



SILVA, THOMAS, MARTLAND & OFFENBERG, LTD.
ATTORNEYS & COUNSELORS AT LAW

March 8, 2021

ROBERT M. SILVA
ANDREW A. THOMAS
DAVID P. MARTLAND
CRISTINA M. OFFENBERG

Robert Sylvia, President and
Members of the Middletown Town Council
Middletown Town Hall
350 East Main Road
Middletown, RI 02842

Re: Request to Release Certain Areas from Saltwood Farm Conservation Easement

Dear President Sylvia and Council Members:

On behalf of my client, Peter Gallipeau, I am requesting that certain areas presently subject to a Conservation Easement and Maintenance Easement for the Saltwood Farm Subdivision be released so that they may be merged into one of the house lots. The areas designated as Parcels 1 & 2 on the plan submitted herewith would be merged into AP 126 Lot 401 and Parcel 3 would be merged into Future Phase 4. Mr. Gallipeau and I will be available to answer any questions that the Council may have.

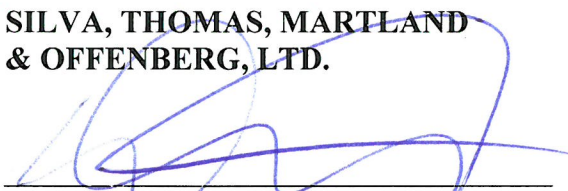
Furthermore, given that the Planning Board was involved in approving the Conservation Easement, Maintenance Easement and overall subdivision, the Council may want to refer the matter to the Planning Board for its consideration and recommendation prior to taking any action on this matter.

The foregoing would result in a minor reduction in the overall open space by approximately 1.5% (from 55.4% to 53.9%, where only 40% is required). I have included herewith proposed partial releases for the Conservation Easement and Maintenance Easement, as well as the existing easements and proposed plan of Administrative Subdivision.

With best wishes, I remain,

Very truly yours,

**SILVA, THOMAS, MARTLAND
& OFFENBERG, LTD.**



David P. Martland, Esq.

Enclosures

PARTIAL RELEASE OF CONSERVATION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that, the TOWN OF MIDDLETOWN, Rhode Island, a Rhode Island municipal corporation with offices at 350 East Main Road, Middletown, Rhode Island, and the SALTWOOD FARM HOMEOWNERS ASSOCIATION, INC., a Rhode Island non-business corporation with its principal office at 15 Sachuest Drive, Middletown, Rhode Island, hereinafter collectively referred to as "Grantees"), are the Grantees of that certain Conservation Easement granted by PETER GALLIPEAU as Trustee under the Peter Gallipeau Living Trust -2015 of 15 Sachuest Drive, Middletown, Rhode Island (hereinafter referred to as "Grantor"), dated June 6, 2019 and recorded in Book 1600 at Page 215 ("Conservation Easement") and hereby release, cancel and discharge the said Conservation Easement as it relates to Parcel 1, Parcel 2 and Parcel 3 on that certain plan entitled "A.P. 126 LOTS 4 & 401 & SALTWOOD FARM SUBDIVISION PARADISE AVENUE CROSS COUNTRY LAND SACHUEST DRIVE, MIDDLETOWN RI" attached hereto and made a part hereof.

It is specifically understood that the only premises released by this instrument are those described above and that no other property covered by said Conservation Easement is hereby released.

IN WITNESS WHEREOF, the Town Council of the Town of Middletown by and through Robert Sylvia, President, and Peter Gallipeau, President of the Saltwood Farm Homeowners Association, Inc. have set their hands and seals this _____ day of March, 2021.

TOWN OF MIDDLETOWN

SALTWOOD FARM HOMEOWNERS ASSOCIATION, INC.

By: Robert Sylvia
Its: President

By: Peter Gallipeau
Its: President

NOTARY CLAUSES ON NEXT PAGE

STATE OF RHODE ISLAND

COUNTY OF NEWPORT

In _____, of said County, on the ____ day of March, 2021, before me personally appeared Robert Sylvia, the President of the Town Council of the Town of Middletown, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed, individually and in his capacity as President of the Town Council of the Town of Middletown, before me.

Notary Public
My Commission Expires

[Affix Notary Seal]

STATE OF RHODE ISLAND

COUNTY OF NEWPORT

In _____, of said County, on the ____ day of March, 2021, before me personally appeared Peter Gallipeau, the President of the Saltwood Farm Homeowners Association, Inc., to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed, individually and in his capacity as President of the Saltwood Farm Homeowners Association, Inc., before me.

