

**PERPETUAL EASEMENT AND DECLARATION OF
PRESERVATION RESTRICTIONS**

This document constitutes a grant of a Perpetual Easement and Declaration of Preservation Restrictions, executed jointly and severally on the _____ day of _____, 20____, by Eloise Bune Dagostino, the owner of property located at 25 Cavalry Road, Westport, Connecticut (hereinafter referred to as "Grantors") in favor of the TOWN OF WESTPORT, a municipal corporation of the State of Connecticut (hereinafter referred to as "Grantee").

WITNESSETH

WHEREAS, the Grantors warrant and represent that they are the present owners in fee simple of the property and improvements and buildings thereon described in **Exhibit A** attached hereto and made a part hereof (hereinafter referred to as the "Premises") and no other person or entity has any interest therein; and

WHEREAS, there is a [historic accessory structure] (as those terms are defined in Section 32-18.2.1 of the Westport Zoning Regulations) located on the Premises, being more particularly shown and designated as C15 005 000 (hereinafter referred to as the "Frame Barn") on a certain map (the "Map") entitled Equal Area Exchange Survey Map of Property prepared by Walter H. Skidd – Land Surveyor LLC dated 2/13/2020, and on file with the Westport Town Clerk as Map #10447; and

WHEREAS, the Grantee, through both its Planning and Zoning Commission and its Historic District Commission, has determined that the Historic Accessory Structure has historic and aesthetic significance which represent and reflect elements of the Town of Westport's cultural, social, economic, political and architectural history, and therefore are worthy of enhancement, maintenance, permanent protection and preservation; and

WHEREAS, The Grantee, through the Planning and Zoning Commission, approved Special Permit, Resolution No. PZ-25-00740 on _____ (the “Resolution,” which is attached as **Exhibit B** and made a part hereof); and

WHEREAS, as a condition of the issuance to the Grantors of the Resolution as the same may be further modified from time to time, the Planning and Zoning Commission required that the Historic Accessory Structure, the Premises and appurtenant vistas and streetscapes be forever maintained, preserved and protected, and that the Grantors grant this Perpetual Easement and Declaration of Preservation Restrictions pursuant to Westport Zoning Regulation §32-18 and Conn. Gen. Stats. §47-42a through §47-42c, and that the same be filed on the Land Records of the Town of Westport; and

WHEREAS, the Grantors likewise has an interest in the enhancement maintenance, permanent protection and preservation of the Historic Accessory Structure and the Premises; and

WHEREAS, the Grantee wishes to impose certain limitations, restrictions, obligations and duties upon the Grantors, and their successors and assigns, of the Historic Accessory Structure and the Premises with respect to the enhancement, maintenance, protection, preservation and stabilization of the exterior historic, architectural qualities and appurtenant vistas of the Historic Accessory Structure and the Premises; and

WHEREAS, the grant of this Perpetual Easement and Declaration of Preservation Restrictions by the Grantors on behalf of themselves and their successors and assigns in favor of the Grantee will assist, advance and protect the interests recited above.

NOW, THEREFORE, in consideration of ONE (\$1.00) DOLLAR and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantors hereby declare on behalf of themselves, as the present owners, and all future record title owners from time to time of the Premises and Historic Structures, to be legally bound hereby jointly and severally to

and for the benefit of the Grantee and its successors and assigns, and do hereby give, grant, covenant, bargain, sell and confirm to said Grantee and its successors and assigns forever, an estate, an interest, permanent easements and covenants, which shall constitute binding permanent restrictions in perpetuity pursuant to Conn. Gen. Stats. §47-42a through §47-42c, in the form of an easement upon the Historic Accessory Structure and Premises. This Perpetual Easement and Declaration of Preservation Restrictions and all its terms, provisions and covenants shall run with the land as a binding servitude and obligation as to the Premises in perpetuity. Pursuant to and in furtherance of these preservation restrictions, the Grantors hereby make(s) the following covenants:

1. The above Recitals are an integral part of this Perpetual Easement and Declaration of Preservation Restrictions and are binding on the parties. The term “Regulations” as used herein refers to the Westport Zoning Regulations.

2. The Grantors shall take whatever steps are necessary to maintain, protect and preserve the exterior architectural, historical and cultural features of the Historic Accessory Structure. No alteration (as defined in Section 32-18.2.2 of the Regulations) of the Historic Accessory Structure shall be made, nor shall any additional structure be erected, construed, built, installed or enlarged on the Premises, unless the Grantors have first obtained a review from the Historic District Commission Administrator to evaluate whether Historic District Commission review is needed and a review by the Planning and Zoning Commission or their designee to determine if approval is required from the Planning and Zoning Commission, pursuant to §32-18.7 of the Regulations.

3. Nothing contained in this Perpetual Easement and Declaration of Preservation Restrictions shall be deemed to affect, in any manner whatsoever, or to impose, create, or imply any duty, obligation, prohibition, limitation, or responsibility of any kind, nature, or description, upon the Grantors with respect to the interior of the Historic Accessory Structure, it being understood and agreed that the provisions herein contained shall only apply to the Premises and the exterior of the Historic Accessory Structure.

