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Town of East Haddam
1 Plains Road
P.O. Box 385
Moodus, CT 06469

PERMANENT ACCESS & CONSTRUCTION EASEMENT AGREEMENT

This **PERMANENT ACCESS AND CONSTRUCTION EASEMENT AGREEMENT** ("**Agreement**") is made by and between **ANDREW N. PRIEST & JOANN M. PRIEST**, inclusive of their heirs, assigns, and successors in interest (hereinafter "**Priests**"), acting in their individual capacities as the property owners of certain real property located with the address 61 AP Gates Road, East Haddam, Connecticut, 06423, and the **TOWN OF EAST HADDAM** (hereinafter "**Town**"), a municipality having its territorial limits in the County of Middlesex, State of Connecticut, and principal place of business at the address 1 Plains Road, Moodus, Connecticut, 06469, acting herein by Todd H. Gelston, its First Selectman. Town and Priests are collectively referred hereinafter as the "**Parties**."

RECITALS

1. By virtue of a deed dated April 29, 1994, and recorded May 2, 1994 in Volume 0360 and Pages 0118, 0119, 0120, and 0121 of the Town of East Haddam Land Records, Priests are the owners of a certain parcel of land, said land with the address 61 AP Gates Road, East Haddam, Connecticut, 06423 (the "**Priests Parcel**");

2. Town desires to fully replace and/or repair a bridge and deteriorating culvert carrying over Pine Brook in East Haddam (the "**Construction Project**"), which requires a permanent easement on the Priests Parcel;

3. Priests desire to support Town in said efforts, each while minimizing Town's interference with Priests' use of the Priests Parcel;

4. The Parties agree that the grant of a permanent easement to provide Town with sufficient area to ensure said effort is necessary and desirable;

NOW THEREFORE, subject to the covenants and agreements below, the sufficiency and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereby covenant and agree as follows:

1. **Grant of Permanent Easement.** Subject to the conditions and terms herein and for the purposes described below, Priests hereby grant to Town a permanent non-exclusive easement (the "**Permanent Easement**") over, on, upon, under, and across the real property located within the area depicted as "Permanent Easement to be Granted to the Town of East Haddam by Andrew N. Priest & Joann M. Priest ±859 Square Feet" (the "**Permanent**

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Easement Area") as shown on the plan titled "Map Showing Easements to Be Granted in Favor of Town of East Haddam at Land of Jennifer L. Pinard, Arther J. Wasley Jr. & Toni S. Wasley, and Andrew N. Priest & Joann M. Priest", Scale 1" = 20', Date: March 2026, prepared by Land Survey & Technical Services, Inc., which plan is or shall be recorded on the Town of East Haddam Land Records and which Permanent Easement Area is more particularly described in the **Schedule A** attached hereto and incorporated herein by this reference. Within such area, Town shall have the right to use said Permanent Easement Area for the purposes of staging, site preparation, installing temporary water handling systems, removing an existing culvert, and installing a concrete box culvert with wingwalls, stone riprap, and such other ancillary activities necessary and attendant to the Construction Project as so determined by the Town.

2. Maintenance of the Permanent Easement Area.

a. Town shall make every effort to minimize the disturbance of land on the Priests Parcel beyond what is necessary for access, replacement, and maintenance of the Construction Project.

b. Town shall restore the Permanent Easement Area to substantially the same or better condition, if possible, as existed prior to Town's permitted activities hereunder within a reasonable time after completion of the installation activities referenced above, to the extent that such activities require Town to disturb said Permanent Easement Area and to the extent that said restoration is not in conflict with the purposes for which this Agreement is granted. In the event that weather conditions or Construction Project operational factors make such restoration impracticable, Town may defer said restoration for a reasonable amount of time.

c. Upon completion of replacement of said Construction Project, Town shall refill any holes or trenches, repair, replace, remove and restore sod, landscaping, plantings, barriers and fencing, signage, pavement, or other surface improvements which are required to be removed or disturbed in connection with such installation, maintenance, or removal.

