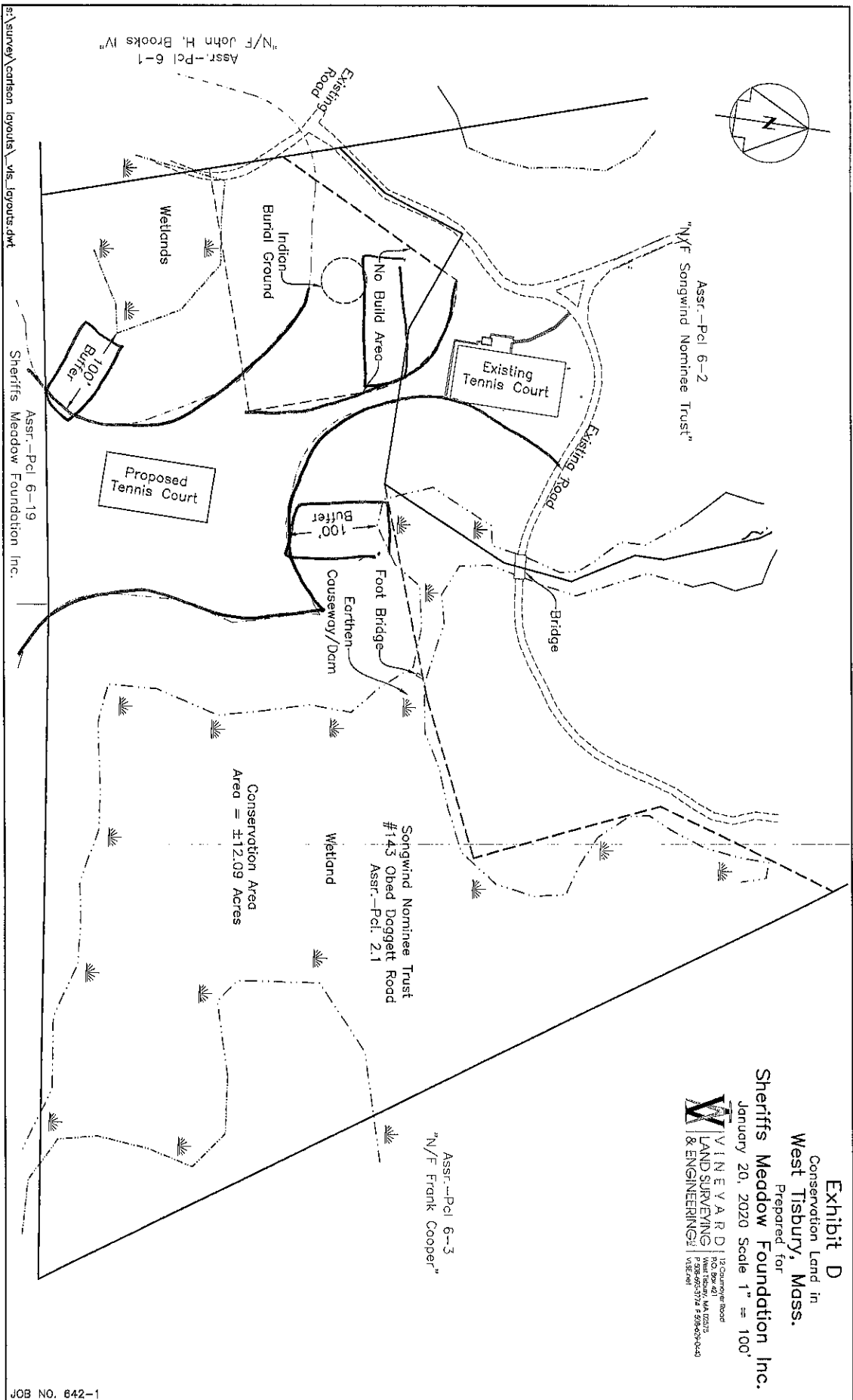
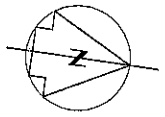
**W** VINEYARD  
LAND SURVEYING  
& ENGINEERING  
12 Courthouse Road  
P.O. Box 421  
West Tisbury, MA 02575  
P 508-693-3774 F 508-629-0440  
VISE.net



**EXHIBIT D**

“Conservation Land in West Tisbury, Mass. Prepared for Sheriffs Meadow Foundation, Inc.  
January 20, 2020 Scale 1”=100’ Vineyard Land Surveying & Engineering 12 Cournoyer Road,  
P.O. Box 421, West Tisbury, MA 02575”





**VINEYARD** 150 Chandler Road  
 LAND SURVEYING West Tisbury, MA 02575  
 & ENGINEERING P.O. Box 47  
 West Tisbury, MA 02575  
 508-665-3772 Fax 508-665-9240  
 www.vineyardland.com

**Exhibit D**  
 Conservation Land in  
 West Tisbury, Mass.  
 Prepared for  
**Sheriffs Meadow Foundation Inc.**  
 January 20, 2020 Scale 1" = 100'