





**FIRST AMENDMENT OF  
LAND DISPOSITION AGREEMENT**

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BY AND BETWEEN  
PETRUZZIELLO PROPERTIES, LLC  
AND  
THE TOWN OF WESTWOOD



**THIS FIRST AMENDMENT TO LAND DISPOSITION AGREEMENT** (the “**First Amendment**”) is entered into as of this 20 day of August, 2018, by and between the TOWN OF WESTWOOD, a Massachusetts municipal corporation with its principal offices at Town Hall, 580 High Street, Westwood, MA 02090 (the “**Town**”), acting by and through its Board of Selectmen, and PETRUZZIELLO PROPERTIES, LLC, a Massachusetts limited liability company with a principal address of 21 Eastbrook Road, Dedham, MA 02026 (the “**Redeveloper**”).

### RECITALS

WHEREAS, the Town and the Redeveloper have entered into that certain Land Disposition Agreement dated as of June 11, 2018 (the “**LDA**”) concerning the transfer of seven parcels of land located on or adjacent to Washington Street in Westwood, Massachusetts (collectively, the “**Land**”). Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the LDA;

WHEREAS, Seller and Buyer have agreed to modify the LDA in certain respects, all as more particularly set forth in this First Amendment.

### AGREEMENT

NOW THEREFORE, for and in consideration of the recitals set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the Parties do hereby agree as follows:

1. Access Easement. The following Section 6.8 is inserted into the LDA after Section 6.7:
  - 6.8 East Street Easement - Failure to Proceed to the Phase 3 Closing. If the Phase 1 and Phase 2 Closings occur, but the Redeveloper is not able to proceed to the Phase 3 Closing, the Town shall provide the Redeveloper with a thirty (30) foot wide access easement across and under the East Street Parcel and, to the extent reasonably necessary, the Town Parcel, to provide access to the Petruzziello Parcel for pedestrians, vehicles, and utilities. The parties shall work cooperatively to identify the location of the easement area, provided that preference shall be provided to placing the easement entirely on the East Street Parcel. The easement shall require Petruzziello to operate, maintain, repair and insure the easement area and to indemnify the Town for all costs or losses arising from the Redevelopers use of the easement area. The easement shall also provide that the Town may relocate the easement at its cost, provided that the relocated easement provides the Redeveloper with equivalent access.
2. Cross-Easement Agreement. Exhibit F to the LDA is a form of Cross Easement Agreement that provides cross-easements authorizing the Town and the Redeveloper to share parking spaces in the Town Parking Lot and the Petruzziello Parking Lot (as

defined in the Cross Easement Agreement), respectively. Pursuant to the FMUOD Special Permit dated April 10, 2018, filed with the Westwood Town Clerk on April 18, 2018, the Town and the Redeveloper are obligated to use reasonable efforts to provide the CVS pharmacy and retail store which is anticipated to be built as on Redeveloper Parcel A with 40 parking spaces in the Town Parking Lot and the Petruzziello Parking Lot at all times. In addition, CVS has requested and the Town has agreed to certain restrictions on the use of the Town Parking Lot, and Petruzziello and the Town have agreed that Petruzziello shall be responsible for snow and ice removal from the Town Parking Lot, for which the Town shall pay Petruzziello a fee. Section 18 of Exhibit F is deleted, and new Sections 18, 19 and 20 are inserted after Section 17 of the Cross Easement Agreement:

18. CVS Parking Spaces: The Town agrees to use reasonable efforts to assure that 40 parking spaces are available to CVS at all times. "Reasonable efforts" shall include placing temporary "CVS Parking Only" signs during special events at the Town Improvements, and during such events monitoring the Town Parking Lot and the Petruzziello Parking Lot to assure that 40 parking spaces are provided for CVS. Temporary CVS Parking Only signs and a monitor shall also be used during special events at Morrison Field. "Special events" shall mean meetings, programs, and other events at the Town Improvements and/or Morrison Field where it is anticipated that parking for the same cannot be accommodated within the Town Parking Lot.

19. Use Restrictions: The Town agrees that it shall not lease or use, nor permit the lease or use of, the Town Parking Lot (but not including the Blue Hart Tavern Parcel), for the purpose of a health and beauty aids store, a greeting card or gift store, a store offering one-hour or other on-site photo processing, including, without limitation, digital photo processing, a candy store, a vitamin store, a pharmacy mail order facility, a drug store, a pharmacy prescription department, a retail health center, 99 cents store or "dollar store" which sells general merchandise (a "Dollar Store"). Examples of a Dollar Store (without limiting such Dollar Stores only to those listed) are stores such as Fred's, Dollar Store, Dollar General, or Family Dollar. This Section 20 shall automatically terminate upon the termination or expiration of CVS's lease of Redeveloper Parcel A.