Notary Public
My Commission Expires

[Affix Notary Seal]

PARTIAL RELEASE OF MAINTENANCE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that, the TOWN OF MIDDLETOWN, Rhode Island, a Rhode Island municipal corporation with offices at 350 East Main Road, Middletown, Rhode Island, (hereinafter referred to as "Grantee"), is the Grantee of that certain Maintenance Easement granted by PETER GALLIPEAU as Trustee under the Peter Gallipeau Living Trust - 2015 of 15 Sachuest Drive, Middletown, Rhode Island (hereinafter referred to as "Grantor"), dated June 6, 2019 and recorded in Book 1600 at Page 256 ("Maintenance Easement") and hereby releases, cancels and discharges the said Maintenance Easement as it relates to Parcel 1, Parcel 2 and Parcel 3 on that certain plan entitled "A.P. 126 LOTS 4 & 401 & SALTWOOD FARM SUBDIVISION PARADISE AVENUE CROSS COUNTRY LAND SACHUEST DRIVE, MIDDLETOWN RI" attached hereto and made a part hereof.

It is specifically understood that the only premises released by this instrument are those described above and that no other property covered by said Maintenance Easement is hereby released.

IN WITNESS WHEREOF, the Town Council of the Town of Middletown by and through Robert Sylvia, President, has set its hand and seal this _____ day of March, 2021.

TOWN OF MIDDLETOWN

By: Robert Sylvia
Its: President

STATE OF RHODE ISLAND
COUNTY OF NEWPORT

In _____, of said County, on the ____ day of March, 2021, before me personally appeared Robert Sylvia, the President of the Town Council of the Town of Middletown, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed, individually and in his capacity as President of the Town Council of the Town of Middletown, before me.

Notary Public
My Commission Expires

[Affix Notary Seal]

MAINTENANCE EASEMENT

AGREEMENT made this 6th day of June, 2019 by and between Peter Gallipeau as Trustee under Peter Gallipeau Living Trust – 2019 of 15 Sachuest Drive, Middletown, Newport County, Rhode Island (hereinafter the "Grantor") and the Town of Middletown, Newport County, Rhode Island (hereinafter the "Grantee").

WITNESSETH

WHEREAS the Grantor is the owner in fee simple of certain parcels of land collectively known as the Saltwood Farm subdivision and being designated as building Lots 1 through 12, inclusive, along with a parcel of land designated as OPEN SPACE, AREA = 385,193 S.F. "OPEN SPACE AREA = 385,193 SF ±" on a certain Plan of Subdivision entitled "Saltwood Farm, A.P. 126 Lot 4, Sachuest Drive, Bailey Avenue and Cross Country Lane, Middletown, RI 02842", consisting of Sheets 1 through 33, inclusive, Scale 1" = 60', prepared by Northeast Engineers & Consultants, Inc. (said plan having been approved by the Planning Board of the Town of Middletown, Rhode Island by Decision recorded in the Land Evidence Records of said Town of Middletown on August 8, 2014 in Book 1393, Page 262), and recorded in the Land Evidence Records of said Town of Middletown on June 17, 2019 as documents no. 1320 through 1352, inclusively (Plans 2019-29 through 2019-61, inclusively) in Hanging Files E-25 through E-57, inclusively (hereinafter, the "Plan", which Plan is incorporated by reference herein and made a part hereof; and

WHEREAS, said Plan provides for a surface and subsurface water drainage system over and under portions of the Open Space and certain of the building lots designated as Lots 3, 4, 11 and 12 on said Plan; and

WHEREAS, the Grantor is willing to grant a non-exclusive Maintenance Easement (hereinafter the "Easement") in connection with said detention basin and drainage system, and the Grantee is willing to accept such Easement; and

WHEREAS, the Grantor, on behalf of himself and his heirs, administrators, successors and assigns, as well as his successors in title, is willing to bear the burden, financial or otherwise, of maintaining said detention basin as provided for in said Plan and as hereinafter set forth; and

WHEREAS, the Grantor and Grantee recognize by the conveyance of said Easement to the Grantee, the common purpose of maintaining said surface and subsurface water drainage system in conjunction with the use and development of said property for residential housing.

NOW THEREFORE, in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration to the Grantor paid, the receipt of which is hereby acknowledged, and in further consideration of the mutual covenants, terms, conditions and restrictions hereinafter set forth, Grantor hereby grants and conveys unto the Grantee and its successors and assigns forever and in perpetuity a non-exclusive Easement of the nature and character and to the extent hereinafter set forth in respect to lands of the Grantor known as the Saltwood Farm subdivision.

