

## **BEACH NOURISHMENT EASEMENT**

I (WE) \_\_\_\_\_ (“Grantor”), of \_\_\_\_\_, hereby grant to the Town of Marshfield (“Grantee”), acting by and through its Board of Selectmen, having an address of Marshfield Town Hall, 870 Moraine Street, Marshfield, Massachusetts, 02050, an easement on the terms set forth below in, on, under and over a portion of the property located at \_\_\_\_\_, Marshfield, Massachusetts, and described in a deed recorded with the Plymouth Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_ or Certificate of Title No. \_\_\_\_\_ filed with the Plymouth Registry District of the Land Court.

### WITNESSETH:

WHEREAS, Grantor is sole owner of the Property in Marshfield, as more particularly described above; and

WHEREAS, the Property possesses natural, scenic, and open space values of great importance to the people of Marshfield and the people of the Commonwealth of Massachusetts; and

WHEREAS, the value of the Property has been or will be restored, enhanced, and protected by a beach nourishment project funded by federal, state, and local granting authorities, which project is more particularly described in the plans on file with the Marshfield Town Clerk (as the same may be amended or supplemented from time to time, the “Beach Project”); and

WHEREAS, Grantor has received a direct benefit from said publicly-funded Beach Project.

NOW, THEREFORE, in consideration of the facts recited above and the mutual covenants, terms, and conditions set forth herein, and pursuant to laws of the Commonwealth of Massachusetts, Grantor hereby voluntarily grants and conveys to Grantee an easement in perpetuity over the portion of the Property the land seaward of the seawall shown, for the following purposes:

1. An easement to the Town, the residents of Marshfield, and to the public at large, to pass and repass the Easement Area by foot subject to the following restrictions: said public on-foot right-of-passage shall not be exercised (a) later than one-half hour after sunset nor earlier than sunrise; (b) where the Commissioner of the Department of Environmental Protection, for the purpose of protecting marine fisheries and wildlife or for controlling erosion, designates and posts natural areas of critical ecological significance as areas in which, on either a regular or seasonal basis as circumstances in each situation require; and (c) where there exists a structure, enclosure, or other improvements within the Easement Area made or allowed pursuant to any law or any license, permit, or other authority issued or granted under the General Laws, provided that such area is clearly and conspicuously posted (unless such license, permit or other authority permits public access).

2. An easement to the Town to use the Easement Area to place, install, construct, preserve, inspect, operate, maintain, repair, rehabilitate, and replace a beach and dune system and other erosion control and storm damage reduction measures and appurtenances thereto, including

the right to deposit sand, plant vegetation, alter the contours on land, construct berms and dunes, nourish and re-nourish periodically, move, store and remove equipment and supplies, erect, maintain and remove silt screens and sand fences, erect and/or remove temporary structures, facilitate preservation of dunes and vegetation through the limitation of access to dune areas, and trim, cut, fell and remove from said land trees, underbrush, debris, obstructions, and any other vegetation, structures, and objects as may be necessary or convenient to exercise the rights granted herein, and for any and all other uses and/or purposes related or incidental thereto. The Town shall have the right to access the Easement Area from time to time by foot, vehicle, or heavy equipment, for any and all purposes stated herein and uses necessary or incidental thereto, including, without limitation, using and temporarily storing, as needed, construction equipment, materials or other incidental items within the Easement Area for the purposes set forth herein.

3. No permanent or temporary buildings, structures, utilities and/or other facilities shall be constructed, installed, maintained and/or placed upon the Easement Area by any party other than Grantee without the prior written consent of Grantee.

4. Grantor agrees, for Grantor and Grantor's heirs, successors, and assigns, not to interfere with the exercise of the rights granted herein. By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the Property;

5. By signing below, Grantor hereby, for Grantor and Grantor's heirs, successors and assigns, pursuant to G.L. c.79, §7A, waives, releases and forever discharges Grantee, its successors and assigns, from all debt, demands, actions, reckonings, bonds, covenants, contracts, agreements, promises, damages, and liabilities and any and all other claims of every kind, nature and description whatsoever, both in Law and Equity, from or in consequences of the taking of the easements described in this instrument, should Grantee decide to take such easements by eminent domain for the foregoing purposes, and hereby waives an appraisal of damages for said taking and consents to said taking under G.L. c.79, §5B.

6. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties: 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.

[signature page follows]

Executed under seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

X \_\_\_\_\_

X \_\_\_\_\_

THE COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared \_\_\_\_\_, who proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.

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

## **Town of Marshfield**

### **Grant of Easements to the Town of Marshfield for Beach Nourishment Projects**

The Town of Marshfield is requesting that you grant the Town certain easements. The purpose of this memo is to clarify a few points and to explain the terms of the Grant of Easement.

***What Portion of My Property is Affected by the Grant of Easement:*** By signing the attached Grant of Easement, you will grant an easement in that portion of your property that lies seaward of the seawall on your property. The easement does not permit the Town or members of the public access to the portion of your property that is landward of the seawall. The easement area includes the beach and runs to the low water mark.

***Why Does the Easement State that the Town will Take the Easements By Eminent Domain:*** The Town anticipates that many of the properties on which it needs easements are subject to mortgages. Note that if the lender forecloses on the mortgage, the foreclosure will terminate the rights that you grant the Town under the Grant of Easements. In order to avoid losing the easement, and thereby jeopardizing the beach nourishment projects, the Town could do two things: first, it could request the lenders to sign a Subordination of Mortgage form, in essence stating that if there is a foreclosure, the lender will not terminate the Town's rights.

Unfortunately, given the pressing need for the Town to move forward with the project, and to avoid the lengthy and cumbersome process of obtaining the lenders' consent, the Town can avoid losing its rights by taking by eminent domain the same rights that you grant to the Town under the Grant of Easement. The purpose of the taking is not to expand on the rights you grant the Town; the taking will have the same effect as obtaining a subordination, that is, it will protect the Town's easement rights from being terminated. The taking will also confirm the rights granted to the Town. For that reason, you will see a provision in the Grant of Easements stating that you consent to the Town acquiring the same rights under the Grant of Easements by a taking if the Town decides to obtain such protections.

***Who Signs the Easement and is a Notary Necessary:*** The Grant of Easements needs to be signed by all the property owners, and a notary public must acknowledge the signature of at least one of the owners. A notary public is available at Marshfield Town Hall.

***When does the Town Need the Easements:*** Please return the signed and notarized Grant of Easement to the Town as soon as possible; the Town must provide evidence of the easements to procure grant funds.

The Town thanks you for your generosity in granting the easements to the Town of Marshfield. We appreciate your cooperation and look forward to a successful project.