

BK: RB 6418
PG: 2038 - 2053

NC FEE \$30.00

2021010189

RECORDED:

NEW HANOVER COUNTY,

03/02/2021

TAMMY THEUSCH PIVER

02:30:20 PM

REGISTER OF DEEDS

EXTX \$0.00

BY: ANGELA ENGLISH

DEPUTY

ELECTRONICALLY RECORDED

Prepared by & Return to: Ned M. Barnes
1009 N. Lake Park Blvd., Suite C-2
Carolina Beach, NC 28428

STATE OF NORTH CAROLINA

**DECLARATION OF WITHDRAWAL OF
EASEMENT AND DEED OF EASEMENT**

COUNTY OF NEW HANOVER

PID: RO8807-005-004-000
EXCISE TAX: NTC

THIS DECLARATION OF WITHDRAWAL OF EASEMENT AND DEED OF EASEMENT, entered into this 26 day February of 2021 by and between Elisabeth M. Struckell, unmarried, Kathryn C. Maney and spouse James C. Cowles, 7980 N. Granite Ridge Rd., Teton Village, WY 83025 (hereinafter "Struckell and Maney"); Oceana Owners Association, Inc. a North Carolina nonprofit corporation, 1908 Eastwood Rd., Suite 321 Wilmington, NC 28403 (hereinafter "Oceana"); and The Town of Carolina Beach, a North Carolina municipal corporation, 1121 N Lake Park Blvd, Carolina Beach, NC 28428 (hereinafter "Town of Carolina Beach").

W I T N E S S E T H

A. Withdrawal of Easement

THAT, WHEREAS, Struckell and Maney are the owners of the real property known as Lot 2, of Oceana (hereinafter "Lot 2"), said real property being more commonly known as 402 Oceana Way, Carolina Beach, NC 28428, as shown on Map Book 33, at Pages 336 and 337 in the New Hanover County Registry. Said real property having been acquired by Struckell and Maney in Deed Book 4129, at Page 735 in the New Hanover County Registry; and

WHEREAS, Lot 2 is burdened by two (2) separate ten foot (10') Utility Easements (hereinafter "Utility Easements"), said easements being depicted on a Map entitled, "Utility Easement for Oceana" dated March 2, 1994 and being recorded in Map Book 33, at Page 337 of the New Hanover County Registry, said Map being attached hereto and incorporated herein by reference as Exhibit "A", the same also being shown on Map Book 33, at Page 347, New Hanover County Registry; and

Submitted electronically by "Ned M. Barnes, Attorney"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the New Hanover County Register of Deeds.

WHEREAS, Oceana is the purported grantee of said Utility Easements burdening Lot 2, by virtue of that Deed of Easement recorded in Book 5971, at Page 890 in the New Hanover County Registry, or alternatively, by dedication of easement depicted on Map Book 33, and Page 337 of the New Hanover County Registry; and

WHEREAS, the Town of Carolina Beach is also a grantee of said Utility Easements by dedication of easement depicted on Map Book 33, and Page 337 of the New Hanover County Registry

WHEREAS, since the date of their creation, said Utility Easements have not been used for the purposes of installing, maintaining or operating any water, sanitary sewer, or storm sewer lines utilities of any nature or kind; and

WHEREAS, by entering into this Declaration of Withdrawal of Easement it is the intent of Struckell and Maney, Oceana, and the Town of Carolina Beach to terminate, withdraw and abandon said Utility Easements, as shown on Exhibit "B" entitled "Exhibit for Abandonment of Easements and Dedication of Easement for Kathryn C. Maney and Elisabeth M. Struckell" which is attached hereto and incorporated herein by reference, such that Struckell and Maney, their heirs, successors and assigns, and successors in title shall own Lot 2 free and clear of any interest in, or right to use said Utility Easements by Oceana, their heirs, successors and assigns and successors in title; and

WHEREAS, Oceana and the Town of Carolina Beach join in this Declaration of Withdrawal of Easement for the purpose of terminating, withdrawing, and abandoning any right and interest, if any, they may have in and to the Utility Easements, but make no representations or warranties of any kind with respect to their rights in and to said Utility Easements and further make no warranties, express or implied as to title to the easement interest referenced herein; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned does hereby file and cause to be recorded in the Office of the Register of Deeds of New Hanover County, this Declaration, hereby terminating, withdrawing and abandoning the above referenced Easements.

