

**STORMWATER DRAINAGE SYSTEM  
MAINTENANCE EASEMENT AGREEMENT**

This STORMWATER DRAINAGE SYSTEM MAINTENANCE EASEMENT AGREEMENT is made this \_\_\_\_\_ day of August, 2024 by and between MELLO REALTY, INC., a Rhode Island corporation with a mailing address of P.O. Box 4129, Middletown, RI 02840 (hereinafter referred to as the "Grantor") and the Town of Middletown, Newport County, Rhode Island (hereinafter the "Grantee").

W I T N E S S E T H

WHEREAS the Grantor is the owner in fee simple of certain parcel of land identified as \_\_\_\_\_ Coddington Highway being designated as Lot 103 on Middletown Tax Assessor's Plat 103 (the "Property"), in the Middletown Land Evidence Records;

WHEREAS, Grantor received Final Plan Approval for a proposed Tradesman Center and associated site work for the Property pursuant to a certain Notice of Planning Board Decision dated \_\_\_\_\_, 2024 and recorded on \_\_\_\_\_, 2024 in Book \_\_\_\_\_ at Page \_\_ of the Middletown Land Evidence Records (the "Decision");

WHEREAS, the Decision requires the Grantor to provide a stormwater facilities maintenance easement requiring the Grantor to properly maintain the stormwater system and provide access to the Town of Middletown to access the easement area to perform necessary maintenance if the Grantor should fail to undertake the maintenance; and

WHEREAS, the Grantor is willing to grant a non-exclusive Stormwater Drainage System Maintenance Easement (hereinafter the "Easement") in connection with the stormwater drainage management system, including the swales, infiltration/detention basins, stormceptor, drainlines and drainage system, and the Grantee is willing to accept such Easement; and

WHEREAS, the Grantor, its successors and assigns, as well as its successors in title, are willing to bear the burden, financial or otherwise, of maintaining the stormwater management system provided for in the Stormwater System Operations and Maintenance Plan dated \_\_\_\_\_, 2024 (the "Maintenance Plan") (the Maintenance Plan is attached hereto as Exhibit A); and

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

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 the Property.

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

1. Grantor shall be under an affirmative obligation and duty to arrange and pay for maintenance of the stormwater drainage system in accordance with the provisions of the Maintenance Plan.
2. Grantor shall not, following original construction, change grades of the swales or basins or otherwise erect structures therein that would obstruct the operation of the stormwater drainage system.
3. The maintenance of the stormwater drainage system shall be the obligation of the Grantor and the Grantee shall not be obligated or liable in any way for the maintenance of the stormwater drainage system. In the event that the Grantor shall fail to maintain the stormwater drainage system as required by the Maintenance Plan, said Grantee, at its option, may enter upon the Property and perform such maintenance of the stormwater drainage system as it deems necessary and in accordance with the requirements of the Maintenance Plan, and thereafter charge the Grantor 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 Property until such charge is paid in full.
4. The Grantor shall file, on an annual basis, a written report, prepared by a registered professional engineer, with the Middletown Public Works Director (the "Director") verifying that the inspection and maintenance of the stormwater drainage system has been conducted in compliance with provisions of the 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<sup>th</sup> of each year following the installation of the system. In the event that said annual report is not filed within thirty (30) days of the due date thereof, the Town may charge the Grantor for the cost of any inspections conducted by Town or its agents to verify the condition of the system.
5. 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; 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.
6. 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.

7. The Grantee, for itself, its successors and/or assigns, reserves the right to enter the Property at all reasonable times for the purpose of inspecting the stormwater drainage system to determine if the Grantor or its successors and/or assigns are complying with the terms, conditions, restrictions and purposes thereof.
8. 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 the 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, 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, the said MELLO REALTY, INC, has hereunto set their hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

**MELLO REALTY, LLC**

\_\_\_\_\_  
By: John Mello  
Its: Vice President

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

In \_\_\_\_\_ in the County of \_\_\_\_\_ in the State of \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2024, then personally appeared the before-named John Mello, to me personally known and personally known to me to be the Vice President of MELLO REALTY, INC, and by me personally known to be the party who executed the foregoing instrument; and he acknowledged the same to be his free act and deed and the free act and deed of said MELLO REALTY, INC, before me,

\_\_\_\_\_  
NOTARY PUBLIC

NAME: \_\_\_\_\_