

FATLC  
600 Summer St  
Stamford CT 06901

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BK 1183 PG 999-1008

## PUBLIC ACCESS EASEMENT AGREEMENT

THIS PUBLIC ACCESS EASEMENT AGREEMENT (this "Easement") is made as of the 31 day of May, 2017 by and between **BRANFORD MANOR PRESERVATION, LIMITED PARTNERSHIP**, a New York limited partnership with a business address of 60 Columbus Circle, New York, New York (the "Owner") and the **CITY OF GROTON**, a municipal corporation organized by charter of the State of Connecticut and having its territorial limits within the County of New London in said State (the "City").

### WITNESSETH:

WHEREAS, Owner is the owner of that certain piece or parcel of land located in the City of Groton, County of New London and State of Connecticut more particularly described on Exhibit A which is attached hereto and made a part hereof (the "Property"); and

WHEREAS, the City owns several parcels of open space along Birch Plain Creek both north of and south of the Property; and

WHEREAS, the parties wish to provide an access easement to the City across the easterly portion of the Property for the benefit of the general public in order to establish a public trail, or path, connecting to, and linking, the trail on the City owned open space to the south of the Property to the northerly boundary of the Property at a point to be determined as provided herein.

NOW THEREFORE, for and in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, and of the covenants and undertakings herein set forth, Owner hereby gives, grants, bargains, sells and confirms onto the City, its successors and assigns forever, a perpetual ten (10) foot wide easement over, across and on that certain piece or parcel of land situated in the City of Groton, County of New London and State of Connecticut shown and designated as "Easement to be Recorded in Favor of the City of Groton for the purposes of public access" (such ten (10) foot wide easement, in such location as Owner may reasonably prescribe from time to time in accordance with the terms and provisions of this Easement, over, across and on such piece or parcel of land, the "Easement Area") on the map entitled "Existing Access Easement, Access & Sidewalk Easement to be Recorded on 400 Shennecossett Road, Groton, Connecticut, Prepared for Branford Manor Preservation, L.P., a New York Limited Partnership", sheet 5 of 7, and prepared by Accurate Land Surveying, LLC, which map is to be filed in the Groton Town Clerk's office contemporaneously with the recording of this Easement and a copy of which is attached hereto as Exhibit B and made a part hereof, for the following purposes and on the following terms and conditions:

1. The City shall have the right to permit the use of the Easement Area by the general public for pedestrian ingress and egress across the Easement Area, on foot only, and for no other purpose, seven (7) days per week, during the following hours: dawn through dusk.

2. The use of the Easement Area is strictly limited to pedestrian access on foot only. Accordingly, no vehicles (motorized or otherwise), bicycles or skateboards shall be permitted within the Easement Area, nor shall camping, hunting, fishing or public assembly activities be permitted within the Easement Area.

3. Subject to Owner's prior written consent, which Owner shall not unreasonably withhold, the City may install and maintain within the Easement Area such signs as the City shall reasonably deem necessary and appropriate for public safety and to advise the public of the limits of the public access trail or paths within the Easement Area.

4. The Owner reserves for itself and its successors and assigns: (a) the right to use the Easement Area for all purposes which do not unreasonably interfere with the public access easement herein granted, including, without limitation,: the right to (i) install and maintain signs to advise the public of the limits of the Easement Area; (ii) install and maintain such fences and barriers as may be deemed advisable by Owner to confine the use of the general public within the limits of the Easement Area (provided no such fence or barrier shall unreasonably interfere with the fulfillment of the purposes for which this Easement is granted); and (b) the right to: (i) close off all or any portion the Easement Area for such reasonable period of time as may be advisable for repair, maintenance and weather-related emergency purposes (provided the Owner shall, except in the event of an emergency, give the City reasonable prior written notice of such closure and provided the Owner shall use reasonable efforts to minimize the extent and duration of any such closure); (ii) change, alter, relocate or modify the Easement Area (provided the Owner shall give the City reasonable prior written notice of such change, alteration, relocation or modification and reasonably consult with the City regarding such change, alteration, relocation or modification); (iii) construct improvements to the Easement Area. The Owner shall exercise the rights reserved by Owner in this Paragraph 4 in compliance with all applicable laws.