20. Snow and Ice Removal: The Parties agree to work cooperatively to assure that snow and ice are timely removed from the Parking Lot. For example, the Town may engage Petruzziello on a contract basis at the Town's expense (at usual municipal rates) to remove snow from the Town Parking Lot. Prior to each winter season, Petruzziello and the Town shall agree on the terms on which Petruzziello shall perform snow and ice removal services, the costs of which shall be equitably allocated.

Attached hereto is a revised Exhibit F – Cross Easement Agreement – that incorporates Sections 18, 19 and 20.

3. Wentworth Hall Parking Easement. Exhibit G to the LDA is a form of Easement Agreement that will be executed and recorded in connection with the Phase 2

Closing. The following Section 16 is inserted after Section 15 to the Easement Agreement attached to the LDA as Exhibit G:

16. Town Parcel Conveyance to Petruzziello. It is anticipated that the Town Parcel shall be conveyed to Petruzziello in accordance with the terms of the Land Disposition Agreement dated as of June 11, 2018 (“LDA”), as amended. If the Town Parcel is conveyed to Petruzziello, the Parties shall work cooperatively to prepare and execute an amendment of this Easement Agreement that provides public parking in accordance with the special permit issued to Petruzziello for redevelopment of the Town Parcel. If the Town Parcel is not conveyed to Petruzziello, the Town shall assure that any redevelopment of the Town Parcel is designed to provide adequate parking (in accordance with the requirements of the Westwood Zoning Bylaw) for the redevelopment project on the Town Parcel or on a combination of the Town Parcel and adjacent on-street parking spaces. Under no circumstances will the owner of the Town Parcel have the right to use parking spaces on the Petruzziello Parcel, provided that at all times all parking on the Town Parcel and the Petruzziello Parcel shall be available for public use for baseball and other events at Morrison Field.

Attached hereto is a revised Exhibit G – Easement Agreement – that incorporates Section 16.

**[Signatures Appear on Following Pages]**

WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF WESTWOOD,**

By and through its BOARD OF SELECTMEN

Chair

Clerk

Third Member

**PETRUZZIELLO PROPERTIES, LLC,**

By:

Giorgio Petruzzello, Manager

**COMMONWEALTH OF MASSACHUSETTS**

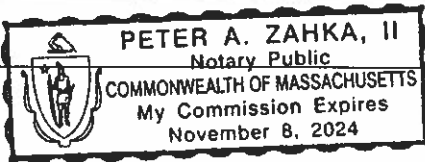
**NORFOLK, ss:**

On this 23<sup>rd</sup> day of April 2019 before me, the above signed Giorgio Petruzzello, Manager of Petruzzello Properties, LLC, a Massachusetts limited liability company, proved to me through satisfactory evidence of identification, which was (check whichever applies):

driver's license or other state or federal governmental document bearing a photographic image;  oath or affirmation of a credible witness known to me who knows the above signatory; or  my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as manager of Petruzzello Properties, LLC.

Notary Public

My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss:

On this 20 day of August 2018, before me, the above signed Michael Nelson Chair of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal corporation, proved to me through satisfactory evidence of identification, which was (check whichever applies): [ ] driver's license or other state or federal governmental document bearing a photographic image; [ ] oath or affirmation of a credible witness known to me who knows the above signatory; or [X] my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as Chair of said Board of Selectmen.

Elizabeth W. Narciso  
Notary Public  
My Commission Expires: May 16, 2025

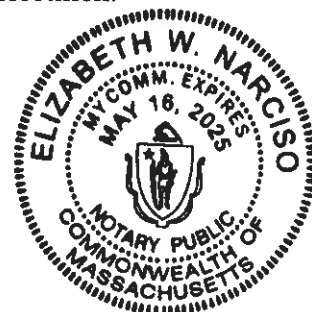


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss:

On this 20 day of August 2018, before me, the above signed John Hickey, Clerk of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal corporation, proved to me through satisfactory evidence of identification, which was (check whichever applies): [ ] driver's license or other state or federal governmental document bearing a photographic image; [ ] oath or affirmation of a credible witness known to me who knows the above signatory; or [X] my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as Clerk of said Board of Selectmen.