The Grantor intends to convey to the Grantee by this instrument an Easement over the areas otherwise designated or known as "OPEN SPACE AREA = 385,193 S.F. +/-", "20' WIDE DRAINAGE EASEMENT 2", "DRAINAGE EASEMENT 3", "30' WIDE UTILITY AND ACCESS EASEMENT 4" on Sheet 33 of said Plan, and "PROPOSED GRAVEL ACCESS IN OPEN SPACE. AREA = 6,786 SF" on Sheet 10 of said Plan (hereinafter, the "Easement Areas").

Subject to the easements reserved by Grantor above, the terms, conditions and restrictions of said Easement are as hereinafter set forth:

1. The Owners of Lots 1 through 12, inclusive, in the Saltwood Farm subdivision, hereinafter the "Lot Owners", shall be under an affirmative obligation and duty to (1) arrange and pay for maintenance of the drainage structures, detention basins and swales within the five (5) areas designated as "PROPOSED DRAINAGE FEATURE", and the areas designated as "20' UTILITY EASEMENT FOR DRAIN LINE", and "DRAINAGE SWALE EASEMENT" on Sheet 10 of said Plan, pursuant to the terms, provisions and conditions of this Agreement and the STORMWATER MAINTENANCE SCHEDULE set forth in Exhibit A and (2) to arrange and pay for plowing and maintenance of the said PROPOSED GRAVEL ACCESS IN OPEN SPACE AREA = 6,786 SF and the said 30' WIDE UTILITY AND ACCESS EASEMENT 4.

2. The maintenance of the Easement Areas shall be the obligation of the Lot Owners and the Grantee shall not be obligated or liable in any way for the maintenance of said Easement Areas. In the event that the Lot Owners shall fail to maintain the Easement Areas, as aforesaid, said Grantee, at its option, may enter upon the premises and perform such maintenance of the Easement Areas as it deems necessary and in accordance with the requirements of the STORMWATER MAINTENANCE SCHEDULE set forth on Sheet 2 of said Plan and thereafter charge the Lot Owners for the cost of such maintenance. The recording of a notice of any such charge with a copy of the charge in the Land Evidence Records of the Town of Middletown shall constitute a lien against said Lot or Lots until such charge is paid in full.

3. The Grantee shall be under no obligation to enforce the terms of said Easement, provided, nevertheless that the Grantee may, at its sole option seek to enforce the terms, provisions and conditions of said Easement against the Grantor, its successors in title and/or assigns, including said Lot Owners, their heirs, successors and/or assigns; and any costs or expenses, including reasonable attorneys' fees incurred by the Grantee in preventing any violation or enforcing the terms of said Easement, shall be recoverable by the Grantee from the parties in violation or others making wrongful use of the property.

4. The Lot Owners shall file, on an annual basis, a written report with the Middletown Public Works Director (the "Director") verifying that the inspection and maintenance of the drainage system has been conducted in compliance with provisions of the Operation and Maintenance Plan and that the facilities are in good working condition. Said report shall include a description of the maintenance activities conducted, the results of any inspections and such other information as the Director shall reasonably require. The reporting period shall be the

calendar year and the annual report shall be submitted no later than January 10 of the following year, beginning January 10, 2020. In the event that said annual report is not filed within thirty (30) days of the due date thereof, Grantee may charge the Lot Owners for the cost of any inspections conducted by Grantee or its agents to verify the condition of the Drainage System.

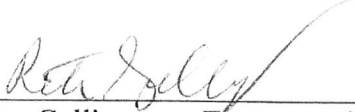
In the event that a violation of these terms, conditions or restrictions is found to exist, the Grantee, its successors or assigns may upon notice to the offending party, institute an action in Newport Superior Court to enjoin, by ex parte temporary and/or permanent injunction, such violation, to require the restoration of the property to its prior condition and/or for monetary damages for breach of this covenant, at the sole option of the Grantee. This Easement shall run with the land, be appurtenant thereto, and be binding upon the Grantor, its successors in title and/or its assigns and all persons making any use or attempting to make any use of the subject property herein before described.

The Grantee, for itself, its successors and/or assigns, reserves the right to enter the Easement Areas at all reasonable times for the purpose of inspecting said Easement Areas to determine if the Grantor or its successors and/or assigns are complying with the terms, conditions, restrictions and purposes thereof.

The Grantor agrees that the terms, conditions, restrictions and purposes of this Easement will be incorporated by reference in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title or any portion thereof, to or of Grantor's possessory interest in the subject property and shall include an affirmative obligation of the grantee therein to abide by the terms of this Easement.