5. The Owner, at its sole cost and expense, shall, within thirty-six (36) months of the date hereof, construct a trail, or path, within the Easement Area connecting to and extending the existing trail on the City owned open space to the south of the Property from its current terminus to the northerly property line of the Property at a point determined by Owner (subject to the City's right to consult as provided below). The time for completion of the foregoing work shall be extended by the amount of time such work is affected by reason of force majeure or conditions outside of Owner's reasonable control, including, without limitation, permitting and approvals as required by law. Owner shall use commercially reasonable efforts to pursue such work. Said trail, or path, shall be a minimum width of eight (8) feet, and shall be built in accordance with all applicable local, state and federal codes with materials comparable or better than those used by the City for the existing trails within the Birch Creek Open Space. The Owner agrees to reasonably consult with the City regarding the location and design of such trail, or path; however nothing herein shall relieve the Owner of the obligation to obtain all necessary permits and approvals prior to constructing such trail, or path, including, without limitation, an inland wetlands permit and coastal site plan approval, to the extent required by applicable law.

6. The Owner, at its sole cost and expense, shall maintain the Easement Area generally, and the trail, or path, constructed by it, specifically, in good order and repair; provided, however, that the Owner shall not be required to make any repairs caused by the negligence or willful misconduct of the City, its agents, contractors, employees, successors or assigns. Notwithstanding anything contained herein to the contrary, in no event shall Owner be required to remove snow and/or ice from, or provide lighting to, the Easement Area.

7. The Owner and City shall both maintain general liability insurance coverage with respect to the Easement Area. The City's general liability insurance coverage may be included

as part of any blanket or master liability insurance maintained from time to time by the City with such limits and deductibles as the City generally maintains on its properties that are used for public purposes. The Owner's general liability insurance coverage shall have a single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

8. The Owner shall have the right to make such reasonable rules and regulations as Owner may deem necessary or desirable to regulate the use of the Easement Area provided such rules and regulations shall not unreasonably interfere with the purposes of this Easement.

9. The City shall not convey, assign or otherwise transfer its rights under this Easement except to another municipal entity or to a not-for-profit entity such as a land trust, provided any such transfer is made in connection with, and as part of, the transfer of the City's rights in and to the open space parcels currently owned by the City along Birch Plain Creek to such entity and further provided that (i) the City shall give written notice to Owner thirty (30) days prior to such conveyance, assignment or transfer, (ii) the acquirer, assignee or transferee shall assume all of the City's obligations under this Easement, (iii) the acquirer, assignee or transferee shall be reasonably capable of performing all of the City's obligations under this Easement, and (iv) such conveyance, assignment or transfer shall be pursuant to a written instrument on a commercially reasonable form.

10. The City acknowledges that the Easement Area is located upon the Property, which is used by Owner for the operation of a business, and the City shall use reasonable, good faith efforts to prevent the use of the Easement Area by the public in a manner which will unreasonably disturb or interfere with the Owner's use of the Property, or with the operation of Owner's business on the Property. If the Owner believes that the public use of the Easement Area is unreasonably disturbing or interfering with Owner's use of the Property or the operation of Owner's business thereon, or poses a threat to public safety, the City agrees to discuss such disturbance, interference or threat at Owner's request.

11. Nothing herein shall confer, or be construed to confer, upon the City or the public any rights of access for any purpose other than as set forth herein.

12. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner: Branford Manor Preservation, L.P.  
c/o The Related Companies  
60 Columbus Circle  
New York, New York  
Attention: Matthew Finkle

With a copy to: Robinson & Cole, LLP  
1055 Washington Boulevard  
Stamford, Connecticut 06907  
Attn: Steve L. Elbaum, Esq.

And to: Levitt & Boccio, LLP  
423 West 55th Street, 8th Floor  
New York, New York 10119  
Attention: David S. Boccio, Esq.

To the City: City of Groton  
295 Meridian Street  
Groton, Connecticut 06340  
Attention: Mayor

With a copy to: Berchem Moses & Devlin, P.C.  
75 Broad Street  
Milford, Connecticut 06460  
Attention: Robert Berchem, Esq.

or to such other address as either party from time to time shall designate by written notice to the other.

