SETTLEMENT AND RELEASE AGREEMENT

This SETTLEMENT AND AGREEMENT (the "Agreement") is made and entered into by and between Plaintiffs Paul DeMaio, Betty DeMaio, Richard Karpf, Lori Cohen, Susan Fallon, Mark Ogden, Janet Ogden, Paul Faucher, Joseph Conway, Kristin Conway, Natalie Marsh, Ryan Marsh, Elizabeth Phipps, Nikolaos Stathatos, Douglas Burbo, Kirsten Burbo, Tony Rossetti, Julie Rossetti, Tom Cutler and Caryn Cutler, Bruce Cole, and Carolyn Rogers-Vizena (collectively the "Plaintiffs") and Defendants John F. Lally, Michael L. McCusker, Linda Walsh, Danielle L. Button, Mark Callahan, Keith Flanders, as they are members of the Westwood Zoning Board of Appeals (the "Zoning Board"), the Town of Westwood, and Town Administrator Christopher Coleman (listed as an individual) (collectively the "Town"); all of whom are referred to collectively herein as the "Parties".

WHEREAS, the Town received various approvals from the Zoning Board on November 20, 2024 and filed with the Westwood Town Clerk on November 20, 2024 (the "Decision") related to the construction of a new fire station (the "Project") at 637 High Street, Westwood, MA (the "Property"); and

WHEREAS, the Plaintiffs appealed the Decision to the Land Court pursuant to G.L. c. 40A, § 17, *DeMaio, et al v. Town of Westwood, et al.*, Land Court Case No. 24 MISC 000694 (the "Action") seeking annulment of the Decision; and

WHEREAS, the Defendants deny the material allegations in the Plaintiffs Action and specifically deny that there is any legal and/or factual basis to annul the Decision whatsoever; and

WHEREAS, following a Case Management Conference in the Land Court on January 15, 2025, the parties engaged in voluntary mediation regarding the Plaintiffs' Action on February 25, 2025; and

WHEREAS, the Parties desire to resolve fully their disputes, with prejudice, without costs, except as expressly provided herein, and waiving all rights to appeal, in accordance with this Agreement and to avoid the time and expense of further litigation and to avoid any further delays or impacts to the Project financial or otherwise; and

WHEREAS, the Parties understand and agree that neither the making of this Agreement nor anything contained herein shall, in any way, be construed or considered to be an admission by the Defendants of any liability or any other wrongdoing whatsoever; and

NOW, THEREFORE, in exchange for the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1. "Town," "Defendants," or, in context "Zoning Board" shall mean and include John F. Lally, Michael L. McCusker, Linda Walsh, Danielle L. Button, Mark Callahan, Keith Flanders, as they are members of the Westwood Zoning Board of Appeals, the Town of Westwood, and Town Administrator Christopher Coleman (listed as an individual) and any predecessors, successors and assigns, and their current and former members, officials, employees, consultants, and their heirs, executors, administrators, predecessors, successors and assigns.

1.2. "Plaintiffs" shall mean and include Paul DeMaio, Betty DeMaio, Richard Karpf, Lori Cohen, Susan Fallon, Mark Ogden, Janet Ogden, Paul Faucher, Joseph Conway, Kristin Conway, Natalie Marsh, Ryan Marsh, Elizabeth Phipps, Nikolaos Stathatos, Douglas Burbo, Kirsten Burbo, Tony Rossetti, Julie Rossetti, Tom Cutler and Caryn Cutler, Bruce Cole, and Carolyn Rogers-Vizena, and their heirs, executors, administrators, predecessors, successors and assigns.

ARTICLE 2

SETTLEMENT ACTIONS

2.1. The Town shall pay to the Defendants a total sum of $97,003.14 as set forth below;

2.2. The Town shall pay a sum not to exceed $47,003.14 to the Plaintiffs to reimburse them for their reasonable legal fees and mediation fees incurred to date in relation to the Action. The Town shall have 30 days, after this Agreement is fully executed, to make such payment and said payment shall be made by wire transfer from the Town to Plaintiffs' counsel.