B. Deed of Utility Easement

This DEED OF EASEMENT created the day and year first above written and entered into between Elisabeth M. Struckell, unmarried, Kathryn C. Maney and husband, James C. Cowles, 7980 N. Granite Ridge Rd., Teton Village, WY 83025 (hereinafter "Grantor") and The Town of Carolina Beach a North Carolina municipal corporation (hereinafter "Grantee").

For and in consideration of the sum of Ten Dollars (10.00) and other valuable consideration paid by the Grantee to the Grantor, receipt of which is hereby acknowledged, the Grantor has bargained, sold and conveyed and by these presents does hereby grant, bargain, sell, and convey

unto Grantee, its successors and assigns the right privilege and easement, over, through under and upon the lands and premises hereinafter described for the purpose of constructing, installing, inspecting, maintaining, repairing, removing, extending, improving, preserving and/or operating certain private utilities, including, but not limited to sanitary sewer lines, water lines, pipes, valves, and other related facilities and appurtenances (hereinafter "Easement"), said premises being a certain parcel or tract of land located in the Town of Carolina Beach, New Hanover County, North Carolina, and more particularly described as:

BEING ALL of Lot 2 of Oceana as shown on the map or plat thereof recorded in Map Book 33 at Pages 336 and 337, in the New Hanover County Registry, reference to which is hereby made for a more particular description (hereinafter "Property").

Said Easement Area being more particularly described in the Legal Description for 10' Utility Easement attached hereto and incorporated herein by reference as Exhibit "C", the same Easement Area being depicted as "New 10' Utility Easement" on Exhibit "B".

The above described Property is that property conveyed to Grantor by deed recorded in Deed Book 4129, Page 735, of the New Hanover County Registry.

TO HAVE AND TO HOLD said Easement to GRANTEE, its successors and assigns, forever. This Easement hereby granted is appurtenant and runs with the Property now owned by the GRANTOR.

The GRANTEE shall at all times have the right to keep the Easement Area clear of all buildings and structures, debris, trees, shrubs, bushes, stumps, roots, undergrowth, or other vegetation as will in its reasonable judgment interfere with the purposes of this Easement. The GRANTOR expressly promises and agrees not to construct or allow to be constructed on the Easement Area, any building, structure, or other improvement, and further promises not to plant or allow to be planted any trees, shrubs, bushes, undergrowth or vegetation, or to otherwise permit encroachment or interference with GRANTEE's rights hereunder. GRANTEE shall have no right to store equipment or vehicles within the Easement Area. GRANTEE shall use its best efforts to restore the Easement Area to its previous condition within seven days of the completion of work in the Easement Area. GRANTOR and GRANTEE agree that GRANTEE shall have the right, but not the obligation, to authorize additional improvements to the Easement Area, such authorization to be evidenced by a writing signed by the GRANTOR and GRANTEE.


The GRANTOR reserves the right to grant easements to other parties within the Easement Area so long as such easements do not interfere with the GRANTEE'S use of the Easement Area and the rights granted herein.

Said GRANTOR covenants and warrants that it is lawfully seized and possessed of the Property described above; and that it has good right and lawful authority to convey said Easement for the purposes herein expressed; and that said GRANTOR for its successors and

assigns covenant that it will warrant and defend said easement against any and all claims and demands whatsoever.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and seals to this Declaration of Withdrawal of Easement and Deed of Easement, this the 26th day of February, 2021.

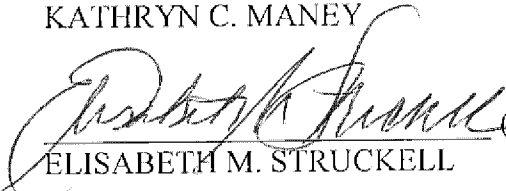
Oceana Owners Association, Inc. a North Carolina nonprofit corporation

 (SEAL)
By: OLIN FURR, President

The Town of Carolina Beach, a North Carolina municipal corporation

_____ (SEAL)
By: LeAnn Pierce, Mayor

_____ (SEAL)
KATHRYN C. MANEY

 (SEAL)
ELISABETH M. STRUCKELL

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assigns covenant that it will warrant and defend said easement against any and all claims and demands whatsoever.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and seals to this Declaration of Withdrawal of Easement and Deed of Easement, this the 16 day of February, 2021.