TO HAVE AND TO HOLD unto the said Town of Middletown, Grantee, its successors and assigns, forever. These covenants agreed to, the terms, conditions, restrictions and purposes imposed as aforesaid shall not only be binding upon the Grantor and said Lot Owners, but also their agents, personal representatives, heirs, assigns and all other successors to them in interest and shall continue as a servitude running in perpetuity with the above described land.

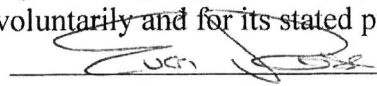
IN WITNESS WHEREOF, I, the said Peter Gallipeau as Trustee under Peter Gallipeau Living Trust – 2019 have hereunto set my hand and seal this 6th day of June, 2019.


Peter Gallipeau as Trustee under Peter Gallipeau Living Trust – 2019

STATE OF RHODE ISLAND
COUNTY OF NEWPORT

On this 6th day of June, 2019, before me, the undersigned notary public, personally appeared Peter Gallipeau as Trustee under Peter Gallipeau Living Trust – 2019, proved to me through satisfactory evidence of identity, being in this instance a Rhode Island driver's license, to be the person executing the foregoing instrument, and he acknowledged to me that he signed the foregoing instrument voluntarily and for its stated purpose.

EVAN ROSE
NOTARY PUBLIC - ID #756025
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES
12-26-21