2.3 In addition to and separate from paragraph 2.2, the Town shall pay to the Plaintiffs, an additional $50,000 for the owners of the properties at 40 Hillcrest Place, 19 Windsor Road, 37 Windsor Road, 33 Hillcrest Place and 627 High Street for those owners to provide additional screening (on such owner(s)' property and not upon any Town property and/or right-of-way). The Town shall place such funds in escrow with Mead, Talerman and Costa, LLC to be held in its IOLTA account to be released to Plaintiffs within fourteen (14) days following receipt of an invoice for landscaping goods (including, but not limited to, trees, shrubs, fences, walls) and/or services related to said screening on these properties Mr. DeMaio shall send the invoice to Attorney Brian Winner via e-mail at Brian brian@mtclawyers.com. The Town shall have no discretion or power to review, authorize, or otherwise pass judgment on the invoices for landscaping goods and/or services on these properties. There shall be no deadline for the use of the escrow funds. The Town shall have no further responsibility or liability as to any such plantings after making such payment.

2.4 The Town agrees that all maintenance work conducted at the maintenance bay shall be limited to the hours of 9:00 a.m. to 4:00 p.m., Monday through Friday. No maintenance work shall be performed on Saturdays, Sundays, or any legal holidays. Work may be performed outside of these hours only if, in the sole uncontestable opinion of the Fire Chief/designee, such work is required for emergency repairs.

2.5 The Town agrees that the maintenance bay shall be used exclusively for the servicing and maintenance of vehicles owned, operated and/or in the service of the Westwood Fire Department. Service vehicles from other communities shall not be brought into or serviced in the maintenance bay. Notwithstanding the foregoing, the Town may, on an emergency basis, borrow or be lent a vehicle from another municipality. In such instances, and subject to the provisions of paragraph 2.2, limited maintenance may be performed on the borrowed or loaned vehicle as necessary to ensure its safe and continued operation while in use by the Town. Additionally, during periods of mutual aid station coverage, when fire apparatus or personnel from another municipality are temporarily stationed in Westwood, emergency maintenance may be performed on the visiting vehicle(s) for the duration of the coverage period. As set forth in paragraph 2.2 such emergency needs shall be at the sole uncontestable discretion of the Fire Chief or the Chief's designee.

2.6 The Permanent Building Committee (PBC) of the Town of Westwood shall appoint a liaison for neighborhood communication regarding the Project. The Town shall provide contact information to affected neighbors and ensure reasonable availability of the liaison throughout the duration of the Project and during a reasonable post-construction period.

2.7 The Town shall implement that portion of the planting plan attached hereto as **Exhibit A** (the "Planting Plan") as to the plantings on the westerly side of the Property, between the driveway and the Funeral Home (15 Balsam Fir trees and 9 Eastern Red Cedar trees shown on the Planting Plan), at an appropriate time of the season as determined by the Town, prior to commencing any site work or construction work on the property, whichever occurs first. The remaining plantings shown on the Planting Plan shall be done in accordance with said plan and any related permits and/or approval(s) related to such Planting Plan.

2.8 The Town through the PBC agrees to provide weekly construction updates regarding the Project to keep neighbors and the public informed of planned activities, anticipated disruptions, and progress. These updates shall be posted on the Town's official website. In addition, Plaintiffs may opt in to receive the weekly updates directly via email by providing their preferred contact information to the PBC. The Town shall make reasonable efforts to ensure that updates are timely and informative throughout the duration of construction.

2.9 In addition to the provisions of paragraph 2.4, the Town's Fire Chief or the Chief's designee shall serve as the liaison and point of contact for the neighborhood after

construction of the Project is completed. The liaison shall work in good faith to address concerns raised by the neighborhood and, when appropriate, direct the parties to the relevant municipal department or authority best positioned to respond to the specific issue.

ARTICLE 3

DISMISSAL OF ACTION

3.1. Following the execution of this Agreement, the Parties shall immediately execute and file a Stipulation of Dismissal with prejudice as to the Action, with respect to all claims in the form attached hereto as **Exhibit B**. Such Dismissal with Prejudice shall be without costs or interest, each Party shall be responsible for his/her/its own legal fees and expenses, except as expressly provided herein, and each Party shall waive any and all rights of appeal.

