

**(20-8) RESOLUTION OF THE REPRESENTATIVE TOWN MEETING OF THE TOWN
OF DARIEN TO ACCEPT A TEMPORARY AND PERMANENT EASEMENT OVER
PROPERTY LOCATED AT**

242 WEST AVENUE, DARIEN, CONNECTICUT

Primary – PW

Secondary – PH&S

PZ&H

F&B

WHEREAS, a state grant has been obtained by the Town for intersection improvements on the Noroton Avenue/West Avenue intersection;

WHEREAS, under the state grant, the Town of Darien pays for the design costs and the grant pays for the right of way acquisition costs and construction costs;

WHEREAS, the purpose of the project is to create additional left turn lanes to reduce queuing and traffic congestion at the Noroton Avenue/West Avenue intersection;

WHEREAS, the intersection of the two Town collector roads has been a longtime congested intersection with long queues;

WHEREAS, the Town recognizes the importance of reducing these problems and make for a safe intersection;

WHEREAS, this project will affect property owners near the intersection as the Town needs easements over certain properties.

WHEREAS, the Town is not acquiring a fee title to the property but necessary easements;

WHEREAS, the property located at 242 West Avenue is owned by J. M. Luders 2019 Revocable Trust and Carol I. Luders 2019 Revocable Trust;

WHEREAS, the Town has had discussions and negotiations with the owners of the property in question;

WHEREAS, a settlement has been reached with the owners and said owners will grant temporary and permanent construction and sidewalk easements to the Town;

WHEREAS, these easements are more fully described in the document called Construction and Sidewalk Easement attached hereto and made a part hereof;

WHEREAS, these easements are also shown on the Map prepared by Fuss & O'Neill attached hereto and made a part hereof.

NOW THEREFORE BE IT RESOLVED that the Representative Town Meeting of the Town of Darien authorizes the acceptance and approval of said easements.

CONSTRUCTION & SIDEWALK EASEMENT

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, that the undersigned, JOHN M. LUDERS his capacity as trustee of the JOHN M. LUDERS 2019 REVOCABLE TRUST, dated March 8, 2019, and CAROL I. LUDERS in her capacity as trustee of the 2019 CAROL I. LUDERS REVOCABLE TRUST, dated March 8, 2019, (hereinafter collectively referred to as the "Grantors"), as the record owner(s) of a certain parcel of land located at and known as 242 West Avenue, Darien, CT 06820, and more particularly described in a certain Quitclaim Deed from John M. Luders and Carol I. Luders to the John M. Luders 2019 Revocable Trust and Carol I. Luders 2019 Revocable Trust, respectively, which Quitclaim Deed was recorded on the Darien Land Records in Volume 1652 at Page 664 (hereinafter the parcel is referred to as the "Subject Property"), for good and valuable consideration received to their full satisfaction of the TOWN OF DARIEN, a municipal corporation organized and existing under the laws of the State of Connecticut (hereinafter referred to as the "Grantee"), does hereby give, grant, bargain, sell and confirm unto the Grantee, its successors and assigns, these three certain easements over, under, through and upon the portion of said Subject Property depicted and designated on a certain map entitled, "Easements to be Acquired by the Town of Darien from J.M. Luders", dated September 30, 2019, prepared by Fuss & O'Neill, P.C., which map is to be filed and recorded in the office of the Town Clerk of the town of Darien as map no. _____ D.L.R., and further described as follows:

1. A temporary construction easement over the portions of the Subject Property within the area labelled as "Proposed temporary easement to be acquired from J.M. Luders 205 S.F" on map no. _____ of the Darien Land Records (the "Temporary Easement Area"), together with the privilege and right to enter upon the Temporary Easement Area at all reasonable times and to bring in and use upon said premises such machinery and equipment, to be operated by the Grantee, its agents, employs or servants, as may be proper and necessary, to lay out, construct, alter, repair, maintain and inspect certain proposed sidewalk extensions, driveways, curbs, signage and fencing, and related installation materials, appurtenances and connections, through and within the Temporary Easement Area. The temporary construction easement described under this paragraph will be extinguished by the completion of construction and the removal of all temporary appurtenances, construction machinery, and upon the Grantors' receipt of Grantee's written notice of extinguishment.

2. A full and perpetual easement over the portion of the Subject Property as described in Schedule A (the "Permanent Easement Area") attached hereto and made a part hereof, together with the right to the Grantee, its officers, agents, employees, contractors, subcontractors, successors and assigns, to enter upon the Permanent Easement Area at all reasonable times and to bring in and use upon the Permanent Easement Area such machinery and equipment, to be operated by the agents, employees and servants of the Grantee, its successors and assigns, as may be proper and necessary to effectuate the purposes of the grant of this perpetual easement, and to pass

and repass over such areas belonging to Grantors as may be reasonably necessary for the purpose of repairing, inspecting, maintaining, altering, removing or replacing the sidewalk extensions and curbs, and related installation materials, appurtenances and connections, through and within the Permanent Easement Area, in such manner and at such times as the Grantee may determine.