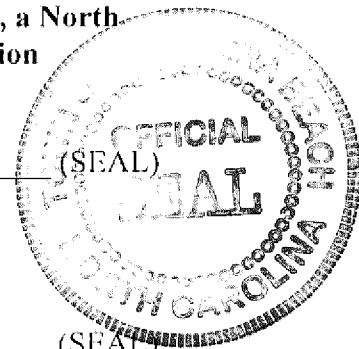
Oceana Owners Association, Inc. a North Carolina nonprofit corporation

(SEAL)
By: OLIN FURR, President

The Town of Carolina Beach, a North Carolina municipal corporation

LeAnn Pierce

(SEAL)
By: LeAnn Pierce, Mayor



(SEAL)
KATHRYN C. MANEY

(SEAL)
ELISABETH M. STRUCKELL

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assigns covenant that it will warrant and defend said easement against any and all claims and demands whatsoever.


IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and seals to this Declaration of Withdrawal of Easement and Deed of Easement, this the 26 day of February, 2021.

Oceana Owners Association, Inc. a North Carolina nonprofit corporation

_____(SEAL)
By: OLIN FURR, President

The Town of Carolina Beach, a North Carolina municipal corporation

_____(SEAL)
By: LeAnn Pierce, Mayor

 (SEAL)
KATHRYN C. MANEY

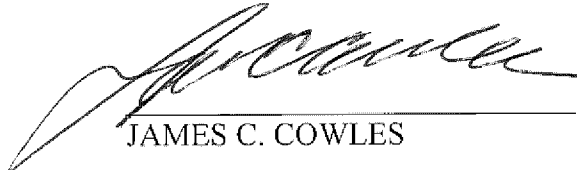
_____(SEAL)
ELISABETH M. STRUCKELL

[The rest of this page is intentionally left blank]

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal, the day and year first above written.

Grantor:

 (SEAL)
KATHRYN C. MANEY

 (SEAL)
JAMES C. COWLES

ELISABETH M. STRUCKELL (SEAL)

Grantee:

The Town of Carolina Beach, a North Carolina municipal corporation

By: Leann Pierce, Mayor (SEAL)

ATTEST:

Kim Ward, Town Clerk

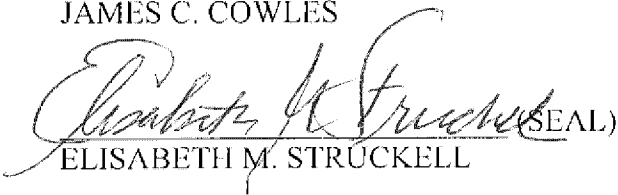
[The rest of this page is intentionally left blank]

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal, the day and year first above written.

Grantor:

KATHRYN C. MANEY (SEAL)

JAMES C. COWLES (SEAL)


ELISABETH M. STRUCKELL (SEAL)

Grantee:

**The Town of Carolina Beach, a North
Carolina municipal corporation**

By: Leann Pierce, Mayor (SEAL)

ATTEST:

Kim Ward, Town Clerk

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IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal, the day and year first above written.

Grantor:

KATHRYN C. MANEY (SEAL)

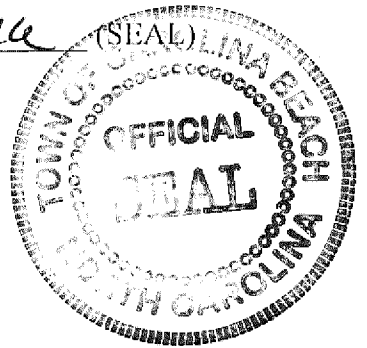
JAMES C. COWLES (SEAL)

ELISABETH M. STRUCKELL (SEAL)

Grantee:

The Town of Carolina Beach, a North Carolina municipal corporation

Leann Pierce (SEAL)
By: Leann Pierce, Mayor



ATTEST:

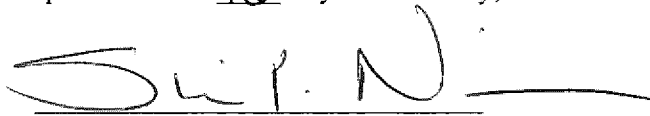
Kim Ward
Kim Ward, Town Clerk

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STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, Sheila P. Nicholson a Notary Public in and for the said County and State do hereby certify that **Kim Ward** personally appeared before me this day and acknowledged that she is the Town Clerk of the Town of Carolina Beach, and that by authority duly given, and as the act of the Town, the foregoing instrument was signed in its name by its Mayor and attested by her as its Town Clerk.