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3. **Priests' Restrictions and Reservations of Rights.**

    a. Priests reserve the right to use the Priests Parcel in any manner and for any purpose that does not interfere with the Town's rights under this Agreement, and their use of the Permanent Easement.

    b. Priests shall not erect or maintain any building or other improvements that may interfere with the Town's rights and use of the Permanent Easement, strict or block the Permanent Easement Area or grant any additional easement rights in the Permanent Easement Area to one or more third parties.

4. **Termination of Permanent Easement.**

    a. The Permanent Easement shall commence on the Effective Date and shall only terminate when the Parties mutually agree to terminate this Agreement and the Permanent Easement in writing.

    b. Within sixty (60) days after termination of the Permanent Easement, the Town shall at its own cost remove all construction equipment, materials, debris, and temporary improvements from the Permanent Easement Area and restore the Permanent Easement Area to its original condition as prescribed in Section 2(c).

    c. Upon request of either party following Termination, the Parties shall execute and record a memorandum or notice of the Termination on the Town of East Haddam Land Records in recordable form reasonably acceptable to both Parties, confirming that the Permanent Easement has terminated as of the date stated therein.

    d. Termination shall not relieve the Parties of obligations that by their terms survive the Termination, or of liability for antecedent breaches.

5. **Notices.** No notice, request, instruction, or other documents to be given hereunder to any party shall be effective for any purpose unless personally delivered to the person and at the appropriate address set forth below (in which event, such notice shall be deemed effective only upon such delivery) or when delivered by express mail with the U.S. Postal Service or with a nationally recognized overnight courier service, fees prepaid, addressed as follows:

If to Priests: Andrew N. Priest & Joann M. Priest
61 AP Gates Road
East Haddam, CT 066423

If to Town: Town of East Haddam
Selectman's Office
1 Plains Road
P.O. Box 385
Moodus, CT 06469

The names and addresses for the purpose of this paragraph may be changed by giving notice of such change(s) in the manner provided for giving notice. Unless and until such written notice is received, the last address and addressee, as stated by written notice, or provided herein if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

6. **Cost and Expenses.** Priests, their successors and assigns, shall incur no expense as a result of this Agreement and Town, her successors and assigns, shall bear all direct and indirect costs of installing, operating, constructing, maintaining, repairing, or replacing such aspects of the Construction Project and for any activities within the Permanent Easement Area pursuant to this Agreement. Town assumes all responsibility for damage stemming from the construction, installation, maintenance, repair, or replacement of such Construction Project, or movement thereof and any activities within the Permanent Easement Area and will promptly remedy the same at Town's sole cost and expense.

7. **Non-Assignment.** Town shall not assign its rights or obligations under this Agreement to a third party without the express written consent of Priests, which consent shall not be unreasonably withheld, delayed, or conditioned.

8. **Insurance.**

    a. Town shall, or shall cause its contractors to, at its sole cost and expense, maintain certificates of insurance for the following:

i. COMMERCIAL GENERAL LIABILITY INSURANCE including Contractual Liability Insurance, Independent Contractors, Premises and Operations, Products and Completed Operations and Broad Form Property Damage coverages with a total limit of liability of not less than One Million Dollars ($1,000,000) for all damages arising out of bodily injuries to, or death of, all persons and/or damage to any property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars ($2,000,000) for all damages arising out of bodily injuries to, or death of, all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period;

ii. AUTOMOBILE LIABILITY INSURANCE which covers all motor vehicles, including those owned, hired or non-owned, which are used in connection with this Agreement with a One Million Dollars ($1,000,000) combined single limit per accident for bodily injury, or death of, all persons and/or damage to any property in any one accident or occurrence. If Town does not own an automobile, but one is used in the execution of the Agreement, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the Agreement, then automobile coverage is not required.