The Grantee, its successors and assigns, further covenants and agrees to repair any and all damage to the Subject Property directly attributable to the construction, maintenance or repair of the premises by the Grantee, its duly authorized agents, servants and employees, and to hold harmless the grantors, their heirs and assigns, from any damages or claims resulting from the Grantee's construction, maintenance or repair of or within the Temporary and Permanent Easement Area(s).

The Grantors reserve the right to themselves, their heirs, successors and assigns, to use the Subject Property for any lawful purpose and in any lawful manner; provided, however, that no permanent buildings or structures shall be constructed within the Permanent Easement Area, and the Grantors shall convey no interest, right or easement, nor grant any privilege related to the Permanent Easement Area, nor use or enter upon such area in any way that would adversely affect or impair Grantee's full use and enjoyment of the rights and interests in this easement, or that may in any way injure or damage Grantee's materials.

TO HAVE AND TO HOLD, the above-granted temporary and perpetual Easement, privilege and right, with the privileges and appurtenances thereof unto it, which shall run with the land in perpetuity and be binding upon the said Grantor(s) and Grantee, and their respective successors and assigns forever.

These two certain easements have been authorized by the Board of Selectmen of the Town of Darien, pursuant to resolution adopted on the ____ day of February, 2020, and have been authorized by the Representative Town Meeting of the Town of Darien, pursuant to resolution adopted on the ____ day of March, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of March, 2020.

WITNESSES:

GRANTOR AUTHORIZED SIGNATOR(S):

PRINT NAME:

JOHN M. LUDERS

PRINT NAME:

PRINT NAME:

CAROL I. LUDERS

PRINT NAME:

STATE OF CONNECTICUT)

: ss.: Darien

COUNTY OF FAIRFIELD)

On this the ____ day of March, 2020, before me, the undersigned officer, personally appeared JOHN M. LUDERS, in his capacity as TRUSTEE of the JOHN M. LUDERS 2019 REVOCABLE TRUST, known to me (or satisfactorily proven) to be the person whose name he subscribed to the within instrument and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

In witness whereof I hereunto set my hand.

**Commissioner of the Superior Court
Notary Public**

My Commission expires _____.

STATE OF CONNECTICUT)

: ss.: Darien

COUNTY OF FAIRFIELD)

On this the ____ day of March, 2020, before me, the undersigned officer, personally appeared CAROL I. LUDERS, in her capacity as TRUSTEE OF THE CAROL I. LUDERS 2019 REVOCABLE TRUST, known to me (or satisfactorily proven) to be the person whose name he subscribed to the within instrument and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

In witness whereof I hereunto set my hand.

**Commissioner of the Superior Court
Notary Public**

My Commission expires _____.

WITNESSES:

TOWN OF DARIEN

PRINT NAME:

By: _____
JAYME STEVENSON
Its First Selectman
Duly Authorized

PRINT NAME:

STATE OF CONNECTICUT)

: ss.: Darien

COUNTY OF FAIRFIELD)

On this the ____ day of March, 2020, before me, the undersigned officer, personally appeared Jayme Stevenson, the First Selectman of the Town of Darien, a Connecticut municipal corporation, and acknowledged that she, as such First Selectman, being authorized so to do, executed the foregoing instrument as her free act and deed, for the purposes therein contained, by signing the name of the Town of Darien by herself as First Selectman.

In witness whereof I hereunto set my hand.

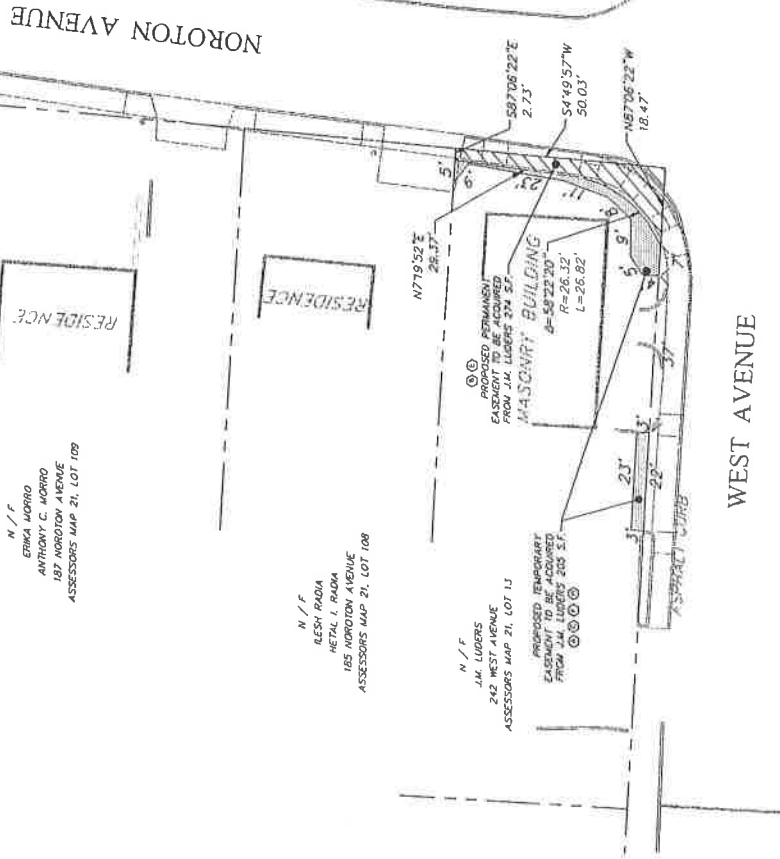
Commissioner of Superior Court
Notary Public
My Commission expires _____.