_____, Notary Public

My Commission Expires: 12-26-21

Exhibit A

STORMWATER MAINTENANCE SCHEDULE

1. GRASSES AND/OR SPECIFIED VEGETATION SHALL BE PLANTED AROUND AND WITHIN THE DETENTION BASIN, WVTSS AND SWALES IMMEDIATELY FOLLOWING CONSTRUCTION TO STABILIZE SLOPES AND PREVENT EROSION.
2. IF A MINIMUM COVERAGE OF 50% OF WVTSS IS NOT ACHIEVED IN THE PLANTED AREAS AFTER A SECOND GROWING SEASON, A REINFORCEMENT PLANTING IS REQUIRED.
3. SEDIMENT REMOVAL FROM THE WVTSS FOREBAYS SHALL OCCUR EVERY 5 TO 6 YEARS OR AFTER 50% OF THE TOTAL FOREBAY CAPACITY HAS BEEN LOST, WHICHEVER OCCURS FIRST.
4. ANNUAL MOWING OF THE WVTSS SETBACKS IS ONLY REQUIRED ALONG MAINTENANCE RIGHTS-OF-WAY. THE REMAINDER OF THE AREA MAY BE MAINTAINED PER THE CONSERVATION DEVELOPMENT OPEN SPACE AGREEMENT OF THE DEVELOPMENT.
5. WVTSS MAINTENANCE INVOLVING THE DRAINING OF THE PERMANENT POOLS SHALL ONLY BE UNDERTAKEN DURING THE DRY SEASON.
6. THE DETENTION BASIN SHALL BE MOWED AT LEAST THREE TIMES PER GROWING SEASON TO PREVENT UNWANTED GROWTH. GRASSED SWALES SHALL BE MOWED AT LEAST ONCE PER GROWING SEASON. GRASS WITHIN SWALES SHOULD NOT BE CUT SHORTER THAN 4 INCHES IN HEIGHT.
7. BARE SPOTS AND ERODED AREAS WITHIN GRASSES SWALES MUST BE RESEEDDED IMMEDIATELY FOLLOWING OBSERVATION.
8. THE BASINS AND GRASSES SWALES SHALL BE INSPECTED AT LEAST TWICE A YEAR FOR EVIDENCE OF EROSION. AREAS WHERE EROSION PROBLEMS ARE OBSERVED SHALL BE RE-SEEDDED AND, IF DEEMED NECESSARY BY THE DESIGN ENGINEER, AN EROSION CONTROL BLANKET SHALL BE INSTALLED TO PREVENT FURTHER DAMAGE.
9. THE DETENTION BASIN SHALL BE INSPECTED FOR POOLS OF STAGNANT WATER. EVIDENCE OF PONDING CAUSED BY AN UNLEVEL BASIN BOTTOM SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGN ENGINEER, AND THE AREA SHALL BE RE-GRADED AND RESTORED TO PREVENT THE FORMATION OF HABITAT AREAS FOR NUISANCE INSECTS.
10. ANNUAL MOWING OF THE BASIN SETBACKS IS ONLY REQUIRED ALONG MAINTENANCE RIGHTS-OF-WAY. THE REMAINDER OF THE AREA MAY BE MAINTAINED PER THE CONSERVATION DEVELOPMENT OPEN SPACE AGREEMENT.
11. IF THERE IS AN OBVIOUS LOSS OF DRAINAGE FROM THE DETENTION POND, ESPECIALLY WHEN POOLS OF STORMWATER ARE EVIDENT IN THE AREA OF THE OUTLET, THE OUTLET PIPE MAY BE CLOGGED WITH SEDIMENTS. THE OUTLET PIPE SHALL BE RECONSTRUCTED ACCORDING TO THE DESIGN DETAIL REPLACING ALL FILTER FABRIC. AFTER RECONSTRUCTION THE BASIN FLOOR SHALL BE IMMEDIATELY RESEEDDED IF NECESSARY TO PREVENT EROSION. CARE SHALL BE TAKEN NOT TO DISTURB THE IMPERMEABLE LAYER BELOW THE BASIN. THIS WORK SHALL BE DONE ONLY DURING THE GROWING SEASON.
12. TRASH, LITTER AND DEBRIS SHALL BE REMOVED FROM ALL SURFACE STORMWATER FACILITIES AT LEAST FOUR TIMES A YEAR TO PREVENT BLOCKAGE OF OUTLET PIPES. IN LOCATIONS WHERE SIGNIFICANT VOLUMES OF DEBRIS ARE OBSERVED, THE DEVICES SHALL BE CAREFULLY INSPECTED TO IDENTIFY IF ANY DAMAGE HAS OCCURRED.
13. THE STRUCTURAL INTEGRITY OF ALL OUTLET STRUCTURES SHALL BE CHECKED AT LEAST TWICE A YEAR. STRUCTURAL FAULTS, CRACKED PIPES OR DAMAGED GRATES/TRASH RACKS SHALL BE REPAIRED IMMEDIATELY.
14. ALL ROADS SHALL BE SWEEPED ANNUALLY IN THE SPRING, TO REMOVE ACCUMULATED SEDIMENTS.
15. SEDIMENTS IN THE CROSS COUNTRY LANE SEDIMENT TRAPS SHALL BE REMOVED EVERY 2 YEARS.
16. MAINTENANCE OF THE STORMWATER SYSTEM DURING CONSTRUCTION OF THE PROJECT SHALL BE THE RESPONSIBILITY OF THE SITE CONTRACTORS.
17. UPON COMPLETION OF THE CONSTRUCTION, MAINTENANCE OF THE STORMWATER SYSTEM WITHIN THE BOUNDS OF THE SUBDIVISION SHALL BECOME THE RESPONSIBILITY OF THE HOMEOWNER'S ASSOCIATION. MAINTENANCE OF THE STRUCTURES AND GRASSES SWALES WITHIN THE PUBLIC RIGHTS OF WAY SHALL BECOME THE RESPONSIBILITY OF THE TOWN OF MIDDLETOWN.
18. LONG TERM MAINTENANCE OF THE WVTSS AND OVERALL DRAINAGE SYSTEM BY THE HOMEOWNER'S ASSOCIATION SHALL BE VESTED WITH A RESPONSIBLE AUTHORITY BY MEANS OF A LEGALLY BINDING AND ENFORCEABLE DOCUMENT THAT IS EXECUTED AS A CONDITION OF PLAN APPROVAL.

RECORDED: Jun 18, 2019 10:39A
DOC #: 00001366
RECEIPT #: 54626
WENDY J. W. MARSHALL, TOWN Clerk
TOWN of MIDDLETOWN, RI

**SALTWOOD FARM
CONSERVATION EASEMENT**

THIS GRANT OF CONSERVATION EASEMENT is made this 6th day of June, 2019, by Peter Gallipeau as Trustee under Peter Gallipeau Living Trust – 2019 of 15 Sachuest Drive, Middletown, Rhode Island (hereinafter referred to as "Grantor"), to the TOWN of MIDDLETOWN, Rhode Island, a Rhode Island municipal corporation with offices at 350 East Main Road, Middletown, Rhode Island, and the SALTWOOD FARM HOMEOWNERS ASSOCIATION, INC., a Rhode Island non-business corporation with its principal office at 15 Sachuest Drive, Middletown, RI 02842_(hereinafter collectively referred to as "Grantees").