iii. WORKER'S COMPENSATION & EMPLOYER'S LIABILITY INSURANCE in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States, respectively, which covers all of Town's employees at or working in the Easement Area, which coverage shall include Employer's Liability Insurance with minimum limits of:

1. $100,000 Each Accident (bodily injury by accident);
2. $500,000 Disease – Policy limit (bodily injury by disease); and
3. $100,000 Disease – Each Employee (bodily injury by disease).

iv. PROFESSIONAL LIABILITY INSURANCE (ERRORS AND OMISSIONS) in the event Town and/or any of its contractors provide any architecture, engineering, design, accounting, legal, or other professional services under or in conjunction with this Agreement and/or at or with regard to the Easement Area, each person and entity providing such services shall be duly licensed and maintain Professional Liability coverage, at such party's sole cost and expense, in an amount not less than Two Million Dollars ($2,000,000) per

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occurrence. In the case of any engineer, architect or other design professional, each such policy must be kept in effect for a period of seven (7) years after substantial completion of the Construction Project on or for which any such services are rendered; otherwise, the professional involved shall maintain such coverage for a period of at least three (3) years following completion of the work hereunder. If coverage is procured by any professional on a claim made basis, the retroactive date must be the date prior to the professional's commencement of any work under or pursuant to this Agreement or the Construction Project to which it relates, whichever is earlier.

b. All products and completed operations coverage required to be maintained by Town and its contractors shall continue to be maintained for at least three (3) years following the Termination of the Permanent Easement.

c. Notwithstanding any other provision of this Section to the contrary, any party required to maintain insurance hereunder shall be deemed to be in compliance with this Section even if such party's insurance policy(ies) are not written for amounts specified within (other than worker's compensation insurance) provided said party carries Umbrella Liability insurance for any differences in the amounts specified therefor and the policy(ies) for such Umbrella Liability insurance follow(s) the form of said party's primary coverages.

d. Except as otherwise provided to the contrary in this Section, any insurance required by this Agreement may be obtained by means of any combination of primary and umbrella coverages and by endorsement and/or rider to a separate or blanket policy and/or under a blanket policy in lieu of a separate policy or policies, provided that the coverages, and the protection afforded Priests, thereunder are at least equal to the coverages and protection which would be provided under a separate policy or policies procured solely for the Permanent Easement Area and/or the work, if any, to be performed by Town or its contractors.

e. Priests shall be named as an additional insured under any and all coverage maintained pursuant to this Section as well as any umbrella or excess liability insurance which provides coverage over and above such insurance.

f. The provisions of this Section shall survive the Termination of this Agreement.

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9. Indemnification.

a. Town shall indemnify, defend and hold harmless Priests, their heirs, assigns, and successors from and against any and all (1) claims arising, directly or indirectly, in connection with the Agreement; and (2) liabilities, damages, losses, costs and expenses in connection with such claims or this Agreement. Town shall use counsel in carrying out its obligations under this Section.

b. Town shall not be responsible for indemnifying or holding Priests harmless from any liability arising due to the negligence of Priests or any third party acting under the control or supervision of Priests.

c. This Section shall survive the Termination of the Agreement.

10. No Change or Modification. No change or modification of any of the covenants, terms, or sections hereof will be valid unless it is in writing and signed by the Parties.

11. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by PDF, facsimile or other electronic signature by email transmission by the Parties. Receiving Parties may rely on the receipt of such documents so executed and delivered electronically or by facsimile as if the original has been received. No party shall contest the admissibility or enforceability of the electronically signed copy of the Agreement in any proceeding arising out of the terms and conditions of this Agreement. Notwithstanding the foregoing, the Parties agree to execute and deliver original signature pages sufficient to provide for recording of this instrument.

12. Non-Waiver.

a. Failure of either party to enforce any restriction, covenant, condition, obligation, reservation, right, power, or charge herein shall not be deemed a waiver of the right to thereafter enforce any such restriction, covenant, condition, obligation, reservation, right, power, or charge by such party.