Schedule A

(Legal description of permanent easement granted to the Town of Darien over the property known as 242 West Avenue, Darien, Connecticut on the ____ day of March, 2020)

The Permanent Easement Area shall encompass all that certain lot or parcel of land, with the buildings and improvements thereon, situated in the town of Darien, Connecticut, within the area labelled as "Proposed permanent easement to be acquired from J.M. Luders 274 S.F" on map no. _____ of the Darien Land Records, which is bounded and described as follows:

Commencing at a point on the westerly boundary line of Noroton Avenue, so called, at the southerly boundary line along land now or formerly owned by Ilesh Radia and Hetal I. Radia, and thence running westerly for 2.73 feet along the southerly boundary line of land now or formerly owned by Ilesh Radia and Hetal I. Radia, thence southerly for 29.37 feet along land now or formerly owned by J.M. Luders, thence running southwestery for 26.82 feet at a radius of 26.32 feet along land now or formerly owned by J.M. Luders, thence running easterly for 18.47 feet along West Avenue, and thence running northerly for 50.03 feet along Noroton Avenue, to the point or place of beginning.



N / F
ERIKA MORRO
ANTHONY C. MORRO
187 NOROTON AVENUE
ASSESSORS MAP 21, LOT 109

N / F
BESS FLORA
METAL L. FLORA
185 NOROTON AVENUE
ASSESSORS MAP 21, LOT 108

N / F
JIM LUDERS
210 WEST AVENUE
ASSESSORS MAP 21, LOT 11

PROPOSED TEMPORARY
EASEMENT TO BE ACQUIRED
FROM JIM LUDERS 210 ST.

WEST AVENUE

TEMPORARY SCHEDULE OF RIGHTS AND EASEMENTS

- ① TEMPORARY RIGHT TO GRADE ACQUIRED
- ② TEMPORARY RIGHT TO CONSTRUCT SIDEWALK ACQUIRED
- ③ TEMPORARY RIGHT TO CONSTRUCT DRIVEWAY ACQUIRED
- ④ TEMPORARY RIGHT TO INSTALL FENCE ACQUIRED
- ⑤ TEMPORARY RIGHT TO INSTALL CURB ACQUIRED
- ⑥ TEMPORARY RIGHT TO INSTALL SEDIMENTATION CONTROL SYSTEM ACQUIRED
- ⑦ TEMPORARY RIGHT TO REMOVE AND RELOCATE PRIVATE S/O/G ACQUIRED
- ⑧ TEMPORARY RIGHT TO INSTALL LANDSCAPING ACQUIRED
- ⑨ TEMPORARY EASEMENT TO INSTALL AND MAINTAIN TRAFFIC DEVICES AND APURTENANCES THEREON ACQUIRED
- ⑩ TEMPORARY RIGHT TO INSTALL MAILBOX
- ⑪ TEMPORARY RIGHT TO RELOCATE UTILITY POLE OR WIRE

SUBJECT NOTE

1. THE TYPE OF SURVEY PERFORMED IS A COMPILATION PLAN AND IS INTENDED TO DEPICT THE POSITION OF THE EASEMENTS WITH ACCURACY CLASS 0.

THIS PLAN WAS COMPILED FROM OTHER MAPS, RECORD RESEARCH, AND FIELD SURVEY. THE SURVEYOR HAS CONDUCTED VISUAL INSPECTION AS HAVING BEEN OBTAINED AS THE RESULT OF A FIELD SURVEY AND IS SUBJECT TO SUCH CHANGE AS AN ACCURATE FIELD SURVEY MAY DISCLOSE.



TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON. THIS MAP SHOULD NOT BE CONSIDERED AN ORIGINAL SIGNED AND SEALED SURVEY UNLESS IT BEARS THE EMBOSSED SEAL OF THE DIGNITARY SURVEYOR'S SIGNATURE & SEAL OF THE LAND SURVEYOR BELOW.

WILLIAM J. MAGLE, JR., L.L.S. LICENSE # 70269

DATE	DESCRIPTION	PROPOSED REVISIONS

FUSS & O'NEILL
16 HARTFORD ROAD
MANCHESTER, CONNECTICUT 06460
www.fussandoneill.com

COMPILATION PLAN
EASEMENTS TO BE ACQUIRED BY
THE TOWN OF DARIEN FROM
J. M. LUDERS
472 WEST AVENUE
MAP 21 - LOT 11