WITNESS, my hand and official stamp or seal this 16th day of February, 2021.



Notary Public

SHEILA P NICHOLSON
NOTARY PUBLIC
New Hanover County
North Carolina
My Commission Expires June 09, 2024

[SEAL]

My Commission Expires: 6-9-2024

STATE OF North Carolina
COUNTY OF New Hanover

I, Mitchell C. Barnes a Notary Public in and for the said County and State do hereby certify that **Olin Furr** personally appeared before me this day and acknowledged that he is the **President of Oceana Owners Association Inc., a North Carolina nonprofit corporation**, and that he as President, being authorized to do so, executed the foregoing instrument on behalf of the nonprofit corporation.

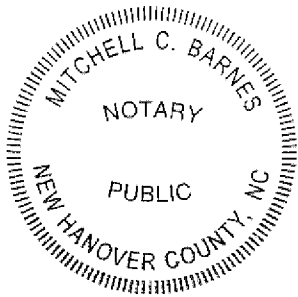
WITNESS, my hand and official stamp or seal this 26 day of February, 2021.



Notary Public

[SEAL]

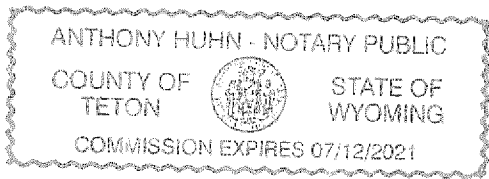
My Commission Expires: 12-10-2024



STATE OF Wyoming
COUNTY OF Teton

I, Anthony Huhn a Notary Public in and for the said County and State do hereby certify that **KATHRYN C. MANEY** and **JAMES C. COWLES** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS, my hand and official stamp or seal this 26 day of February, 2021.



Anthony Huhn
Notary Public

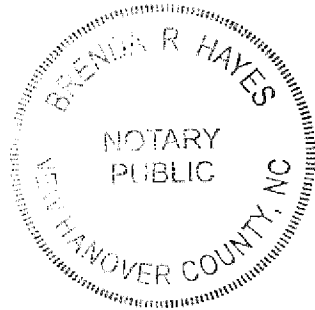
[SEAL]

My Commission Expires: 7-12-2021

STATE OF NC
COUNTY OF New Hanover

I, Brenda R. Hayes a Notary Public in and for the said County and State do hereby certify that **ELISABETH M. STRUCKELL** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS, my hand and official stamp or seal this 18 day of February, 2021.



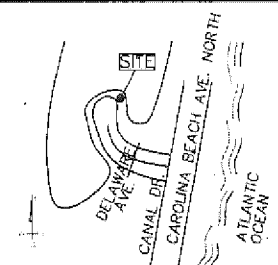
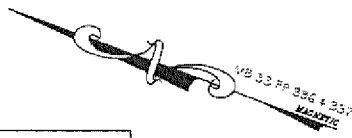
[SEAL]

B. R. Hayes
Notary Public

My Commission Expires: 8-22-2022

Exhibit "B"

"THIS MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEW FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS."



LINE/CURVE TABLE			
LINE	LENGTH	BEARING	RADIUS
L1 (CHORD-TIE)	30.33	S10°35'23"E	131.78
L2	8.93	S72°24'54"E	N/A
L3	10.00	S17°35'06"W	N/A
L4	5.46	N72°24'54"W	N/A
L5 (CHORD)	1.92	N00°23'16"E	121.28
L6 (CHORD)	8.66	N01°56'57"W	131.78

