

After recording return to:

City of Somerville
Law Department
93 Highland Avenue
Somerville, MA 02143
ATT: Catherine A. Lester Salchert, Esq.

RECORDING INFORMATION AREA

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this “Agreement”) is made by and between the **SOMERVILLE REDEVELOPMENT AUTHORITY** (together with its successors and assigns, the “SRA”), a redevelopment authority as defined in Massachusetts General Laws, Chapter 121B, with an address of c/o City Hall, 93 Highland Avenue, Somerville, Massachusetts 02143 and **299 BROADWAY PROPERTY OWNER LLC**, a Massachusetts limited liability company with an address of 275 Grove Street, Suite 2-150, Newton, Massachusetts 02466 (together with its successors and assigns, the “299 Broadway Owner”)

RECITALS:

A. In accordance with a Land Disposition Agreement by and between the SRA and the 299 Broadway Owner recorded herewith and pursuant to a Quitclaim Deed from 299 Broadway Owner recorded herewith, the SRA is the owner of the land with any improvements thereon located along Sewall Street in the City of Somerville, known as 30 Sewall Street, being Lot 5 (“Lot 5”) on a plan entitled “Subdivision Plan of Land, Mark Development, LLC” dated March 7, 2025, prepared by Control Point Associates, Inc., recorded with the Middlesex County South District Registry of Deeds (the “Registry”) in Plan Book _____, Plan _____ (the “Subdivision Plan”).
[Note: Subdivision Plan anticipated to be recorded the week of June 16, 2025]

B. 299 Broadway Owner is the owner of (i) land in the City of Somerville, known as 15 Temple Street, being Lot 1 on the Plan (“Lot 1”), and (ii) land in the City of Somerville, known as 299 Broadway, being Lot 2 on the Plan (“Lot 2”). Said Lot 1 and Lot 2 being a portion of the property conveyed to 299 Broadway Owner by Quitclaim Deed dated September 18, 2023, recorded with the Registry in Book 82094, Page 63 and filed for registration with the Middlesex

South Registry District of the Land Court as Document No. 1945745. See also order of deregistration recorded with the Registry in Book 82861, Page 450.

C. In February 2023, affiliates of 299 Broadway Owner received a comprehensive permit from the Somerville Zoning Board of Appeals (the “ZBA”) under Massachusetts General Law Chapter 40B to construct two mixed-use residential and retail buildings, one on Lot 1 and one on Lot 2, and adjacent civic spaces, including the construction of a park to be known as Sewall Park on Lot 5. 299 Broadway Owner sought and received several modifications to the 2023 comprehensive permit from the ZBA. As of the time of the signing of this LDA, the project has been approved for 319 residential units, 136 of which are deed-restricted affordable, and will create approximately 12,760 square feet of new retail space along Broadway, two new civic spaces, and approximately 3,000 square feet of publicly-accessible community space. The comprehensive permit, as amended to date and as may be amended in the future, is hereinafter referred to as the “Comprehensive Permit.”

D. To facilitate the construction of the proposed development authorized in the Comprehensive Permit, 299 Broadway Owner, as the owner of Lot 1 (“Lot 1 Owner”) and the owner of Lot 2 (“Lot 2 Owner”), requires several temporary and permanent easements within Lot 5 for the benefit of Lot 1 and Lot 2.

E. The SRA, as owner of Lot 5, desires to grant such easements within Lot 5 to 299 Broadway Owner for the benefit of Lot 1 and Lot 2 pursuant to the terms and conditions set forth herein.

F. At a regularly scheduled meeting of the SRA on _____, 2025, SRA members voted to approve the language of this Agreement and empower Phil Ercolini as Chair of the SRA to execute the agreement, as shown in a certified copy of the vote attached hereto as Exhibit A and also recorded herewith.

AGREEMENT:

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easements.