WHEREAS, Grantor is the owner of certain property known as the Saltwood Farm subdivision and being designated as OPEN SPACE AREA and Lots 1 through 12, inclusive, on a certain Plan of Subdivision entitled "Saltwood Farm, A.P. 126 Lot 4, Sachuest Drive, Bailey Avenue and Cross Country Lane, Middletown, RI 02842", Sheet 10 of 36, Scale 1" = 60', prepared by Northeast Engineers & Consultants, Inc., Date: REV. APR 2013, latest revision no. 6 dated 28MAY19 (said plan having been approved by the Planning Board of the Town of Middletown, Rhode Island by Decision recorded in the Land Evidence Records of said Town of Middletown on August 8, 2014 in Book 1393, Page 262), and recorded in the Land Evidence Records of said Town of Middletown on June 17, 2019 as document no. 1329 (Plan 2019-38) in Hanging File E-34 (the "Premises"); and

WHEREAS, portions of the Premises possesses certain open, natural, scenic, agricultural, ecological, archeological, historic and educational characteristics of particular public value and which are designated on the Plan as "OPEN SPACE AREA = 385,193 SF ±" which are required to be preserved in perpetuity by the Conservation Subdivision regulations set forth in Article 19 of the Zoning Ordinance and the Rules and Regulations Regarding the Subdivision and Development of Land for the Town of Middletown; and

WHEREAS, Grantor and Grantees recognize the value and special character of the Open Space Parcels and acknowledge a stated purpose to conserve these special values of the Open Space Parcels, and to prevent the use or development of the Open Space Parcels for any purpose or in any manner that would conflict with the maintenance and preservation of the Open Space Parcels in their current, natural, scenic and open condition; and

WHEREAS, Grantor as owner of the Open Space Parcels, on behalf of its successors and assigns, intends to convey to Grantees the right to preserve and protect the special conservation values of the Open Space Parcels in perpetuity.

WHEREAS, the Grantor acknowledges that this grant of conservation easement is a condition of the aforementioned Final Subdivision Approval, as granted by the Town of Middletown Planning Board, and the conveyance of this Conservation Easement is not intended to create any affirmative duties, obligations or liabilities of the Town of Middletown as Grantee.

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein and in consideration of TEN DOLLARS (\$10.00) paid by Grantees to Grantor, the receipt and sufficiency of which is hereby acknowledged and pursuant to the laws of the State of Rhode Island, and in particular Title 34, Chapter 39 and Title 45, Chapter 36 of the General Laws of Rhode Island, as amended, Grantor hereby voluntarily grants and conveys unto Grantees a Conservation Easement in perpetuity over the Open Space Parcels which is intended to run with the land as a real covenant and is not personal in nature or in interest, of the nature and character, and to the extent hereinafter set forth.

1. **Purpose:** It is the purpose of this Conservation Easement to assure that the Open Space Parcels will be retained forever in its open, natural, scenic, agricultural, and ecological condition and to prevent any use or development of the Open Space Parcels inconsistent with the uses permitted by Article 19 of the Zoning Ordinance or the Rules and Regulations Regarding the Subdivision and Development of Land. Grantor intends that this Conservation Easement will confine the use of the Open Space Parcels to those uses permitted by Article 19 of the Zoning Ordinance and the Saltwood Farm Open Space Management Plan developed by Grantor and Grantees (hereinafter referred to as the "Management Plan") and recorded herewith, which sets forth specific procedures by which the Open Space Parcels shall be maintained, including, but not limited to, the adequate maintenance of the Open Space Parcels to preserve the natural values and other matters as may be required for the preservation of the Open Space Parcels. Grantor shall have the right from time to time to request an amendment of the Management Plan by the Grantees in accordance with the amendment procedure set forth in the Management Plan. The original Management Plan and any amendments thereto are subject to the approval by the Grantees in writing.

2. **Rights of Grantees:** To accomplish the purpose of this Conservation Easement, the following rights are conveyed to the Grantees by this Conservation Easement:

- a. To preserve and protect the conservation values of the Open Space Parcels;
- b. To enter upon the Open Space Parcels at all reasonable times with notice to the Grantor and, if necessary, across other lands owned by Grantor

- adjacent to the Open Space Parcels in order to: (i) monitor and inspect Grantor's, or its successors or assigns, compliance with the covenants and purposes of this Conservation Easement, (ii) enforce the terms of this Conservation Easement, (iii) take any and all actions as may be necessary or appropriate, with or without order of court, to remedy or abate violation hereof; and (iv) after prior notice to Grantor, or its successors or assigns, to observe and study nature, make scientific and educational observations and studies in such manner as will not disturb the quiet enjoyment of the Open Space Parcels by Grantor.
- c. To prevent any activity or use of the Open Space Parcels that is inconsistent with the purpose of this Conservation Easement and the Management Plan.
 - d. To require restoration of such areas or features of the Open Space Parcels that may be damaged by any inconsistent activity of use, pursuant to Section 3 hereof.