Elizabeth W. Narciso  
Notary Public  
My Commission Expires: May 16, 2025

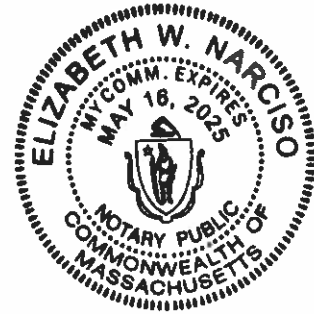


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss:

On this 20 day of August 2018 before me, the above signed Nancy Hyde a member of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal corporation, proved to me through satisfactory evidence of identification, which was (check whichever applies): [ ] driver's license or other state or federal governmental document bearing a photographic image; [ ] oath or affirmation of a credible witness known to me who knows the above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as a member of said Board of Selectmen.

Elizabeth W. Narciso  
Notary Public  
My Commission Expires: May 16, 2025







## CROSS EASEMENT AGREEMENT

This Cross Easement Agreement ("Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date") by **THE TOWN OF WESTWOOD**, a Massachusetts municipal corporation with its principal offices at 580 High Street, Westwood, Massachusetts 02090 (the "Town"), and **PETRUZZIELLO PROPERTIES, LLC**, a Massachusetts limited liability company having a primary address of 21 Eastbrook Road, Dedham, Massachusetts 02026 ("Petruzziello").

WHEREAS, the Town owns an approximately [38,692.62 or, if with Blue Hart Tavern Parcel, 40,601.43]-square foot parcel of land pursuant to a deed dated \_\_\_\_\_, 2\_\_, and recorded with the Norfolk County Registry of Deeds at Book \_\_, Page \_\_ (the "Town Parcel"), which is improved with, among other things, a parking lot with 32 parking spaces (the "Town Parking Spaces"), together with driveways, aisles and other improvements (collectively, with the Town Parking Spaces, the "Town Parking Lot"), all as shown on the plan attached as Exhibit A hereto (the "Easement Plan");

WHEREAS, Petruzziello owns an approximately 44,151.35-square foot parcel of land pursuant to a deed dated \_\_\_\_\_, 2\_\_, and recorded with said Registry at Book \_\_, Page \_\_ (the "Petruzziello Parcel"), which is improved with, among other things, a parking lot with 40 parking spaces (the "Petruzziello Parking Spaces" and, together with the Town Parking Spaces, the "Parking Spaces"), together with driveways, aisles and other improvements (collectively, with the Petruzziello Parking Spaces, the "Petruzziello Parking Lot" and, together with the Town Parking Lot, the "Parking Lot"), all as shown on Easement Plan;

WHEREAS, the Town and Petruzziello (each individually a "Party" and, collectively, the "Parties") agree that they would benefit by the granting of easement rights to one another for joint use of the Parking Spaces in the Parking Lot;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows.

1. Easement for the Town Parking Lot. Subject to the conditions of this Agreement, the Town hereby conveys to Petruzziello, for the benefit of and appurtenant to the Petruzziello Parcel and the operations conducted thereon, a perpetual and non-exclusive right to use, maintain, repair, reconstruct, and/or replace the Town Parking Lot, inclusive of the Town Parking Spaces, and all rights necessary for the full use and enjoyment of this right, including (a) the right for Petruzziello, and its successors and assigns, and all of their respective employees, guests, invitees and visitors, to park vehicles thereon and access and egress the Town Parking Lot, and (b) the right to access and disturb so much of the area under, over, and adjacent to the Town Parking Lot as may be necessary to maintain, repair, reconstruct, and/or replace the same (the "Town Parking Lot Easement").

2. Easement for the Petruzziello Parking Lot. Subject to the conditions of this Agreement, Petruzziello hereby conveys to the Town, for the benefit of and appurtenant to the Town Parcel and the operations conducted thereon, a perpetual and non-exclusive right to use,

maintain, repair, reconstruct, and/or replace the Petruzziello Parking Lot, inclusive of the Petruzziello Parking Spaces, and all rights necessary for the full use and enjoyment of this right, including (a) the right for the Town and its successors, and all of their respective employees, guests, invitees and visitors, to park vehicles thereon, and access and egress the Petruzziello Parking Lot, and (b) the right to access and disturb so much of the area under, over, and adjacent to the Petruzziello Parking Lot as may be necessary to maintain, repair, reconstruct, and/or replace the same (the "**Petruzziello Parking Lot Easement**").

3. Parking Lot Alterations.

1. The Petruzziello Parking Lot. To the extent allowed by law, and provided that all requisite permits and approvals have been obtained with no appeals having been filed or, if filed, all appeals having been fully and finally resolved, Petruzziello may alter, modify, realign, regrade, resurface or restripe the Petruzziello Parking Lot with the Town's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, provided that any reduction in the number or size of the Petruzziello Parking Spaces shall also require the Town's prior written consent, which consent the Town may withhold in its sole and absolute discretion. The Town shall not remove, alter, modify, realign, regrade, resurface or restripe the Petruzziello Parking Lot without the prior written consent of Petruzziello, which consent Petruzziello may withhold in its sole and absolute discretion.