(a) Temporary Construction Easement. The SRA hereby grants to Lot 1 Owner and Lot 2 Owner an exclusive temporary construction easement on Lot 5 (the “Temporary Construction Easement”) (i) to conduct site enabling activities, (ii) to construct and install subsurface utilities and other infrastructure within Lot 5 to service the buildings and improvements to be constructed on Lot 1 and Lot 2 (the “Subsurface Utilities”), (ii) to construct and install the landscaping, pathways, improvements and infrastructure approved within Lot 5 as part of the Comprehensive Permit (“Sewall Park Improvements”), and (iii) to utilize Lot 5 as a construction staging and laydown area during the construction of the buildings and improvements to be constructed on Lot 1 and Lot 2. This Temporary Construction Easement shall terminate upon the issuance of a Certificate of Occupancy for Building A (as such term is defined in the Comprehensive Permit) on Lot 1, a Certificate of Occupancy for Building B (as such term is

defined in the Comprehensive Permit) on Lot 2, and the completion of the required landscaping and other improvements on Lot 5.

(b) **Permanent Pedestrian Access Easement.** The SRA hereby grants to Lot 1 Owner and Lot 2 Owner a non-exclusive perpetual pedestrian access easement with a minimum width of five (5) feet on Lot 5, for the passage of pedestrians from Lot 1 and Lot 2 to Sewall Street within the pathway constructed by 299 Broadway Owner as part of the Sewall Park Improvements.

(c) **Permanent Use and Maintenance Easement.** The SRA hereby grants to Lot 1 Owner and Lot 2 Owner a non-exclusive perpetual easement to (i) use, maintain, repair, replace, expand, or modify the Subsurface Utilities or infrastructure or water quality structures within Lot 5 and construct new subsurface utilities or infrastructure within Lot 5 to service Lot 1 or Lot 2 ("**Subsurface Utility Maintenance Easement**"), and (ii) maintain, repair or replace the Sewall Park Improvements within Lot 5 pursuant to the Comprehensive Permit and a maintenance agreement to be entered into between 299 Broadway Owner and the City of Somerville.

2. **No Relocation.** The SRA shall not relocate any easement without the prior written consent of the Lot 1 Owner and the Lot 2 Owner, which consent may be withheld in such owner's sole reasonable discretion.

3. **Responsibility and Maintenance.** Except in the event of an emergency, each of the Lot 1 Owner and the Lot 2 Owner agrees to provide the SRA with reasonable prior written notice before commencing work under the Subsurface Utility Maintenance Easement. All work pursuant to this Agreement, once commenced, shall be diligently and expeditiously continued through to completion and shall be carried out in a good and workmanlike manner. Upon the completion of any work performed by the Lot 1 Owner or Lot 2 Owner pursuant to this Agreement, other than work under the Temporary Construction Easement, such owner shall restore any landscaping, plantings, hardscapes, or other improvements located in Lot 5 that may have been disturbed or damaged as a result of such work to its preexisting condition prior to such disturbance or damage. Additionally, Lot 1 Owner and Lot 2 Owner shall minimize disruption to the public's use of Lot 5, to the extent feasible, in connection with any work permitted under this Agreement.

4. **Removal of Liens.** If any mechanics', materialmen's or any other like lien arising out of work performed by or on behalf of Lot 1 Owner or Lot 2 Owner is filed against any portion of Lot 5, the owner on whose account such work occurred shall cause the lien to be removed, by payment, bond or otherwise, within thirty (30) days after notice of the filing thereof.

5. **Indemnification; Insurance.** Lot 1 Owner and Lot 2 Owner hereby agrees to indemnify, defend and hold harmless the SRA from and against any and all liability, claims, damages, expenses (including, but not limited to, reasonable attorneys' fees, incurred with respect to any litigation), judgments, proceedings and causes of action for injury to or death of any person or damage to or destruction of any property occurring as a result of the use or misuse of the easements granted hereunder, unless caused by the gross negligence or willful misconduct of the SRA. The Lot 1 Owner and Lot 2 Owner shall maintain commercial general liability insurance with limits of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) annual aggregate. Such insurance shall name the SRA as additional insured by endorsement to the respective policy.