3. **Rights of Grantor:** Grantor reserves for itself, its heirs, successors and assigns, the following reserved rights:
 - a. To use the Open Space Parcels for the following enumerated uses and for all purposes not inconsistent with this Conservation Easement and the Management Plan:
 - i. *Natural areas.* Areas of significant or outstanding natural value, conservation areas, wildlife preserves, bird sanctuaries, or areas of scenic, historic or archaeological value;
 - ii. Open recreation uses of a non-commercial nature occupying no more than 50% of the required open space, including playfields and playgrounds, tennis or other outdoor court games, outdoor swimming pools, golf courses, parks, and beaches or swimming pools;
 - iii. Open agricultural uses such as raising of crops, orchards, nurseries, and tree farms, but excluding areas for buildings or structures associated with commercial farms, greenhouses, or other commercial uses;
 - iv. Buffer areas between adjacent or nearby residential areas, or neighboring streets or property. Such buffer areas may contain fences or other natural or architectural screens;
 - v. Landscaped areas such as lawns, fields, wooded areas, plantings, gardens or courtyards;
 - vi. Pedestrian facilities such as walks, footpaths or bridges incorporated into the overall open space plan;
 - vii. The following uses of open space may be permitted subject to the limitations provided:
 1. Underground utilities and/or drainage facilities such as stormwater retention or detention areas, provided that such facilities are incorporated into the open

space landscaping and occupy no more than 20% of the required open space;

2. Vehicular facilities such as driveways and parking areas as may be necessary to provide access for Lot 9 and to open recreational uses and consisting of no more than 10% of the required open space. Public streets or areas within a public street right-of-way shall not be allowed within the open space.
- b. To sell, give or otherwise convey the Open Space Parcels or any interest in the Open Space Parcels, provided such conveyance is subject to the terms of this Conservation Easement and the Management Plan.
- c. The erection, maintenance and replacement of signs with respect to hunting, trespass, trail access, identity and address of the occupants, sale of the Open Space Parcels, the Grantee's interest in the Open Space Parcels, and the protected conservation values.
- d. Such other non-prohibited activities requested by the Grantor and expressly approved in writing by the Grantees, in its sole and exclusive discretion, which permission may only be given if the Grantees expressly finds that the activity is consistent with, and does not materially impair, the purposes or conservation values of the Open Space Parcels.

4. No Public Access. Nothing herein shall be construed as permitting public access to the Open Space Parcels.

5. Prohibited Activities and Uses: Any activity on or use of the Open Space Parcels inconsistent with the purpose of this Conservation Easement and/or the Management Plan is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited on, above, and below the Open Space Parcels:

- a. The subdivision of the Open Space Parcels or the disturbance or change in the natural habitat that would be inconsistent with the conservation values.
- b. The placement or construction of any buildings, structures, or other improvements of any kind including, without limitation, camping accommodations or mobile homes, fences, signs, billboards or other advertising material, tennis courts, swimming pools, asphalt driveways, roads, parking lots, utility poles, towers, conduits, or lines or other structures, other than those structures currently on the Open Space Parcels and as may be permitted pursuant to paragraph 3 above and the Management Plan. No commercial or industrial activity of any kind shall be permitted on the Open Space Parcels, except as set forth in the Management Plan.
- c. Any ditching, draining, digging, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, or any building of roads or change in the topography of the land in any

- manner except the maintenance of existing foot trails and as may be allowed in paragraph 3 above and the Management Plan.
- d. No portion of the Open Space Parcels may be used toward building or development requirements on this or any other parcel.
 - e. The disruption, removal, or destruction of the stone walls on the Open Space Parcels.
 - f. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, or archaeological conservation.
 - g. Any other use of the Open Space Parcels or activity thereon which is inconsistent with the purpose of this Conservation Easement and the Management Plan.

6. Grantees' Remedies: If any Grantee determines that Grantor is in violation of the terms of this Conservation Easement or that a violation is threatened, the Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic, water resource protection or environmental values, and to require the restoration of the Open Space Parcels to the condition that existed prior to any such injury, costs incurred and reasonable attorney fees to prosecute any such actions to enforce. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Open Space Parcels. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Open Space Parcels, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and Grantor agrees that if Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate, that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in

the Open Space Parcels resulting from any causes beyond Grantor's control, including, without limitation, fire, flood, storm, or earth movement.