2. The Town Parking Lot. To the extent allowed by law, and provided that all requisite permits and approvals have been obtained with no appeals having been filed or, if filed, all appeals having been fully and finally resolved, the Town may alter, modify, realign, regrade, resurface or restripe the Town Parking Lot with Petruzziello's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Petruzziello shall not remove, alter, modify, realign, regrade, resurface or restripe the Town's Parking Lot without the prior written consent of the Town, which consent the Town may withhold in its sole and absolute discretion.

4. Obligation To Provide Notice and To Restore. In the event that either Party finds it necessary, in the course of exercising its rights under this Agreement, to undertake work on the other Party's property that will result in any disturbance of or interference with that property, or its operations thereon or incident thereto, through repair, maintenance, excavation, construction, or otherwise, the Party undertaking such work shall provide the other Party not less than ten (10) business days' advance written notice, except in the case of an emergency for which no prior notice shall be required, and shall restore the other Party's property to its condition existing prior to such work to the greatest extent possible, except with respect to any improvements (*e.g.*, installation of new paving) that the Party is entitled to make in exercising its rights hereunder, in which event the restored condition shall be to a standard commensurate with a first class commercial property. All work (including general clean up and proper surface or subsurface restoration) shall be completed as quickly as practicable and in a manner so as to minimize interference with the use or operation of the property on which the work is performed. In the event of an emergency for which no advance written notice was provided, the Party undertaking work shall provide such notice to the other Party as soon as feasible in light of the exigency of the circumstances. If any Party fails to fulfill any obligation under this Section 4, and the same

continues for ten (10) business days (or such longer period as appropriate under the circumstances if such failure is not reasonably susceptible of being cured in such 10-day period provided the non-complying Party commenced such cure within such 10-day period, but in any event, no more than thirty (30) days) after written notice to the non-complying Party, the other Party may itself fulfill such obligation and the non-complying Party shall promptly reimburse the other Party for all reasonable and actual costs incurred in connection therewith.

5. Rights of Relocation. Each Party shall have the right, upon not less than ten (10) business days' advance notice to the other Party, to relocate and reconstruct the portion of the Parking Lot located on its own property, provided that (a) any such relocation and reconstruction shall be at the sole expense of the Party responsible for such construction or other work ("**Responsible Party**"), (b) the Responsible Party shall first obtain all necessary approvals for such relocation from governmental authorities and utility companies, with no appeals having been taken or any appeal having been fully and finally resolved; and (c) the Responsible Party exercises commercially reasonable efforts to minimize any interruption of use during the course of the relocation and reconstruction work after scheduling the same with the other Party at a mutually agreeable time.

6. Mechanic's Liens. If any mechanic's lien relating to any construction or other work undertaken by either Party, or any of its contractors or subcontractors, are filed against the other Party's property or any part thereof, the Responsible Party shall, within twenty (20) days thereafter, cause such lien to be discharged of record, by payment, bonding or otherwise. If the Responsible Party fails to discharge any such lien, then the non-responsible Party may do so at the Responsible Party's expense, and the Responsible Party shall thereafter fully indemnify the non-responsible Party for any costs and expenses associated with such discharge, including reasonably attorneys' fees.

7. Liability; Insurance. Each Party and its employees, agents, contractors and representatives who enter upon the other Party's property to maintain, repair, reconstruct, and/or replace any portion of the Parking Lot (collectively, the "**Work**") does so solely at its own risk and shall be liable for all injuries to persons or damage to real and personal property, including, but not limited to, buildings and other structures, resulting from or caused by the acts or omissions of its employees, agents, contractors and representatives in connection with the Work to the extent permitted under law. Prior to entering the other Party's property to perform any of the Work, the Party performing such work, at its sole expense, shall obtain and maintain until completion of the Work, and shall cause its general contractor to obtain and maintain until completion of the Work, general liability insurance of at least Two Million Dollars (\$2,000,000) per person per occurrence, for claims arising in connection with the Work, which policy shall name the other Party as an additional insured. Upon request, a Party shall provide the other Party with evidence that such insurance is in full force and effect throughout the duration of the Work.

8. Indemnification. To the extent allowed by law, the Town shall indemnify, defend, protect, and hold Petruzzello harmless from and against any and all liability, loss, cost, claim, damage, or expense of any kind or nature whatsoever owed to the public in connection with the use of the Petruzzello Parking Lot Easement for activities conducted on the Town

Parcel or as public parking, except to the extent caused by the Petruzziello's negligence or intentional misconduct.

