

**AMENDED DECLARATION OF RESTRICTIONS**

**WHEREAS, David S. J. Brown**, of the city of Washington, the District of Columbia (hereinafter referred to as the “Grantor”) was the owner of certain real property situated in the town of East Hampton, county of Middlesex, and state of Connecticut, together with the buildings and improvements thereon, known as 45 Daly Road, as more particularly described as:

**SEE SCHEDULE “A” ATTACHED HERETO AND MADE A PART HEREOF** (the “Protected Property) and

**WHEREAS**, said Grantor, conveyed said property to The East Hampton Rotary Club Foundation, Inc., a Connecticut non-stock corporation having its principal place of business in the town of East Hampton, county of Middlesex, and state of Connecticut, (hereinafter referred to as the “Grantee”); and

**WHEREAS**, the said Grantor, as additional consideration received from the Grantee, create such covenants and restrictions for the continued use of said property, which were recorded in the East Hampton Land records in Volume 566 at Pages 572-577; and

**WHEREAS**, the said Grantor, as additional consideration received from the Grantee, desires to amend such covenants and restrictions for the continued use of said property.

**NOW THEREFORE**, the Grantor does hereby amend the following covenants and restrictions, which covenants and restrictions shall run with the land in perpetuity and shall be binding on the Grantee, its successors and assigns, and all future owners of said property:

1. The property shall be forever reserved, preserved, used and maintained by the Grantee, or his successors and assigns, as the case may be, for recreational, open space, agricultural, keeping of livestock, public and community services, cemeteries, a farm brewery or winery, and/or park purposes.
3. Said Grantee shall reserve, preserve, maintain and keep in good order and condition of the Protected Property and reserve it for the uses in section 1 above.
4. Said Grantee, in addition to its use for the uses in section 1 above, may use said Protected Property for its own non-profit purposes provided such use is an occasional use and does not materially or permanently detract from the use of the Protected Property for the uses in section 1 above.
5. By conveying the Protected Property to the Grantee, the Grantee will be deemed to have agreed to such restrictions in this Declaration.
6. The Grantee may, in its own absolute and unfettered discretion, adopt, maintain and enforce reasonable regulations for the preservation, maintenance and use of said Protected Property for the uses in section 1 above.
7. The covenants and restrictions declared herein shall not be amended, released or altered in any way without the prior written consent of the Grantor, his heirs, successors or assigns.
8. In Grantee's use of any title or name for the Protected Property, preference will be given to incorporating the names David S. Brown and James Daley.
9. In Grantee's use of said Protected Property special consideration shall also be made to accommodate dogs and their owners.
10. Grantor and Grantee have the common purpose of conserving the Protected Property in perpetuity by Grantor's placing voluntary restrictions upon the use of the Protected Property and by providing for the transfer from Grantor to Grantee of affirmative rights for its protection in perpetuity, intending the grant of such restrictions to be a "qualified conservation contribution"

as that term is defined under Section 170(h)(2)(C) of the Code, and so as to qualify as a “Conservation Restriction” under the Connecticut General Statutes Sections 47-42a through 47-42e. Grantor and Grantee wish to avail themselves of the provisions of those laws through the protection of those Conservation Values.

In addition, the conservation of the Protected Property will accomplish a number of the factors that determine “significant public benefit” under Treas. Reg. Section 1.170A-14(d)(4)(iv), such as but not limited to the following: (i) development of the Protected Property beyond the development permitted hereunder would lead to or contribute to the degradation of the agricultural, scenic, natural, and open character of the area, (ii) by limiting development of the Protected Property and limiting its use, this Declaration will help prevent habitat fragmentation and will increase the potential for restoring or increasing biological diversity and native plant communities, (iii) the Protected Property is an integral part of the scenic character of the local rural landscape in which it lies, and (iv) this Declaration is consistent with public programs for conservation in the region, some of which are enumerated below.

The protection of those Conservation Values hereinafter described is in fulfillment of, and consistent with the corresponding “conservation purposes” that are required to be protected under Section 170(h)(4) of the Code.

11. The preservation of the Protected Property is pursuant to clearly delineated federal, state and local governmental conservation policies and will yield a significant public benefit in accordance with Section 170(h)(4)(A)(iii)(II) of the Code. Specifically:

(1) In 1963, the Connecticut General Assembly declared “that it is in the public interest to encourage the preservation of farmland, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state’s natural resources and to provide for the welfare and happiness of the inhabitants of the state...” (P.A. 490, Section 1; C.G.S. Section 12-107a), and

(2) The Town of East Hampton has adopted its Plan of Conservation and Development (POCD) with the express desire to devote more attention to preserving farmland and farming, recognizing that agriculture is part of East Hampton’s heritage and that preservation of farmland provides both character and fiscal benefits to the community.