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b. Nothing in this Agreement shall be construed as a modification, compromise, or waiver by the Parties of any rights or defenses provided by Federal law or the laws of the State of Connecticut to the Parties, which they may have had, now have, or will have with respect to all matters arising out of the Agreement. To the extent this Section conflicts with any other section(s) of this Agreement, this section shall govern.

c. The Permanent Easement shall not be presumed abandoned by nonuse unless Town states its intention to abandon the Permanent Easement in writing.

13. **Forum and Choice of Law.** The Parties deem this Agreement to have been made in Town of East Haddam, State of Connecticut. The Parties agree that it is fair and reasonably for the validity and construction of this Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. For the purpose of venue and forum, any claims arising out of this Agreement shall be made returnable to the Middlesex Judicial District at Middletown only and shall not be transferred to any other court.

14. **Severability.** If any clause, sentence, paragraph, section, provision or part of this Agreement shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

15. **Authority**. Each party represents and warrants that: (a) it has the authority to execute this Agreement; (b) each individual signing on behalf of such party is the duly authorized representative of the signing party; and (c) the individual's signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

16. **Effective Date.** The Effective Date of this Agreement shall be the date when the Parties signed and executed this Agreement and recorded the same on the Town of East Haddam land records.

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TO HAVE AND TO HOLD the above granted rights, privileges, and authority unto the said Town, its successor and assigns, to its own proper use and behoof.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands.

Signed and Sealed
In the Presence of:

ANDREW N. PRIEST

_____ By: _____
Witness:

JOANN M. PRIEST

By: _____

_____
Witness:

STATE OF CONNECTICUT)
) SS: _____
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2026 by Andrew N. Priest and Joann M. Priest.

_____
Notary Public - Commissioner of the Superior Court
My Commission Expires:

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The terms and conditions of the foregoing Instrument are hereby accepted by the Town.

Signed in the Presence of: **TOWN OF EAST HADDAM**

_____ By:_____
Witness: Todd H. Gelston, First Selectman
Duly authorized.

_____
Witness:

STATE OF CONNECTICUT)
) SS: EAST HADDAM
COUNTY OF MIDDLESEX)

The foregoing instrument was acknowledged before me this _____ day of _____, 2026, by Todd H. Gelston, First Selectman, on behalf of the Town of East Haddam.

_____
Notary Public - Commissioner of the Superior Court
My Commission Expires:

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SCHEDULE A

DESCRIPTION OF THE PERMANENT EASEMENT AREA

Beginning at an iron rod to be set on the westerly street line of AP Gates Road, said iron rod having coordinates on the Connecticut State Plane Coordinate System (NAD83) of North 729,604.81, East 1,104,279.92; thence westerly on the northerly boundary line of land of Andrew N. Priest & Joann M. Priest South 83° 39' 19" West 34.07 feet to an iron rod to be set; thence southerly South 35° 04' 05" East a distance of 50.00 feet to an iron rod to be set; thence easterly South 89° 49' 41" East 5.00 feet to an iron rod to be set on the westerly street line of AP Gates Road; thence northerly on the westerly street line of AP Gates Road North 00° 10' 19" East a distance of 44.71 feet to the point of beginning. The above described easement encloses ±859 square feet.

The above described easement is more particularly depicted on a certain map entitled "MAP SHOWING EASEMENTS TO BE GRANTED IN FAVOR OF TOWN OF EAST HADDAM AT LAND OF JENNIFER L. PINARD, ARTHER J. WASLEY JR. & TONI S. WASLEY, AND ANDREW N. PRIEST & JOANN M. PRIEST, AP GATES ROAD, EAST HADDAM, CONNECTICUT, SCALE 1" = 20', DATE MAR 2026", by Land Survey & Technical Service, Inc., Chester, Connecticut, which map is to be filed in the land records of the town of East Haddam.