9. Existing Rights. The Petruzziello Parking Lot Easement is subject to all existing rights of others in the Petruzziello Parcel, and the Town Parking Lot Easement is subject to all existing rights of others in the Town Parcel, provided that in each case such existing rights do not materially and adversely interfere with the Party's use of its respective easement.

10. Duration. The rights granted herein shall be in effect for so long as the Town or a different governmental entity owns the Town Parcel.

11. Notices. A Party shall send any notice or other communication required or permitted hereunder to the intended recipient at the address set forth below using the following means: facsimile transmission, hand delivery, nationally recognized overnight delivery service, registered or certified mail, and such notices or other communications shall be deemed received on the date delivered, or the following business day if the date of delivery is a weekend or state or federal legal holiday.

Notices shall be sent as follows:

If to the Town:

Michael Jaillet, Town Administrator  
Town Hall  
580 High Street  
Westwood, MA 02090

With a courtesy copy to (which courtesy copy shall not constitute notice):

Pierce Atwood LLP  
100 Summer Street, 22<sup>nd</sup> Floor  
Boston, MA 02110  
Attn: Gareth I. Orsmond, Esq.  
Facsimile No.: 617.824.2020

If to Petruzziello:

Giorgio Petruzziello, Manager  
Petruzziello Properties, LLC  
21 Eastbrook Road  
Dedham, MA 02026

With a courtesy copy to (which courtesy copy shall not constitute notice):

Peter A. Zahka, II, Esq.  
Law Offices of Peter A. Zahka, II, P.C.  
12 School Street  
Dedham, MA 02026  
Facsimile No.: 781-326-0617

A Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its choice of law principles.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or between the parties, written or oral, to the extent they relate in any way to the rights and obligations of the Parties hereunder.

14. Waivers. Failure on the part of either Party to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall never be a waiver by such Party of any of the rights hereunder. Further, no waiver at any time of any of the provisions hereof by either Party shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

15. Runs with the Land. The easement, rights, obligations, covenants and agreements herein granted and established, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

16. Authorized Act. Each Party represents to the other Party that this Agreement has been duly authorized and executed and constitutes a valid and binding obligation of the Party, enforceable in accordance with its terms.

17. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

18. CVS Parking Spaces: The Town agrees to use reasonable efforts to assure that 40 parking spaces are available to CVS at all times. "Reasonable efforts" shall include placing temporary "CVS Parking Only" signs during special events at the Town Improvements, and during such events monitoring the Town Parking Lot and the Petruzzello Parking Lot to assure that 40 parking spaces are provided for CVS. . Temporary CVS Parking Only signs and a monitor shall also be used during special events at Morrison Field. "Special events" shall mean meetings, programs, and other

events at the Town Improvements and/or Morrison Field where it is anticipated that parking for the same cannot be accommodated within the Town Parking Lot.

19. Use Restrictions: The Town agrees that it shall not lease or use, nor permit the lease or use of, the Town Parking Lot (but not including the Blue Hart Tavern Parcel), for the purpose of a health and beauty aids store, a greeting card or gift store, a store offering one-hour or other on-site photo processing, including, without limitation, digital photo processing, a candy store, a vitamin store, a pharmacy mail order facility, a drug store, a pharmacy prescription department, a retail health center, 99 cents store or "dollar store" which sells general merchandise (a "Dollar Store"). Examples of a Dollar Store (without limiting such Dollar Stores only to those listed) are stores such as Fred's, Dollar Store, Dollar General, or Family Dollar. This Section 20 shall automatically terminate upon the termination or expiration of CVS's lease of Redeveloper Parcel A.

20. Snow and Ice Removal: The Parties agree to work cooperatively to assure that snow and ice are timely removed from the Parking Lot. For example, the Town may engage Petruzziello on a contract basis at the Town's expense (at usual municipal rates) to remove snow from the Town Parking Lot. Prior to each winter season, Petruzziello and the Town shall agree on the terms on which Petruzziello shall perform snow and ice removal services, the costs of which shall be equitably allocated

***[Remainder of Page Intentionally Blank]***

WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF WESTWOOD,**

By and through its BOARD OF SELECTMEN

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Third Member

**PETRUZZIELLO PROPERTIES, LLC,**

By: \_\_\_\_\_  
Giorgio PetruzzIELLO, Manager

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_ before me, the above signed Giorgio PetruzzIELLO, Manager of PetruzzIELLO Properties, LLC, a Massachusetts limited liability company, proved to me through satisfactory evidence of identification, which was (check whichever applies):

- driver's license or other state or federal governmental document bearing a photographic image;
- oath or affirmation of a credible witness known to me who knows the above signatory;
- or  my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as manager of PetruzzIELLO Properties, LLC.