ARTICLE 4

Release

4.1. Plaintiffs release, acquit, and forever discharge Defendants, individually and collectively, from any and all liabilities, claims, demands, charges, complaints, actions and causes of action related to the siting or zoning of the Project including those that were asserted or could have been asserted in the Action currently pending in the Massachusetts Land Court. All such claims are expressly disputed and denied by the Defendants. Plaintiffs reserve their rights as to all other claims that they may have against the Defendants now or in the future including, but not limited to, those related to tax abatement.

4.2. Plaintiffs represent and warrant that they hold sole and exclusive interest in the claims described above and that they have not assigned their rights, title or interests in such claims.

4.3 Plaintiffs agree not to speak or act against any warrant article to approve, support or finance the Project from the date of this Agreement through any related Town Meeting and any related Town Election. Notwithstanding anything herein to the contrary, nothing herein shall be interpreted as a waiver by the Plaintiffs of their right to vote, including in connection with the Project.

ARTICLE 5

Authority to Execute Settlement Agreement

5.1. The Parties each represent and warrant that the persons executing this Agreement on their behalf have been authorized to execute and to bind them to this Agreement, and that all actions necessary to confer such authority upon those individuals have been taken.

ARTICLE 6

Completion of the Settlement Actions

6.1 The Parties each represent and warrant that they will complete the Settlement Actions in accordance with the terms set forth herein. In the event that either Party fails to complete the Settlement Actions in accordance with the terms herein by the dates set forth herein, then the other Party may seek immediate enforcement of this Agreement. Enforcement shall be limited to injunctive relief and in no event shall include claims for damages, costs, fees, economic losses or any other financial award.

ARTICLE 7

Miscellaneous Provisions

7.1. Any notice under this Agreement that is required to be given to Plaintiffs shall be sent to Jeffrey P. Allen and/or Donald J. Gentile, LAWSON & WEITZEN, LLP, 88 Black Falcon Avenue, Suite 345, Boston, MA 02210.

7.2. Any notice under this Agreement that is required to be given to Defendants shall be sent to the Town Administrator, Town Hall, 580 High St, Westwood, MA 02090 and the Fire Chief, at the Westwood Fire Department Headquarters, 637 High St, Westwood, MA 02090, with a copy to Brian Winner, Mead, Talerman & Costa, LLC, 730 Main Street, Millis, MA 02054 and Patrick Ahearn, Town Hall, 580 High St, Westwood, MA 02090.

7.3. The Parties agree that should a court declare any sentence, part or paragraph of this Agreement to be invalid, the remaining sentences, parts and paragraphs shall remain in full force and effect and binding between the Parties.

7.4. This Agreement shall not be filed with the Court in the Action but may be filed with the Court in the event of a need to enforce the terms hereof in accordance Article 6 hereunder. This Agreement may be used only in a proceeding in which any of the Parties alleges a breach of this Agreement.

7.5. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter hereof, and no modification of this Agreement shall be binding unless signed by the Parties to this Agreement. No representation, promise or inducement not included in this Agreement shall be binding upon any of the Parties. This Agreement is intended to be a fully integrated agreement, and no evidence, written and oral, may be admitted or considered outside of this Agreement in order to determine the intent of the signatories or the meaning of any terms contained in this Agreement.

7.6. The Parties hereby represent and acknowledge that this Agreement is given and executed voluntarily and is not based upon any representations by any of the Parties as to the merits, legal liability or value of any claims of the Parties or any matters related or unrelated

hereto.

7.7. The parties acknowledge that they all have been afforded an opportunity to consider and negotiate this Agreement and the terms and conditions set forth therein, and that they have read and understand the terms of the Agreement and have been given an opportunity to consult with their respective counsel prior to executing this Agreement.

7.8. The parties acknowledge that they all have participated in the drafting and preparation of this Agreement, had the assistance of counsel in doing so and are satisfied with their assistance of counsel in reaching this Agreement. Hence, in any construction made of this Agreement, the same shall not be construed against any of the Parties.

7.9. This Agreement and all transactions contemplated by this Agreement shall be governed by and construed and enforced in accordance with the internal laws of the Commonwealth of Massachusetts, without regard to principles of conflicts of law.