4. Pursuant to §32-18 of the Regulations, the Grantee shall have the right to do all things necessary to preserve the structural and historic integrity of the Historic Accessory Structure and to charge the expense thereof to the Grantors upon the Grantors' failure to keep the exterior of the Historic Accessory Structure in good repair. Without limiting the generality of the foregoing, in the event the Grantors shall fail to comply with their obligations under this Perpetual Easement and Declaration of Preservation Restrictions, including the obligation of maintaining the exterior of the Historic Accessory Structure in good repair, the Grantee, or its designee, has the right and authority to enforce the covenants and agreements herein by giving to the Grantors written notice of such failure specifying the non-complying condition complained of and affording the Grantors thirty (30) days in which to commence corrective action. If the Grantors have failed to commence corrective action within the prescribed time or, having commenced such action have failed to correct the condition within eighteen (18) months from the date of notice, the Grantee may take any and all available and necessary action, at the Grantors' cost, to assure proper compliance, including without limitation the commencement of an action at law and/or in equity against the Grantors or their successors or assigns, to compel compliance with the covenants and agreements contained herein. Furthermore, in the event the Grantee commences an action at law or in equity to enforce the terms and conditions of this agreement,

the Grantors or their successors or assigns shall be responsible for all costs, including reasonable attorneys' fees incurred by the Grantee.

Emergency repairs may be made by the Grantors as a result of fire, flooding, or other similar type of damage. The Zoning Official shall be notified in writing not later than 72 hours after the repair or stabilization process is initiated. A plan for permanent repair must be submitted for review to the Planning and Zoning Office. This will include review by the Historic District Commission Administrator. The Historic Accessory Structure must be returned to their previous exterior appearance within eighteen (18) months.

Any change in use of the Historic Accessory Structure and the Premises may only be authorized by application to, and approval by, the Planning and Zoning Commission. Said application shall contain all relevant information pertaining to the previously approved use and proposed change of use for the Historic Accessory Structure and Premises. The Planning and Zoning Commission shall determine if the proposed change in use is appropriate and in keeping with the intent of the original Special Permit/HRS granted for the Historic Accessory Structure and Premises according to the standards referenced in §32-18.4 of the Regulations.

Pursuant to Section 32-18.9.3 of the Regulations, prior to the issuance of a Zoning Permit, the Grantors shall submit to the Planning and Zoning Office a certificate, in the form of a notarized affidavit, to verify that the Grantors are in residence or have inspected and performed necessary preservation maintenance required by Section 32-18 of the Regulations and this Perpetual Easement and Declaration of Preservation Restrictions.

5. This Perpetual Easement and Declaration of Preservation Restrictions may not be released, modified, changed, amended or altered, in any way, without the prior written approval

of the Grantee acting through the Planning and Zoning Commission, or without the approval of all the owners of the Premises. No instrument purporting to release, modify, change, amend or alter, in any way, any condition, term or provision of this Perpetual Easement and Declaration of Restriction shall be valid unless it is approved by the Planning and Zoning Commission and the signature of the Chairman of the Planning and Zoning Commission appears thereon, and it is filed on the Westport Land Records.

6. The covenants, easements, and restrictions herein contained shall not be affected by a change in zoning or land use.

7. The Grantors agree and covenant that the conveyance of the Premises and/or the Historic Accessory Structure located on the Premises shall be subject to the provisions of this document as well as any notes and conditions of the Resolution, as modified and amended. The provisions contained herein shall be incorporated by reference in all deeds, contracts, leases, and other instruments of conveyances transferring title to or any interest in the Historic Accessory Structure and/or the Premises or any part thereof, by book and page references in Westport Land Records.

8. The covenants, grants, and restrictions in this Perpetual Easement and Declaration of Preservation Restrictions are for the benefit of the Grantors and the Grantee and shall run with the land as a binding servitude in perpetuity, and may be enforced against the Grantors and their successors and assigns in perpetuity by the Grantee, the Planning and Zoning Commission and the Historic District Commission, including without limitation by appropriate action in court for damages or equitable relief. Upon any sale, assignment, conveyance, or other transfer of any interest in the Historic Accessory Structure and/or the Premises, the obligations of the Grantors

contained in this document shall thereafter be binding upon the grantee, assignee, or other transferee of such interest, and any such grantee, assignee, or transferee shall, by accepting such interest, be deemed to have assumed all such obligations as “Grantor(s)” in this document and as owner(s) under section 32-18 of the Regulations. Grantors and/or owners owning jointly shall be bound jointly and severally.

9. If any provision of this document is subsequently found to be in contravention of the law, such provision shall be deemed null and void, and the remainder of the document shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this _____ day of _____, 20_____.

Signed and delivered in the presence of:

GRANTOR

Print Name:

Print Name:

Personally appeared, _____, signer of the foregoing instrument, and he/she acknowledged that he/she is signing as an owner of the Premises as his/her free act and deed.

Notary Public
My Commission Expires _____

Signed and delivered in the presence of:

GRANTOR

Print Name:

Print Name:

Personally appeared, _____, signer of the foregoing instrument, and he/she acknowledged that he/she is signing as an owner of the Premises as his/her free act and deed.

Notary Public
My Commission Expires _____

Signed and delivered in the presence of:

PAUL LEBOWITZ

Print Name:

Chair of the Westport Planning and Zoning Commission

Print Name:

Personally appeared, Danielle Dobin, who confirmed to me that she is the Chair of the Westport Planning and Zoning Commission, signer of the foregoing instrument, and she acknowledged that she is signing on behalf of the Westport Planning and Zoning Commission as her free act and deed.

Notary Public
My Commission Expires _____

Refer to WLR Map # _____
Attachment: Exhibit A - Description of Premises
Attachment: Exhibit B - Resolution