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

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, before me, the above signed \_\_\_\_\_,  
Chair of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal  
corporation, proved to me through satisfactory evidence of identification, which was (check  
whichever applies): [ ] driver's license or other state or federal governmental document bearing a  
photographic image; [ ] oath or affirmation of a credible witness known to me who knows the  
above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the  
persons whose name is signed on the preceding document, and acknowledged to me that he or  
she signed it voluntarily for its stated purpose as Chair of said Board of Selectmen.

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

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, before me, the above signed \_\_\_\_\_,  
Clerk of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal  
corporation, proved to me through satisfactory evidence of identification, which was (check  
whichever applies): [ ] driver's license or other state or federal governmental document bearing a  
photographic image; [ ] oath or affirmation of a credible witness known to me who knows the  
above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the  
persons whose name is signed on the preceding document, and acknowledged to me that he or  
she signed it voluntarily for its stated purpose as Clerk of said Board of Selectmen.

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



COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss:

On this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, before me, the above signed \_\_\_\_\_, a member of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal corporation, proved to me through satisfactory evidence of identification, which was (check whichever applies): [ ] driver's license or other state or federal governmental document bearing a photographic image; [ ] oath or affirmation of a credible witness known to me who knows the above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as a member of said Board of Selectmen.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**EASEMENT PLAN**

## EASEMENT AGREEMENT

This Easement Agreement ("**Agreement**") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ ("**Effective Date**") by **THE TOWN OF WESTWOOD**, a Massachusetts municipal corporation with its principal offices at 580 High Street, Westwood, Massachusetts 02090 (the "**Town**"), and **PETRUZZIELLO PROPERTIES, LLC**, a Massachusetts limited liability company having a primary address of 21 Eastbrook Road, Dedham, Massachusetts 02026 ("**Petruzziello**").

WHEREAS, the Town owns an approximately 15,126.11-square foot parcel of land with a street address of 288 Washington Street, Westwood, Massachusetts pursuant to a deed dated \_\_\_\_\_, 2 \_\_\_\_, and recorded with the Norfolk County Registry of Deeds at Book \_\_\_\_, Page \_\_\_\_ (the "**Town Parcel**"), which is improved with, among other things, a community building, all as shown on the plan attached as **Exhibit A** hereto (the "**Easement Plan**");

WHEREAS, Petruzziello owns an approximately 19,040.41-square foot parcel of land adjacent to the Town Parcel pursuant to a deed dated \_\_\_\_\_, 2 \_\_\_\_, and recorded with said Registry of Deeds at Book \_\_\_\_, Page \_\_\_\_ (the "**Petruzziello Parcel**"), which is improved with, among other things, a parking lot with 29 parking spaces (the "**Parking Spaces**"), together with driveways, aisles and other improvements (collectively, with the Petruzziello Parking Spaces, the "**Parking Lot**"), all as shown on Easement Plan;

WHEREAS, the Town and Petruzziello (each individually a "**Party**" and, collectively, the "**Parties**") agree that they would benefit by the granting of easement rights to the Town for use of the Parking Spaces in the Parking Lot;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows.

1. Easement for the Parking Lot. Subject to the conditions of this Agreement, Petruzziello hereby conveys to the Town, for the benefit of and appurtenant to the Town Parcel and the operations conducted thereon, a perpetual and non-exclusive right to use, maintain, repair, reconstruct, and/or replace the Parking Lot, inclusive of the Parking Spaces, and all rights necessary for the full use and enjoyment of this right, including (a) the right for the Town and its successors, and all of their respective employees, guests, invitees and visitors, to park vehicles thereon, and access and egress the Parking Lot, and (b) the right to access and disturb so much of the area under, over, and adjacent to the Petruzziello Parking Lot as may be necessary to maintain, repair, reconstruct, and/or replace the same (the "**Parking Lot Easement**"). The Parking Lot Easement shall include the right of the public to use the Parking Lot in connection with sporting events and other events at Morrison Field.

2. Parking Lot Alterations. To the extent allowed by law, and provided that all requisite permits and approvals have been obtained with no appeals having been filed or, if filed, all appeals having been fully and finally resolved, Petruzziello may alter, modify, realign, regrade, resurface or restripe the Parking Lot with the Town's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, provided that any reduction in the number or size of the Parking Spaces shall also require the Town's prior written consent, which consent the Town may withhold in its sole and absolute discretion. The Town shall not remove, alter, modify, realign, regrade, resurface or restripe the Parking Lot without the prior written consent of Petruzziello, which consent Petruzziello may withhold in its sole and absolute discretion.