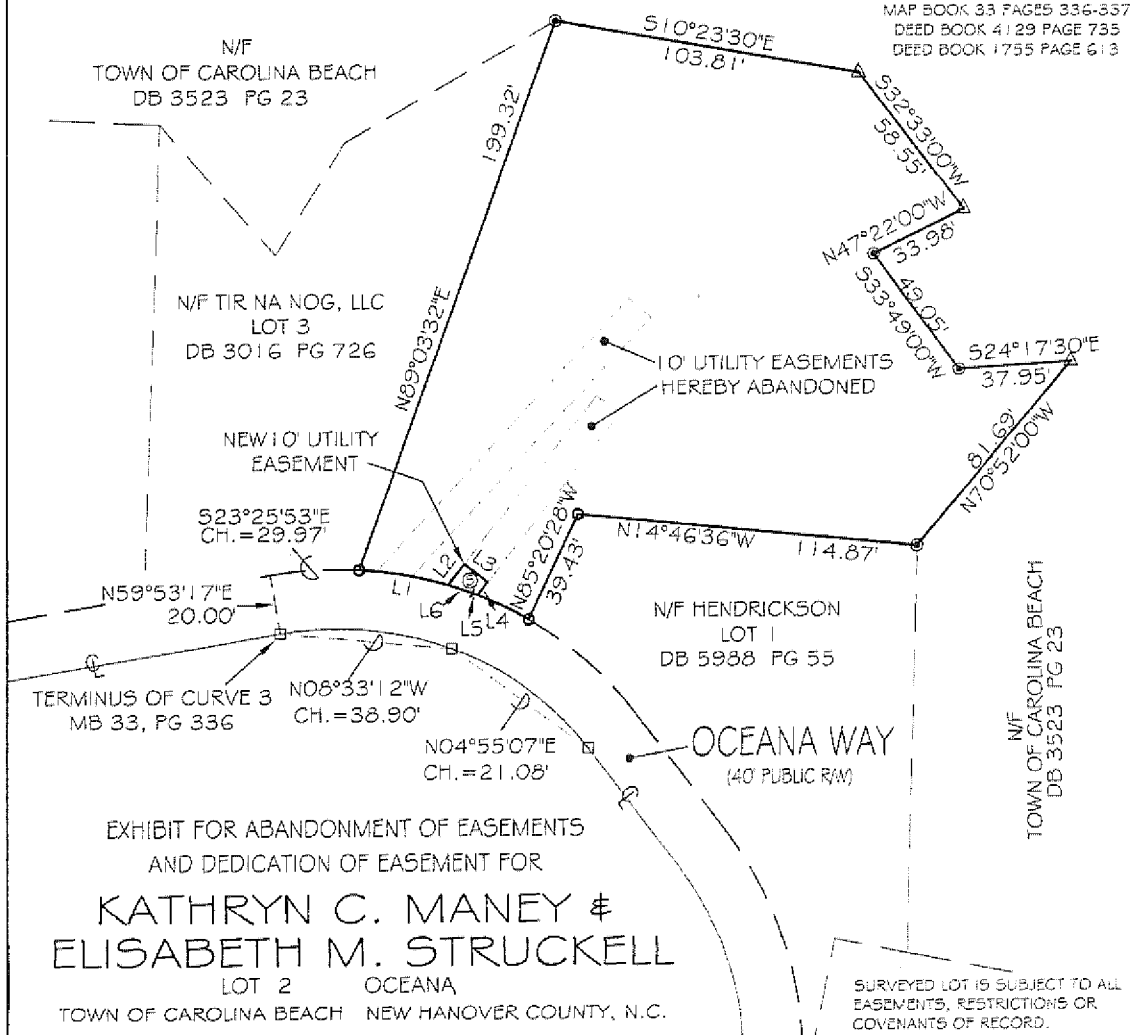
LOCATION MAP
NOT TO SCALE

LEGEND

- ⊙ = EXISTING IRON PIPE
- ⊕ = CENTERLINE
- ⊠ = CONCRETE MONUMENT
- ⊙ = EXISTING IRON ROD
- △ = COMPUTED POINT
- ⊙ = SANITARY SEWER MANHOLE

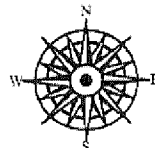
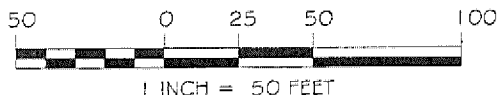
SURVEY REFERENCE

MAP BOOK 33 PAGES 336-337
DEED BOOK 4129 PAGE 733
DEED BOOK 1755 PAGE 613



S:\LAND PROJECTS\OCEANA SECTION 1\LOT 2\dwg\402 OCEANA WAY BOUNDARY.dwg

JANUARY 7, 2021



PATRICK C. BRISTOW
LAND SURVEYING, PC
181 SOUND VIEW DRIVE
WILMINGTON, NC 28409
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E-MAIL: pat@bristowsurveying.com
FIRM LICENSURE NO. C-3071