13. The Easement Area is conveyed subject to such rights and easements as appear of record and to any and all provisions of any ordinance, municipal regulation or public or private law.

14. The interpretation and performance of this Easement shall be governed by the laws of the State of Connecticut.

15. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

16. The parties, for themselves and their successors and assigns, hereby consent and agree that the Superior Court of the State of Connecticut and the United States District Court for the District of Connecticut shall have exclusive jurisdiction to hear and determine any disputes or claims arising out of this Easement.

17. Nothing contained herein will result in a forfeiture or reversion of Owner's title in any respect.

18. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto, and their respective successors and assigns, in perpetuity.

[NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, Owner and City have caused to be set their hands and seals this 31 day of May 2017.

WITNESSED BY:

OWNER:

BRANFORD MANOR PRESERVATION,  
LIMITED PARTNERSHIP,  
a New York limited partnership

By: BRANFORD MANOR PRESERVATION GP,  
LLC,  
a New York limited liability company, its sole  
general partner

Georgina Cook  
Name:

By: Matthew Finkle

[Signature]  
Name:

Name: Matthew Finkle

Title: Vice President

STATE OF New York )  
 ) ss.  
COUNTY OF New York )

May 28, 2017

On this 28 day of May, 2017, before me, the undersigned officer, personally appeared Matthew Finkle, Vice President of BRANFORD MANOR PRESERVATION GP, LLC, general partner of BRANFORD MANOR PRESERVATION, LIMITED PARTNERSHIP, signer and sealer of the foregoing instrument, and acknowledged the same to be his/her free act and deed in such capacity and the free act and deed of BRANFORD MANOR PRESERVATION GP, LLC, general partner of BRANFORD MANOR PRESERVATION, LIMITED PARTNERSHIP, and of the limited partnership, before me.

Georgina C. Cook  
Notary Public

**GEORGINA C. COOK**  
Notary Public - State of New York  
No. 01CO6325074  
Qualified in New York County  
My Commission Expires May 18, 2019

WITNESSED BY:

CITY:

CITY OF GROTON

Hedi Comeau

Name: Hedi Comeau

By: Keith Hedrick

Name: Keith Hedrick

Mary Hill

Name: Mary Hill

Title: Mayor

STATE OF Connecticut )

) ss.

May 25, 2017

COUNTY OF New London )

On this 25 day of May, 2017, before me, the undersigned officer, personally appeared Keith Hedrick, Mayor of the CITY OF GROTON, a municipal corporation organized by charter of the State of Connecticut, who acknowledged himself to be the person whose name is subscribed to the within instrument and acknowledged that he, being duly authorized to do so, executed the same as the Mayor of the CITY OF GROTON, for the purposes therein contained as his free act and deed and said limited liability companies' free act and deed.