7.10. This Agreement may be executed in counterparts by the Parties hereto and each shall be considered an original insofar as the Parties hereto are concerned, but together said counterparts shall comprise one agreement.

7.11 Notwithstanding the above, the Defendants retain and do not waive any of its authority and/or obligations under any Federal or State law, Federal or State regulations, and/or Town's bylaws and regulations as to any other matters, not covered by this Agreement, which are now pending/outstanding or which may arise in the future.

7.12 The foregoing *Whereas* recitals are hereby incorporated herein and made part hereof.

7.13 The terms, conditions, covenants, nature and scope of the dismissal contained in Exhibit B hereto, rights, duties and obligations of Parties shall inure to the benefit of, and be binding upon, any and all trusts, beneficiaries, predecessors, successors, liquidators, receivers and/or assigns.

- *The remainder of this page is left intentionally blank – signature pages follow* -

This Agreement is executed under seal as of this 14th day of May, 2025.

Respectfully Submitted,
PAUL DEMAIO, et al,
By their counsel,

Jeffrey P. Allen, BBO # 015500
E-mail: jallen@lawson-weitzen.com
Donald J. Gentile, BBO # 672657
E-mail: dgentile@lawson-weitzen.com
LAWSON & WEITZEN, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210
Telephone: (617) 439-4990
Facsimile: (617) 439-3987

DEFENDANTS,
WESTWOOD ZONING BOARD OF APPEALS AND TOWN OF WESTWOOD,
By their attorneys,

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MEAD, TALERMAN & COSTA, LLC
730 Main Street, Suite 1F
Millis, MA 02054
(978) 572-2192
brian@mtclawyers.com

Christopher Coleman,
Town Administrator of the Town of Westwood,

By his attorneys,

Daniel J. Bailey

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dbailey@pierceatwood.com
Kathleen M. Heyer, BBO # 685380
kheyer@pierceatwood.com
Pierce Atwood LLP
100 Summer Street
Boston, MA 02110
(617) 488-8165

Paul DeMaio

Betty DeMaio

Richard Karpf

Lori Cohen

Susan Fallon

Mark Ogden

Janet Ogden

Paul Faucher

Joseph Conway

Kristin Conway

Natalie Marsh

Ryan Marsh

Elizabeth Phipps

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Paul DeMaio

Betty DeMaio

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richard karpf
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Richard Karpf

Lori Cohen

Susan Fallon

Mark Ogden

Janet Ogden

Paul Faucher

Joseph Conway

Kristin Conway

Natalie Marsh

Ryan Marsh

Elizabeth Phipps

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Paul DeMaio

Betty DeMaio

Richard Karpf

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Lori Cohen
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Lori Cohen

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Natalie Marsh

Ryan Marsh

Elizabeth Phipps

Paul DeMaio

Betty DeMaio

Richard Karpf

Lori Cohen

Susan Fallon

Mark Ogden

Janet Ogden

Paul Faucher

Joseph Conway

Kristin Conway

Natalie Marsh

Ryan Marsh

Elizabeth Phipps

Paul DeMaio

Betty DeMaio

Richard Karpf

Lori Cohen

Susan Fallon

Mark Ogden

Janet Ogden

Paul Faucher

Joseph Conway

Kristin Conway

Natalie Marsh

Ryan Marsh

Elizabeth Phipps

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Signed by:
Nikolaos Stathatos
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Nikolaos Stathatos