3. Obligation To Provide Notice and To Restore. In the event that Town finds it necessary, in the course of exercising its rights under this Agreement, to undertake work on the Parking Lot that will result in any disturbance of or interference with that property, or its operations thereon or incident thereto, through repair, maintenance, excavation, construction, or otherwise, the Town shall provide the other Petruzziello not less than ten (10) business days' advance written notice, except in the case of an emergency for which no prior notice shall be required, and shall restore the Petruzziello Parcel to its condition existing prior to such work to the greatest extent possible, except with respect to any improvements (*e.g.*, installation of new paving) that the Town is entitled to make in exercising its rights hereunder, in which event the restored condition shall be to a standard commensurate with a first class commercial property. All work (including general clean up and proper surface or subsurface restoration) shall be completed as quickly as practicable and in a manner so as to minimize interference with the use or operation of the property on which the work is performed. In the event of an emergency for which no advance written notice was provided, the Town shall provide such notice to Petruzziello as soon as feasible in light of the exigency of the circumstances. If the Town fails to fulfill any obligation under this Section 3, and the same continues for ten (10) business days (or such longer period as appropriate under the circumstances if such failure is not reasonably susceptible of being cured in such 10-day period provided the Town commenced such cure within such 10-day period, but in any event, no more than thirty (30) days) after written notice to the Town, Petruzziello may itself fulfill such obligation and the Town shall promptly reimburse the Petruzziello for all reasonable and actual costs incurred in connection therewith.

4. Rights of Relocation. Petruzziello shall have the right, upon not less than ten (10) business days' advance notice to the Town, to relocate and reconstruct the Parking Lot, provided that (a) any such relocation and reconstruction shall be at Petruzziello's sole expense, (b) the Petruzziello shall first obtain all necessary approvals for such relocation from governmental authorities and utility companies, with no appeals having been taken or any appeal having been fully and finally resolved; and (c) Petruzziello exercises commercially reasonable efforts to minimize any interruption of use during the course of the relocation and reconstruction work after scheduling the same with the Town at a mutually agreeable time.

5. Mechanic's Liens. If any mechanic's lien relating to any construction or other work undertaken by the Town, or any of its contractors or subcontractors, are filed against the Petruzziello Parcel or any part thereof, the Responsible Party shall, within twenty (20) days

thereafter, cause such lien to be discharged of record, by payment, bonding or otherwise. If the Town fails to discharge any such lien, then the Petruzziello may do so at the Town's expense, and the Town shall thereafter reimburse Petruzziello for reasonable costs and expenses associated with such discharge, including reasonably attorneys' fees.

6. Liability; Insurance. If the Town enters the Petruzziello Parcel to maintain, repair, reconstruct, and/or replace any portion of the Parking Lot (collectively, the "**Work**"), it shall do so solely at its own risk and shall be liable for all injuries to persons or damage to real and personal property, including, but not limited to, buildings and other structures, resulting from or caused by the acts or omissions of its employees, agents, contractors and representatives in connection with the Work to the extent permitted under law. Prior to entering the Petruzziello Parcel to perform any of the Work, the Town, at its sole expense, shall obtain and maintain until completion of the Work, and shall cause its general contractor to obtain and maintain until completion of the Work, general liability insurance of at least Two Million Dollars (\$2,000,000) per person per occurrence, for claims arising in connection with the Work, which policy shall name Petruzziello as an additional insured. Upon request, the Town shall provide the Petruzziello with evidence that such insurance is in full force and effect throughout the duration of the Work.

7. Indemnification. To the extent allowed by law, the Town shall indemnify, defend, protect, and hold Petruzziello harmless from and against any and all liability, loss, cost, claim, damage, or expense of any kind or nature whatsoever owed to the public in connection with the use of the Parking Lot Easement for activities conducted on the Town Parcel or as public parking, except to the extent caused by the Town's negligence or intentional misconduct.

8. Existing Rights. The Parking Lot Easement is subject to all existing rights of others in the Petruzziello Parcel, provided that in each case such existing rights do not materially and adversely interfere with the Party's use of its respective easement.

9. Notices. A Party shall send any notice or other communication required or permitted hereunder to the intended recipient at the address set forth below using the following means: facsimile transmission, hand delivery, nationally recognized overnight delivery service, registered or certified mail, and such notices or other communications shall be deemed received on the date delivered, or the following business day if the date of delivery is a weekend or state or federal legal holiday.