**VALERIE KOSCHMIEDER**  
**NOTARY PUBLIC**  
MY COMMISSION EXPIRES JAN. 31, 2019

Valerie Koschmieder  
Notary Public

EXHIBIT A

PROPERTY

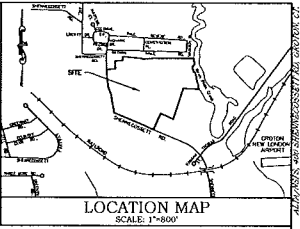
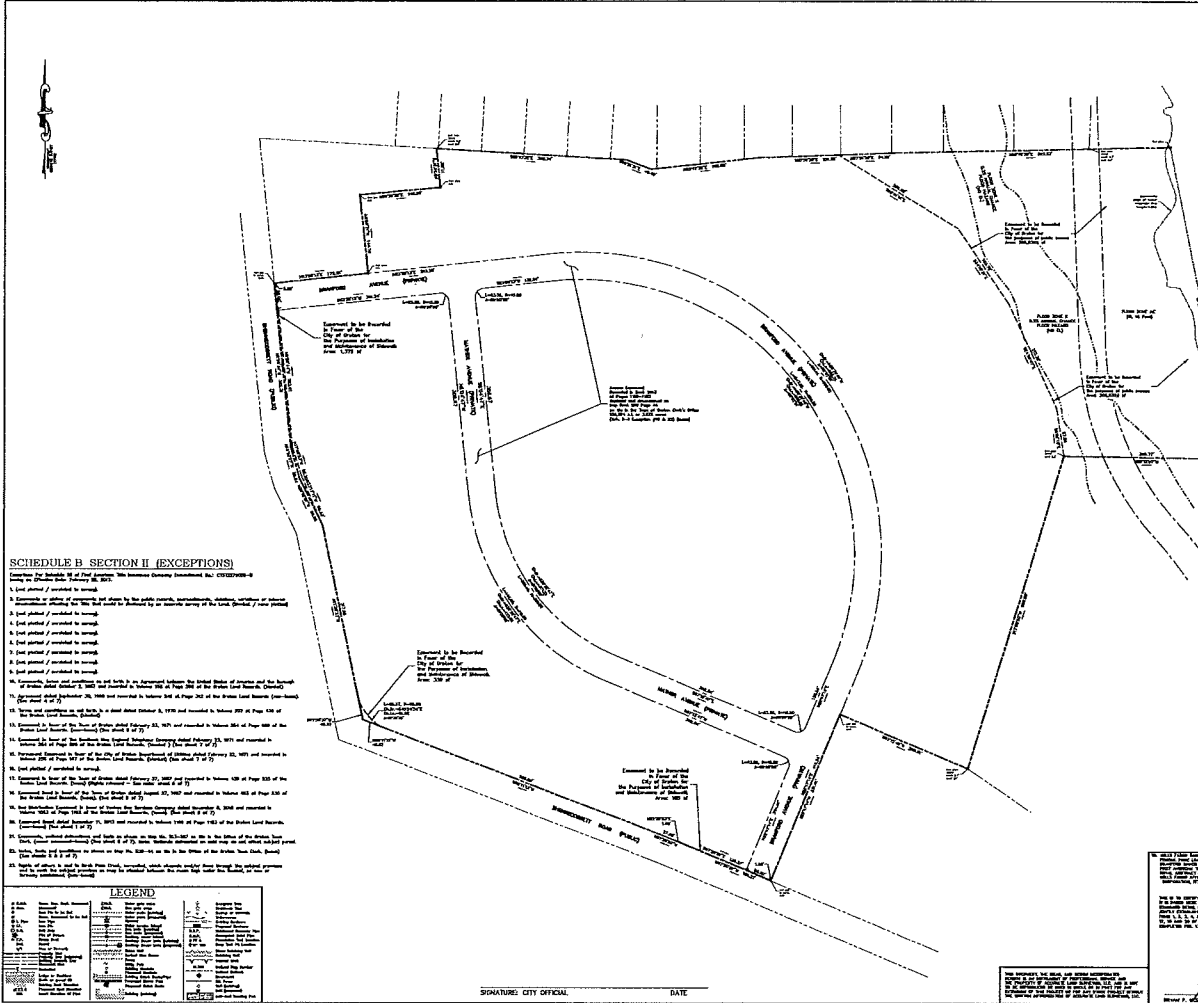
ALL THAT CERTAIN piece or parcel of land, together with all buildings and improvements thereon standing, situated in the Town of Groton, County of New London and State of Connecticut, and described as follows:

BEGINNING at the northwesterly corner of the herein described tract, said point of beginning being in the easterly street line of Shennecossett Road, so-called, and also being the southwestly corner of land now or formerly of Kacey's Inc.; thence running easterly, bounded northerly by said Kacey's Inc. land, a distance of 172.26 feet to the southeasterly corner of said Kacey's Inc. land; thence turning an interior angle of 269° 50' 44" and running northerly, bounded westerly by said Kacey's Inc. land, a distance of 144.79 feet to a corner; thence turning an interior angle of 89° 26' 00" and running easterly, bounded northerly by said Kacey's Inc. land, a distance of 149.95 feet to a corner; thence turning an interior angle of 270° 13' 00" and running northerly, bounded westerly by said Kacey's Inc. land, a distance of 71.52 feet to the northeasterly corner of said Kacey's Inc. land; thence turning an interior angle of 81° 09' 00" and running easterly by and along a stone wall, bounded northerly by land now or formerly of Colonial Manor Inc., a distance of 352.74 feet to a drill hole; thence turning an interior angle of 162° 38' 00" and continuing easterly by and along said wall, bounded northerly by said Colonial Manor Inc. land, a distance of 49.40 feet to a drill hole; thence turning an interior angle of 206° 51' 00" and continuing easterly by and along said wall, bounded northerly by said Colonial Manor Inc. land, a distance of 195.65 feet to a drill hole, thence turning an interior angle of 175° 56' 00" and continuing easterly by and along said wall, bounded northerly by said Colonial Manor Inc. land, a distance of 245.35 feet to a drill hole; thence turning an interior angle of 179° 05' 00" and continuing easterly, bounded northerly by said Colonial Manor Inc. land, a distance of 522.83 feet to an iron pipe set at the northeasterly corner of the herein described tract at the westerly shoreline of Birch Plain Creek; thence turning and running southerly by and along the westerly shoreline of said Birch Plain Creek a distance of 635 feet more or less to a drill hole set in the northerly line of land now or formerly of the City of Groton; thence turning and running westerly, bounded southerly by land now or formerly of the City of Groton, a distance of 309.77 feet to an iron pipe; then turning an interior angle of 253° 39' 50" and running southerly by land now or formerly of the City of Groton, a distance of 600.00 feet to an iron pipe; thence turning an interior angle of 84° 20' 49" and running westerly, bounded southerly by other land now or formerly of Edmund O'Brien, Trustee, a distance of 256.51 feet to an iron pipe; thence turning an interior angle of 270° 00' 00" and running southerly, bonded easterly by said O'Brien land, a distance of 331.41 feet to a drill hole set at the southeasterly corner of the herein described tract at the northeasterly corner of the herein described tract at the northeasterly line of Shennecossett Road; thence turning an interior angle of 90° 07' 21" and running northwesterly by and with said northeasterly line of Shennecossett Road a distance of 213.22 feet to a cross in a rock; thence turning an interior angle of 181° 51' 05" and continuing northwesterly by and with said northeasterly street line a distance of 598.70 feet to a drill hole at an angle point in said street line; thence turning an interior angle of 122° 27' 25" and running northerly by and with the easterly street line of said Shennecossett Road a distance of 364.35 feet to a mere stone; thence turning an interior angle of 194° 37' 30" and continuing northerly by and with said easterly street line a distance of 95.95 feet to a street pin; thence turning an interior angle of 169° 37' 00" and

continuing northerly by and with said easterly street line a distance of 58.84 feet to a cross in a rock; thence turning an interior angle of  $170^{\circ} 06' 37''$  and continuing northerly by and with said easterly street line a distance of 302.31 feet to the point and place of beginning, said last course forming an interior angle of  $90^{\circ} 05' 03''$  with said first course.



EXHIBIT B  
COPY OF MAP



**GENERAL SURVEY NOTES**

- The client has provided the information as shown on this plan and warrants that the information is true and correct.
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**SCHEDULE B SECTION II (EXCEPTIONS)**

1. Not shown or not shown in accordance with the provisions of...
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3. Not shown or not shown in accordance with the provisions of...
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25. Not shown or not shown in accordance with the provisions of...

No.	Date	Revised
1	3/23/2017	REVISED
2	3/23/2017	REVISED



**ACCURATE**  
**LAND SURVEYING, LLC**  
 275 N. MAIN ST. GROTON, CT 06340  
 TEL: 860-222-9999  
 FAX: 860-222-9998

EXISTING ACCESS EASEMENT, ACCESS & SIDEWALK EASEMENT TO BE RECORDED  
 400 BEEHIVE/COSSETT ROAD  
 GROTON, CONNECTICUT  
 PREPARED FOR:  
 BRANFORD MARSH PRESERVATION, L.P.,  
 A NEW HAVEN INVESTMENT GROUP

Date: 3/23/2017 Drawing No.:  
 Scale: 1\"/>

Received for Record at Groton, CT  
 On 05/31/2017 At 1:42:36 pm  
 Attest: Betsy Moukawsher, Town Clerk