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ROAD RIGHT OF WAY AND UTILITY EASEMENT AGREEMENT

STATE OF NORTH CAROLINA

COUNTY OF PENDER

Brief description for the index: Off Country Club Road

This instrument was prepared by and returned to: W. James Brandon
P O Box 40
Hampstead, NC 28443

This **ROAD RIGHT OF WAY AND UTILITY EASEMENT AGREEMENT** is made this the 12th day of November, 2012 by and between

ROBERT C. FAILING and wife, DORIS F. FAILING

(hereinafter called "Grantor"); and

JEFFREY J. BEAUDOIN and WILLIAM A. GARRICH

(hereinafter called "Grantee")

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

JAMES BRANDON
ATTORNEY AT LAW
HAMPSTEAD VILLAGE
POST OFFICE BOX 40
HAMPSTEAD, NC 28443



WITNESSETH:

Whereas, Grantor is the owner of lands described in deed recorded in Book 549 Page 45 of the Pender County Registry; and

Whereas, Grantee is the owner of lands described in deed recorded in Book 3523 at Page 295 of the Pender County Registry; and

Whereas, the property of Grantor and the property of Grantee are adjoining tracts of land; and

Whereas, Grantor has agreed to provide Grantee with an easement for ingress, egress, regress, private roads, public roads, North Carolina Department of Transportation roads, utilities, including but not limited to, electric, telephone, cable, septic, waste water, and potable water supply lines and discharge lines (hereinafter utilities) and other matters over, under, upon and across a portion of the land of Grantor to service the land of Grantee; and

WHEREAS, Grantor and Grantee previously entered into a ROAD RIGHT OF WAY AGREEMENT (Original Agreement) as evidenced by instrument recorded in Book 3580 at Page 081 of the Pender County Registry; and

WHEREAS, Grantor and Grantee agree to release each and the other from the provisions, conditions and obligations of each to the other as set forth in said Original Agreement recorded in Book 3580 at Page 081 of the Pender County Registry by execution of this New Agreement to benefit the Grantee at the request of the Grantee; and

WHEREAS, Grantor and Grantee have agreed to reduce the terms of their Agreement to writing.

NOW, THEREFORE, in consideration of the sum of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in accordance with the recitals which by this reference are made a substantive part hereof, Grantor hereby grants to Grantee, the right of way for a public road, utilities, including but not limited to electric, telephone, cable, septic, waste water, and potable water supply lines and discharge lines and other matters, and releases the Grantee from all claims for damages by reason of said right of way across the lands of the Grantor and the future use thereof by the Grantee, its successors and assigns, for all purposes for which the North Carolina Department of Transportation, its successors and assigns, for all purposes for which the North Carolina Department of Transportation is authorized by law to subject said right of way; said right of way being the width indicated and across said property as follows:

See attached Exhibit A for property description of the Easement Area.

V. JAMES BRANDON
ATTORNEY AT LAW
HAMPSTEAD VILLAGE
POST OFFICE BOX 40
HAMPSTEAD, NC 28443



This ROAD RIGHT OF WAY AND UTILITY EASEMENT AGREEMENT is granted on the following terms and conditions:

1. Grantee shall be responsible for all costs of construction and the continuous maintenance of the Road and Utilities constructed on the Easement Area in accordance with all applicable laws, rules and permit conditions in order to protect the public health and the public interests.
2. Grantee shall have the right to go upon said lands whenever the same is reasonably necessary for the purpose of constructing, inspecting, maintaining, and repairing said Road Utilities and all other matters addressed herein; provided, that in constructing, inspecting, maintaining, and repairing said Road and Utilities and all other matters identified herein, Grantee remove all surplus earth, make level the surface of the ground along said Road restoring the easement area to its original appearance, and interfere as little as is reasonably necessary with said property.
3. This ROAD RIGHT OF WAY AND UTILITY EASEMENT AGREEMENT shall be an appurtenance to the property of Grantee described on the attached Exhibit B.
4. Grantor shall be responsible to Grantee for any and all damage of whatsoever nature done or caused by Grantor to the Road and Utilities.
5. Grantee shall be responsible for any and all damage of whatsoever nature done to Grantor's property, including but not limited to, any damage to any structure, driveway, trees or other vegetation outside the boundaries of this easement.
6. Grantor covenants that no excavation, building, structure or obstruction will be made, constructed or permitted within the area of the easement or during the term of the easement described herein without prior written notice to Grantee.
7. It is agreed that this ROAD RIGHT OF WAY AND UTILITY EASEMENT AGREEMENT covers all the agreements between the parties, and no representations or statements, verbal or written, have been made modifying, adding to, or changing the terms of this Agreement.
8. It is agreed that the said right of way and easement shall be used and is intended to be used by the Grantee for the purposes set forth hereinabove together with the right to repair and maintain the Road and Utilities and all of the other improvements addressed herein, and Grantor shall retain all right, title and interest in the said lands, except for the right of way and easement as conveyed herein.
9. It is agreed that the Grantee shall have the power, without the joinder of the Grantor, to convey this ROAD RIGHT OF WAY to the North Carolina Department of Transportation for inclusion in the North Carolina Secondary Road System.