Douglas Burbo

Kirsten Burbo

Tony Rossetti

Julie Rossetti

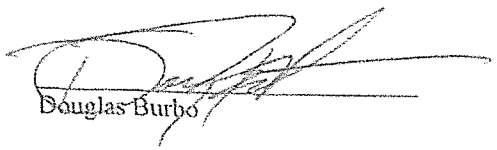
Tom Cutler

Caryn Cutler

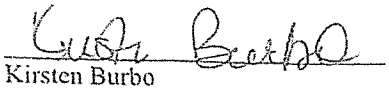
Bruce Cole

Carolyn Rogerz-Vizena

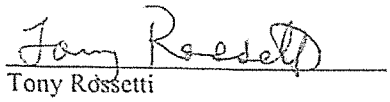
Nikolaos Stathatos



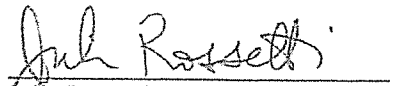
Douglas Burbo



Kirsten Burbo



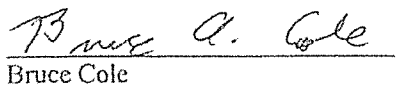
Tony Rossetti



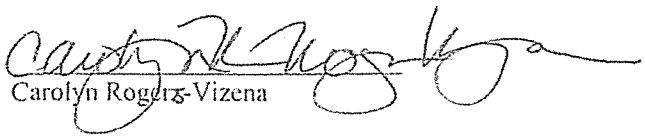
Julie Rossetti

Tom Cutler

Caryn Cutler



Bruce Cole



Carolyn Rogers-Vizena

Nikolaos Stathatos

Douglas Burbo

Kirsten Burbo

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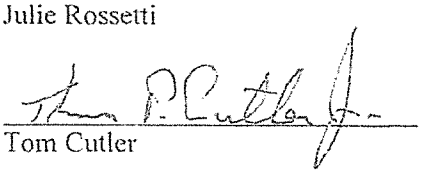
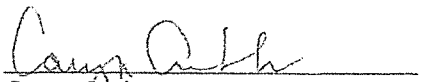