(3) In addition to the declarations, and the Public Acts passed by the Connecticut General Assembly detailed above, in 1978 the Connecticut General Assembly found that unless there is a statewide agricultural preservation program, “remaining agricultural land will be lost to succeeding generations and that the conservation of certain arable agricultural land and adjacent pastures, woods, natural drainage areas, and open space areas is vital for the well-being of the

people of Connecticut.” As a consequence, the General Assembly enacted a state program for the preservation of agricultural lands through the purchase of development rights. (P.A. 78-232; C.G.S. Chapter 422a, Section 22-26aa through 22-26ii).

12. **Subdivision.** The Protected Property may not be divided, partitioned, or subdivided, nor conveyed, except in its current configuration as an entirety; provided, however, that with prior approval from Grantor, Grantee may convey any portion of the Protected Property to any organization or government entity that has as one of its principal purposes, the preservation of open-space, agricultural or farm land. Any portion of the Protected Property conveyed pursuant to this provision shall remain subject to this Declaration in all respects.

13. **Use for Development.** The Protected Property and any portion thereof shall not be included as part of the gross area of other property not subject to this Declaration for the purposes of determining density or lot coverage under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights which have been encumbered or extinguished by the Declaration shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Nothing herein contained shall be construed to prevent Grantee from using any of the Protected Property as property qualifying for open space, forest or farmland for tax exemption purposes under applicable statutes and laws.

14. **Prohibited Structures.** Except as otherwise specifically set forth herein, there shall be no construction or placing of any building, landing strip, mobile home, fence or sign (other than those reasonably required by Grantee for appropriate management), billboard or other advertising display.

15. **Recreational Vehicles.** There shall be no operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles, hang gliders, aircraft, helicopters, jet skis, motorized boats or any other types of mechanized recreational vehicles on the Protected Property with the exception of vehicles necessary for appropriate management and maintenance of the Protected Property.

16. **Permitted Uses and Improvements.** Notwithstanding anything in this Declaration to the contrary, nothing herein shall preclude, prevent, or limit Grantee from creating and maintaining fields, recreational areas, and/or pavilions and such other structures that are typically ancillary to and supplement the uses in section 1 above for use by Grantee and its public invitees. Nothing herein shall preclude or limit Grantee’s use of the house structure which is presently located on the Protected Property for use by Grantee and its invited civic organizations. Horseback riding trails and hiking trails shall be permitted in accordance with the terms of any rules which Grantee may elect to enact.

17. **Enforcement.** In the event of any violation of this Declaration, Grantor shall be entitled to seek appropriate temporary and/or permanent injunctive relief, and if such relief is granted, Grantee shall be responsible to pay Grantor's costs of enforcement, including its reasonable attorney fees and court costs at both the trial and appellate levels.

18. **Approvals.** In the event that Grantee is seeking any approval from Grantor hereunder, and Grantor or his assigns cannot be located or identified within a period of thirty (30) days, then Grantee may seek approval from the Middlesex Land Trust, Inc., and if such approval is granted by the Middlesex Land Trust, Inc. and recorded in the East Hampton land records, such approval shall have the same force and effect as approval by the Grantor or his assigns. In the event the Middlesex Land Trust, Inc. is unable or unwilling to participate then the East Hampton Parks and Recreation Commission, or its successors shall be the approving body.

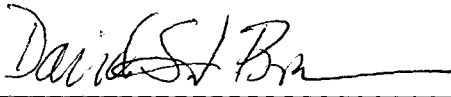
**IN WITNESS WHEREOF**, the said Grantor has hereunto set his hands this 14 day of October, 2020.


Signed and Delivered in the presence of (Type or Print name below signatures)

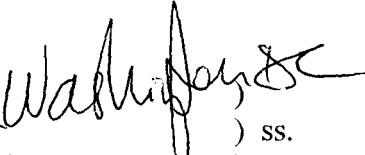
**WITNESS:**

**GRANTOR:**

  
Witness #1

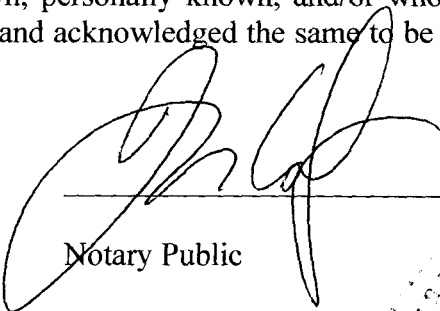
  
David S. J. Brown

  
Witness #2

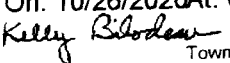
STATE OF  ) ss.  
COUNTY OF \_\_\_\_\_ )

October 14, 2020

Personally appeared, David S. J. Brown, personally known, and/or who acknowledged himself as Signer of the foregoing Instrument, and acknowledged the same to be his free act and deed, before me.

  
Notary Public



Received for Record at East Hampton, CT  
On: 10/26/2020 At: 09:34:43 AM  
  
Town Clerk