Notices shall be sent as follows:

If to the Town:

Michael Jaillet, Town Administrator  
Town Hall  
580 High Street  
Westwood, MA 02090

With a courtesy copy to (which courtesy copy shall not constitute notice):

Pierce Atwood LLP  
100 Summer Street, 22<sup>nd</sup> Floor  
Boston, MA 02110  
Attn: Gareth I. Orsmond, Esq.  
Facsimile No.: 617.824.2020

If to Petruzzello:

Giorgio Petruzzello, Manager  
Petruzzello Properties, LLC  
21 Eastbrook Road  
Dedham, MA 02026

With a courtesy copy to (which courtesy copy shall not constitute notice):

Peter A. Zahka, II, Esq.  
Law Offices of Peter A. Zahka, II, P.C.  
12 School Street  
Dedham, MA 02026  
Facsimile No.: 781-326-0617

A Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its choice of law principles.

11. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements or representations by or between the parties, written or oral, to the extent they relate in any way to the rights and obligations of the Parties hereunder.

12. Waivers. Failure on the part of either Party to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall never be a waiver by such Party of any of the rights hereunder. Further, no waiver at any time of any of the provisions hereof by either Party shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

13. Runs with the Land. The easement, rights, obligations, covenants and agreements herein granted and established, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

14. Authorized Act. Each Party represents to the other Party that this Agreement has been duly authorized and executed and constitutes a valid and binding obligation of the Party, enforceable in accordance with its terms.

15. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

16. Town Parcel Conveyance to Petruziello. It is anticipated that the Town Parcel shall be conveyed to Petruziello in accordance with the terms of the Land Disposition Agreement dated as of June 11, 2018 (“LDA”), as amended. If the Town Parcel is conveyed to Petruziello, the Parties shall work cooperatively to prepare and execute an amendment of this Easement Agreement that provides public parking in accordance with the special permit issued to Petruziello for redevelopment of the Town Parcel. If the Town Parcel is not conveyed to Petruziello, the Town shall assure that any redevelopment of the Town Parcel is designed to provide adequate parking (in accordance with the requirements of the Westwood Zoning Bylaw) for the redevelopment project on the Town Parcel or on a combination of the Town Parcel and adjacent on-street parking spaces. Under no circumstances will the owner of the Town Parcel have the right to use parking spaces on the Petruziello Parcel, provided that at all times all parking on the Town Parcel and the Petruziello Parcel shall be available for public use for baseball and other events at Morrison Field.

WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF WESTWOOD,**

By and through its BOARD OF SELECTMEN

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Third Member

**PETRUZZIELLO PROPERTIES, LLC,**

By: \_\_\_\_\_  
Giorgio Petruzziello, Manager

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_ before me, the above signed Giorgio Petruzziello, Manager of Petruzziello Properties, LLC, a Massachusetts limited liability company, proved to me through satisfactory evidence of identification, which was (check whichever applies): [ ] driver's license or other state or federal governmental document bearing a photographic image; [ ] oath or affirmation of a credible witness known to me who knows the above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as manager of Petruzziello Properties, LLC.

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



**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, before me, the above signed \_\_\_\_\_,  
Chair of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal  
corporation, proved to me through satisfactory evidence of identification, which was (check  
whichever applies): [ ] driver's license or other state or federal governmental document bearing a  
photographic image; [ ] oath or affirmation of a credible witness known to me who knows the  
above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the  
persons whose name is signed on the preceding document, and acknowledged to me that he or  
she signed it voluntarily for its stated purpose as Chair of said Board of Selectmen.

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

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, before me, the above signed \_\_\_\_\_,  
Clerk of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal  
corporation, proved to me through satisfactory evidence of identification, which was (check  
whichever applies): [ ] driver's license or other state or federal governmental document bearing a  
photographic image; [ ] oath or affirmation of a credible witness known to me who knows the  
above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the  
persons whose name is signed on the preceding document, and acknowledged to me that he or  
she signed it voluntarily for its stated purpose as Clerk of said Board of Selectmen.

\_\_\_\_\_  
Notary Public (print name)  
My Commission Expires: \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, ss:**

On this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, before me, the above signed \_\_\_\_\_, a member of the Board of Selectmen of the Town of Westwood, a Massachusetts municipal corporation, proved to me through satisfactory evidence of identification, which was (check whichever applies): [ ] driver's license or other state or federal governmental document bearing a photographic image; [ ] oath or affirmation of a credible witness known to me who knows the above signatory; or [ ] my own personal knowledge of the identity of the signatory, to be the persons whose name is signed on the preceding document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as a member of said Board of Selectmen.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**EASEMENT PLAN**