J. JAMES BRANDON
ATTORNEY AT LAW

HAMPSTEAD VILLAGE
POST OFFICE BOX 40
HAMPSTEAD, NC 28443



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10. The Grantor further agrees not to erect any structures, including masonry mailboxes, masonry driveway headwalls, any fencing, etc., or engage in cultivation within the right of way granted herein, except as approved by the North Carolina Department of Transportation pursuant to G.S. 136-93 and N. C. Administrative Code 19A NCAC 02E.0404.

11. The Grantor further agrees that this grant of easement includes an easement for ingress, egress, regress, utilities, private roads, public roads, North Carolina Department of Transportation roads, drainage, landscaping, lightscaping, entrance features including signage, and the continuous right to construction, reconstruction, maintenance and repair of all of the improvements to the Easement Area.

To have and to hold the above granted and described easement and right of way and all privileges and appurtenances thereunto belonging for the purposes herein expressed to the Grantee.

And the said Grantor does covenant to and with the said Grantee, that he is seized of the property over which said easements and rights of way are granted and that he has good right to convey said easements and rights of way; that the same are free and clear from all encumbrances, and that he shall warrant and defend the title to the same against the lawful claims and demands of any and all persons whomsoever.

[Remainder of this Page intentionally left blank]

[This document contains a separate Signature Page]

JAMES BRANDON
ATTORNEY AT LAW

HAMPSTEAD VILLAGE
POST OFFICE BOX 40
HAMPSTEAD, NC 28443

In Witness Whereof, the Grantor has hereunto set his hand and seal.

Robert C. Failing (SEAL)
Robert C. Failing

Doris F. Failing (SEAL)
Doris F. Failing

STATE OF NORTH CAROLINA, COUNTY OF NORTH CAROLINA

I, certify that the following person(s), known to me or proved to me on the basis of satisfactory evidence to be the person(s) described personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated, if any:

Robert C. Failing and Doris F. Failing

Date: 11-17-2012

Susie Brandon
(Signature of Notary)

(Official Seal)

SUSIE BRANDON
(Printed or typed name of Notary Public)

MY COMMISSION EXPIRES
8-30-2014



J. JAMES BRANDON
ATTORNEY AT LAW
HAMPSHIRE VILLAGE
POST OFFICE BOX 40
HAMPSHIRE, NC 28443



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EXHIBIT A

An easement for a public road, utilities and other matters to service the property described on the attached Exhibit B over and upon the following described property:

Lying and being in Topsail Township, Pender County, North Carolina and more particularly described as follows:

COMMENCING at a concrete monument on the northern right-of-way line of Country Club Road (S.R.# 1565; 60 foot public right-of-way) at the northeast corner of Lot 1, Block "N" as shown on a map titled "Section 3 of Hideaway Shores", recorded in Map Book 20, page 54 of the Pender County registry, running thence S 37° 11' 22" W for a distance of 562.02 feet to a point on said northern right-of-way line at the southeast corner of the 28.552 acre tract of land shown on a map titled "Survey for Robert C. Failing and wife Doris C. Failing", recorded in Map Book 16, page 68 and conveyed to Gary F. Hewitt by a deed recorded in Deed Book 3476, page 93, said point being the point of beginning, thence,

From the **POINT OF BEGINNING**, along said northern right-of-way line, S 37° 11' 17" W for a distance of 30.00 feet to a point at the northeast corner of Lot 1, Block "O" as shown on said Hideaway Shores map.