6. **Notices.** Notices under this Agreement shall be delivered personally or sent by certified mail, return receipt requested, or by Federal Express or other recognized overnight carrier, to the following addresses or to such other addresses as the parties may from time to time designate in writing:

To the SRA Somerville City Hall
93 Highland Avenue
Somerville, MA 02143
Attention: Chair of the Somerville Redevelopment Authority

with a copy to: Somerville City Hall
93 Highland Avenue
Somerville, MA 02143
Attention: City Solicitor

with a copy to: Somerville City Hall
93 Highland Avenue
Somerville, MA 02143
Attention: Director of Economic Development

To Lot 1 Owner: 299 Broadway Property Owner LLC
c/o Beacon Communities
2 Center Plaza, 6th Floor
Boston, MA 02108
Attention: Joshua Cohen

with a copy to: Julie Stande, Esq.
Nixon Peabody LLP
Exchange Place
53 State Street
Boston, MA 02109-2835

To Lot 2 Owner: 299 Broadway Property Owner LLC
c/o Mark Development, LLC
275 Grove Street, Suite 2-150
Newton, MA 02466
Attention: Robert Korff

299 Broadway Property Owner LLC
c/o Samuels & Associates
136 Brookline Avenue
Boston, MA 02215
Attention: Damien Chaviano

With a copy to: Michael Scott, Esq.
Nutter McClennen & Fish LLP
155 Seaport Boulevard
Boston, MA 02210

Any notice will be deemed to be given (i) if personally delivered, on the date received, (ii) if sent by certified mail, three (3) business days after the date when mailed, and (iii) if sent by Federal Express or by other recognized overnight courier, on the first business day after the date when mailed.

7. **General Provisions.**

(a) Covenants Run with the Land. Each covenant, restriction and easement granted herein on Lot 5 shall be a burden Lot 5 (however now or hereafter divided or configured), shall be appurtenant to and for the benefit of Lot 1 and Lot 2 and each part thereof (however now or hereafter divided or configured), and shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns in title of each lot.

(b) Modification, Amendment, Release. This Agreement may be modified, amended, or released as to any lot only by a written instrument executed by the then owners of such lots.

(c) No Waiver. The failure of a party to insist upon strict performance of any of the covenants or restrictions contained in this Agreement shall not be deemed a waiver of any rights or remedies that such party may have and shall not be deemed a waiver of any subsequent breach or default in any of the covenants or restrictions herein by the same party.

(d) Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of its Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

(e) Counterparts. This Agreement may be executed in several counterparts and all such executed counterparts shall constitute one Agreement, binding on all parties hereto, notwithstanding that all of the parties hereto are not signatories to the original or to the same counterpart.

[signatures and acknowledgements begin on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument this _____, 2025 .

**SOMERVILLE REDEVELOPMENT
AUTHORITY**

By: _____
Phil Ercolini, Chair

299 BROADWAY PROPERTY OWNER LLC,
a Massachusetts limited liability company

By: _____

Name:

Title: Authorized Signatory

[NOTE: Agreement to be signed by one of the
authorized real estate signatories set forth on
the Certificate of Good Standing to be
provided and recorded along with this
Easement Agreement]

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF: _____

On this ____ day of _____, 2025, before me personally appeared the above-named Phil Ercolini, the Chair of the Somerville Redevelopment Authority, a redevelopment authority as defined in Massachusetts General Laws, Chapter 121B, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument, and acknowledged to me that such person signed said instrument as the Chair of the Somerville Redevelopment Authority and voluntarily for its stated purpose.

Notary Public:

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF: _____

On this ____ day of _____, 2025, before me personally appeared the above-named _____, the Authorized Signatory of 299 Broadway Property Owner LLC, a Massachusetts limited liability company, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument, and acknowledged to me that such person signed said instrument in such capacity and voluntarily for its stated purpose.

Notary Public:

My commission expires:

Exhibit A

Copy of SRA Vote

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