Tom Cutler



Caryn Cutler

Bruce Cole

Carolyn Rogerz-Vizena

EXHIBIT A
Planting Plan

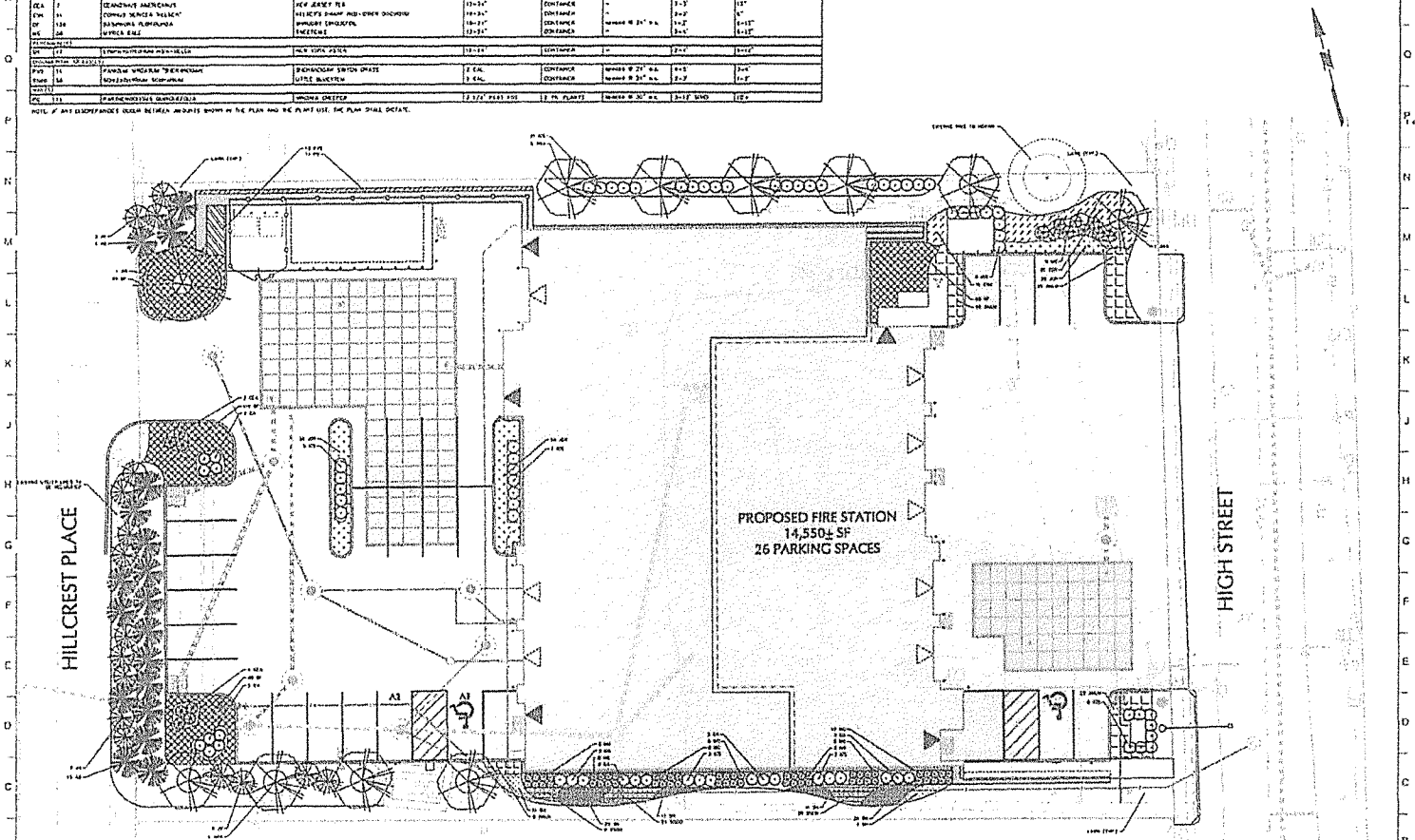
PLANT SCHEDULE

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE	ROOT	REMARKS	MATURE SIZE	GROWTH RATE PER YEAR
SHADE TREES								
RM	1	ACER RUBRUM	RED MAPLE	4"-4 1/2" CAL.	B&B	-	35'-70' HT.	1'-2'
RMA	10	ACER RUBRUM 'ARMSTRONG'	ARMSTRONG COLUMNAR RED MAPLE	4"-4 1/2" CAL.	B&B	-	50'-60' HT.	1'-2'
EVERGREEN TREES								
JV	10	JUNIPERUS VIRGINIANA	EASTERN RED CEDAR	8'-10'	B&B	-	15'-20' HT.	1'-2'
AB	19	ABIES BALSAMEA	BALSAM FIR	10'-12'	B&B	-	35'-60'	1'-2'
DECIDUOUS SHRUBS								
HO	28	ILEX OPACA 'JAMESTOWN'	JAMESTOWN AMERICAN HOLLY	7'-8'-20'	CONTAINER	-	8'-15'	6"
AGR	89	AMELANCHIER CANADENSIS 'RUBESCENS'	CANADA SERVICE	10'-12' STMS	CONTAINER	-	25'-30' STMS	6"
HG	9	HAMELIA CHRYSOMERA	SCARLET BEARDTONGUE	24"-30"	CONTAINER	-	3'-6'	6"-12"
FLOWERING SHRUBS								
MGM	84	MYRICA GALE/MORELLA CERIFERA 'LOW SCAPE HEDGE'	BAYBERRY/WAX MYRTLE	18"-24"	CONTAINER	SPACED @ 3'-0" O.C.	3'-5'	6"
CA	19	CLETHRA ALNIFOLIA	SUMMERSWEET CLETHRA	24"-30"	CONTAINER	-	6'-8'	6"-12"
ACA	7	CEANOTHUS AMERICANUS	NEW JERSEY TEA	12"-24"	CONTAINER	-	3'-5'	12"
CSN	31	CORNUS SERICEA 'KELSEYI'	KELSEY'S DWARF RED-OSIER DOGWOOD	18"-24"	CONTAINER	-	2'-3'	6"
DF	126	DESCHAMPSIA FLEXUOSA	WAVYLEAF SMOOTHTOP	18"-24"	CONTAINER	SPACED @ 24" O.C.	1'-2'	6"-12"
MC	66	MYRICA CALI	SWEETFERN	12"-24"	CONTAINER	-	3'-5'	6"-12"
PERENNIALS								
SH	42	STRUTHIOPTERIS NOVEBORACENSIS	NEW YORK FERN	12"-24"	CONTAINER	-	2'-4'	6"-12"
GROUNDCOVER (2" ASSORT.)								
PVD	11	PACHYSANDRA VINCAEFOLIA 'PIERMONT'	PIERMONT SPURGE	2 GAL.	CONTAINER	SPACED @ 2'-0" O.C.	1'-3'	2'-4'
SWB	58	SCHIZACHYRIUM SCOPARIUM	LITTLE BLUESTEM	2 GAL.	CONTAINER	SPACED @ 24" O.C.	2'-3'	1'-2'
MISC.								
PC	111	PARTHENOCISSUS QUINQUEFOLIA	VIRGINIA CREEPER	12 3/4" POT AND	12 PK PLANTS	SPACED @ 30" O.C.	3'-10' SPRD	10'+

NOTE: IF ANY DISCREPANCIES OCCUR BETWEEN AMOUNTS SHOWN IN THE PLAN AND THE PLANT LIST, THE PLAN SHALL DICTATE.