- a. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, costs of suit and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement, shall be borne by Grantor.
- b. Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the sole discretion of Grantee, and any forbearance or delay by Grantee to exercise its rights under this Conservation Easement, in the event of any breach of any term of this Conservation Easement by Grantor, shall not be deemed or construed to be a waiver by Grantee of such terms or of any subsequent breach of the same of any other term of this Conservation Easement or any of Grantee's rights under this Conservation Easement.
- c. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

7. Formal Provisions:

- a. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Open Space Parcels, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Open Space Parcels free of any liens arising out of any work performed for, materials, furnished to, or obligations incurred by Grantor.
- b. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Open Space Parcels by competent authority, and shall furnish Grantee with satisfactory evidence of payment upon request.
- c. Hold Harmless. Grantor shall defend, hold harmless, indemnify, and defend Grantee and its directors, officers, employees, agents, contractors and the heirs, personal representatives, successors, and assigns of each of them from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, including bodily injury or death, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with bodily injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Open Space Parcels, regardless of cause.
- d. Condemnation. If the Open Space Parcels is taken in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to fifty (50%) percent of any such condemnation award paid to Grantor.

8. General Provisions:

- a. Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of Grantor and Grantees and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Open Space Parcels.
- b. Counterparts. Grantor may execute this instrument in two or more counterparts; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- c. Rhode Island law. This Conservation Easement shall be and is deemed to be a conservation restriction under the laws of the State of Rhode Island only, and shall be construed and given effect in accordance with the laws of the State of Rhode Island and not otherwise.
- d. Severability. If any provision of this Conservation Easement or the application hereof to any person or circumstance shall be to any extent invalid or unenforceable, the remainder of this Conservation Easement and the application to persons or circumstances other than those as to which it is invalid or unenforceable shall not be effected thereby, and each term and provision of this Conservation Easement shall be valid and enforceable to the fullest extent permitted by law.
- e. Waiver. No consent or waiver, expressed or implied by either party to or of any breach in the performance by the other party of its agreements hereunder shall be construed as a consent or waiver to or of any breach in the performance by such party of the same or any other agreement. The failure on the part of either party to complain of any such action or inaction on the part of the other or to declare the other in default, no matter how long such failure may continue, shall not be deemed to be a waiver by either party of any of its rights hereunder.
- f. Construction. This Conservation Easement shall not be construed, without regard to any presumption or other rule requiring construction, against the party causing this Conservation Easement to be drafted.

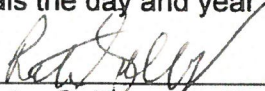
9. Amendments, Assigns and Transfers:

- a. Amendment. This Conservation Easement may only be amended if in writing and by unanimous agreement of all Grantors and all Grantees. Any party seeking an amendment to this Conservation Easement must provide notice to all other parties and if any party files a written objection within ten (10) days of receipt of said notice the request for amendment shall be deemed denied. If no such objection is timely filed, then the parties shall arrange to meet at a reasonable date, time and place and discuss the movant's request. No party is bound to agree to any request for an amendment by merely attending a meeting or meetings to discuss such amendments. The parties shall endeavor to act in good faith and judiciously act on the movant's request. Any amendments to this Conservation Easement must be signed by all parties and recorded in the Middletown Land Evidence Records to be valid and enforceable.

- b. Assignment. This Conservation Easement is transferable, but Grantee may assign its rights and obligations under this Conservation Easement only to an organization authorized to acquire and hold Conservation Easements under R.I. General Laws 34-39-1 et seq. (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out.
- c. Subsequent Transfers. Grantor agrees to incorporate a reference to this Conservation Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Open Space Parcels, including, without limitation, a leasehold interest.

10. Signatory, Witness and Notary Clauses:

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.



Peter Gallipeau, as Trustee under Peter Gallipeau Living Trust – 2019

STATE OF RHODE ISLAND
COUNTY OF NEWPORT

In Newport in said County, on the 6th day of June, 2019 before me personally appeared Peter Gallipeau, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument, by him executed, to be his free act and deed, and his free act and deed in his capacity as Trustee under Peter Gallipeau Living Trust – 2019.

EVAN ROSE
NOTARY PUBLIC - ID #756025
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES
12-26-21



Evan Rose

NOTARY PUBLIC
My commission expires: 12-26-21

RECORDED: Jun 17, 2019 02:10P
DOC #: 00001355
RECEIPT #: 54616
WENDY J. W. MARSHALL, TOWN Clerk
TOWN of MIDDLETOWN, RI