Thence, departing said right-of-way line and running along the northeastern boundary line of said Lot 1, Block "O" and extending through and beyond the northwestern corner of said Lot 1, Block "O", N 52° 48' 43" W a distance of 324.82 feet,

Thence, N 37° 11' 17" E for a distance of 30.00 feet to a point on the southwestern boundary line of said 28.552 acre tract.

Thence, along said southwestern boundary line, S 52° 48' 43" E for a distance of 324.82 feet to the **POINT OF BEGINNING**;

The same containing 9745 square feet or 0.224 acres, more or less.

JAMES BRANDON
 ATTORNEY AT LAW
 HAMPSTEAD VILLAGE
 POST OFFICE BOX 40
 HAMPSTEAD, NC 28443



EXHIBIT B

Description of Parcel to be serviced by the Easement.

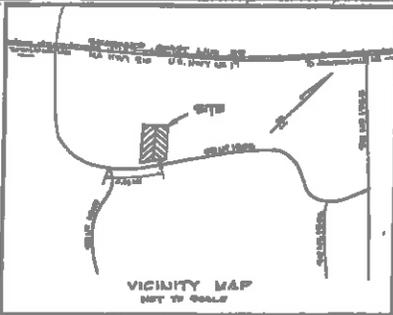
LOCATED IN TOPSAIL TOWNSHIP, PENDER COUNTY, NORTH CAROLINA,
 AND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE IN THE NORTHERN LINE OF THE FORMERLY R. E. HUGHES TRACT OF LAND, AS SHOWN ON THE MAP OF THE DIVISION OF LAND FOR GLEN DELL DEVELOPMENT COMPANY, AS PREPARED BY JOHN A. BENSON, REGISTERED LAND SURVEYOR; DATED JUNE 1976, SAID PIPE BEING LOCATED NORTH 34 DEGREES 09 MINUTES WEST 235.49 FEET FROM AN OLD IRON ROD IN THE CENTERLINE OF S.R. #1565, SAID ROD BEING LOCATED NORTH 43 DEGREES 27 MINUTES 30 SECONDS EAST 199.85 FEET FROM A CONCRETE CULVERT UNDER SAID S.R. #1565, SAID CULVERT IN TURN BEING 0.45 MILES NORTHWARDLY FROM THE INTERSECTION OF SAID S.R. #1565 WITH S.R. #1567; RUNNING THENCE FROM SAID BEGINNING POINT, PARALLEL TO, AND 230.0 FEET WESTWARDLY FROM THE CENTERLINE OF THE AFOREMENTIONED S.R. #1565, SOUTH 43 DEGREES 27 MINUTES 30 SECONDS WEST 575.89 FEET TO AN IRON PIPE; RUNNING THENCE AT RIGHT ANGLES, SOUTH 46 DEGREES 32 MINUTES 30 SECONDS EAST 200.00 FEET TO AN IRON PIPE IN THE WESTERN RIGHT OF WAY LINE OF S.R. #1565; RUNNING THENCE WITH SAID RIGHT OF WAY SOUTH 43 DEGREES 27 MINUTES 30 SECONDS WEST 30.0 FEET TO AN IRON PIPE; RUNNING THENCE AT RIGHT ANGLES NORTH 46 DEGREES 32 MINUTES 30 SECONDS WEST 324.82 FEET TO AN IRON PIPE; RUNNING THENCE NORTH 34 DEGREES 55 MINUTES 30 SECONDS WEST 1,900.1 FEET TO AN IRON PIPE; RUNNING THENCE NORTH 55 DEGREES 05 MINUTES EAST 644.4 FEET TO AN IRON PIPE IN THE NORTHERN LINE OF THE AFOREMENTIONED GLEN DELL DEVELOPMENT COMPANY'S TRACT OF LAND; RUNNING THENCE WITH SAID LINE, SOUTH 34 DEGREES 09 MINUTES EAST 1,900.46 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 28.552 ACRES, MORE OR LESS; THE FOREGOING SURVEY AND DESCRIPTION PREPARED BY GEORGE LOSAK, N.C. REGISTRATION NUMBER L-494.