TOWN OF WESTWOOD REGULATIONS COMPLIANCE CHART

REGULATION SECTION	REQUIRED/PERMITTED	PROVIDED/PROPOSED	COMPLIANCE
5.1.13.E.1 PERIMETER PLANTING AREAS	A planted buffer strip, in addition to any yards, equivalent of appropriate, of no less than ten (10) feet wide planting area, along which shall be planted a continuous row of trees not more than fifty (50) feet on center, of any kind, planting shall be located in the area of required setback from boundaries and lines	Buffer trees are provided with more than twenty-three (23) feet on center. 297 LF planting buffer /10' min. = 30 trees required. 30 trees provided	COMPLIES
5.1.13.E.2.a.i.(2)	The planting trees are 6 to 8 1/2 inch caliper at the time of planting	The proposed trees are 4 to 4 1/2 inch caliper at the time of planting	COMPLIES



DORE + WHITTIER

LANGAN
Langan Engineering and Environmental Services, Inc.

WESTWOOD FIRE STATION 1

637 HIGH STREET
WESTWOOD, MA 02090

PROJECT NUMBER 151043301

NO.	DATE	DESCRIPTION

PERMITTING SET
OCTOBER 09, 2024

PLANTING PLAN

LP101

EXHIBIT B
Stipulation of Dismissal

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

LAND COURT DEPARTMENT
OF THE TRIAL COURT
DOCKET NO. 24 MISC 000694 (Rubin, J.)

PAUL DEMAIO, et al.

Plaintiffs

v.

JOHN F. LALLY, MICHAEL L. MCCUSKER, LINDA WALSH, DANIELLE L. BUTTON, MARK CALLAHAN, KEITH FLANDERS, as they are members of the WESTWOOD ZONING BOARD OF APPEALS; TOWN OF WESTWOOD; and TOWN ADMINISTRATOR CHRISTOPHER COLEMAN,

Defendants

STIPULATION OF DISMISSAL

Pursuant to Mass. R. Civ. P. 41(a)(1), Plaintiffs Paul DeMaio, et al. and Defendants John F. Lally, Michael L. McCusker, Linda Walsh, Danielle L. Button, Mark Callahan, Keith Flanders, as they are members of the Westwood Zoning Board of Appeals, the Town of Westwood, and Town Administrator Christopher Coleman, by and through their undersigned counsel, hereby stipulate and agree that all claims in the above action be and hereby are dismissed in full, with prejudice, and with each party bearing his/her/its own costs and attorneys' fees.

- *The remainder of this page is left intentionally blank – signature pages follow* -

PAUL DEMAIO, et al,
By their counsel,

Jeffrey P. Allen, BBO # 015500
E-mail: jallen@lawson-weitzen.com
Donald J. Gentile, BBO # 672657
E-mail: dgentile@lawson-weitzen.com
LAWSON & WEITZEN, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210
Telephone: (617) 439-4990
Facsimile: (617) 439-3987

Christopher Coleman,
Town Administrator of the Town of Westwood,

By his attorneys,

Daniel J. Bailey

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dbailey@pierceatwood.com
Kathleen M. Heyer, BBO # 685380
kheyer@pierceatwood.com
Pierce Atwood LLP
100 Summer Street
Boston, MA 02110
(617) 488-8165

Dated: May 14, 2025

DEFENDANTS,
WESTWOOD ZONING BOARD OF APPEALS AND TOWN OF WESTWOOD,
By their attorneys,

Brian Winner, BBO # 654997
MEAD, TALERMAN & COSTA, LLC
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Millis, MA 02054
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brian@mtclawyers.com