AND BEING ALL OF THAT CERTAIN 28.55 ACRE TRACT OF LAND DESCRIBED IN DEED RECORDED IN BOOK 3523 AT PAGE 298 OF THE PENDER COUNTY REGISTRY.

J. JAMES BRANDON
 ATTORNEY AT LAW
 HAMPSTEAD VILLAGE
 POST OFFICE BOX 40
 HAMPSTEAD, NC 28443

ELGIN DOLL DEVELOPMENT CO.



VICINITY MAP
NOT TO SCALE

NEW HANOVER COUNTY NORTH CAROLINA
I, GEORGE LOMAX, CERTIFY THAT THIS MAP WAS PREPARED FROM AN ACTUAL SURVEY MADE BY ME; THAT THE BEARS OF COURSES AS CALCULATED BY LATITUDE'S AND DEPARTURES IS 111,000 ±; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH §§ 27-28 AS AMENDED.
WITNESSED MY HAND AND SEAL THIS 22 DAY OF AUGUST, 1978



George Lomax
GEORGE LOMAX
N.C. REG. NO. L-2816

SWORN TO AND ORDAINED BEFORE ME THIS 27 DAY OF AUGUST, 1978



Thomas W. Smith
THOMAS W. SMITH
NOTARY PUBLIC

MY COMMISSION EXPIRES NOVEMBER 16, 1978

STATE OF NORTH CAROLINA FENDERS COUNTY
THE FOREGOING CERTIFICATE OF *George Lomax*, Notary Public of New Hanover County is certified to be correct this 22 day of Aug 1978

Thomas W. Smith
THOMAS W. SMITH
NOTARY PUBLIC
By *Thomas W. Smith*
NOTARY PUBLIC

CERTIFICATE OF REGISTRATION BY REGISTER OF DEEDS
NORTH CAROLINA FENDERS COUNTY
FILED FOR REGISTRATION ON THE 22 DAY OF Aug 1978 AT 11:15 A.M. AND FULLY RECORDED IN MAP BOOK 16 AT PAGE 52

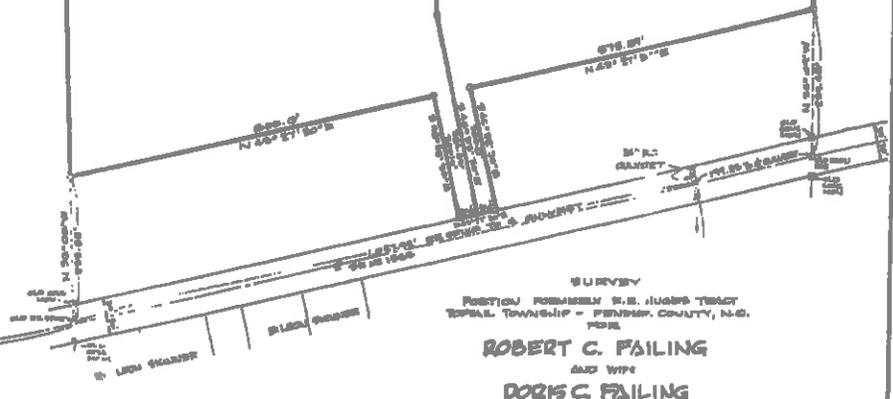
N 89° 07' W 899.5'
N 89° 07' W 644.1'

29,646 Ac 28,892 Ac

1,280.46
N 89° 07' W
TRACT NET 84.2 HECTARES APPROX

200.00' ±
N 89° 07' W
1,280.46
N 89° 07' W

200.00' ±
N 89° 07' W



SURVEY
PORTION FORMERLY S.E. 1/4 TRACT
TOWNSHIP - FENDERS COUNTY, N.C.
ROBERT C. FAILING
AND WIFE
DORIS C. FAILING
GEORGE LOMAX, SLS
WILMINGTON, N.C. SCALE 1" = 400'
AUG 22, 1978

George Lomax
GEORGE LOMAX, SLS
WILMINGTON, N.C.

NOTE
S - NEW PIPE

11-1-B

16-2-71

