

AGREEMENT

Prepared by and
return after recording to:

Robert B. Hobbs, Jr.
Hornthal, Riley, Ellis & Maland, LLP
2502 S. Croatan Hwy
Nags Head, NC 27959

NORTH CAROLINA DARE COUNTY

THIS ENCROACHMENT AGREEMENT (the "Agreement") is effective as of _____, 2020 (the "Effective Date"), by and between GANDT DEVELOPMENT, L.L.C., a North Carolina limited liability company (the "Owner") and the TOWN OF NAGS HEAD, a North Carolina municipal corporation (the "Town"). The Owner and the Town may be individually referred to as a "Party" and collectively as the "Parties."

RECITALS:

Owner is the owner of the property located at 101 E. Dove Street, Nags Head, NC, and more particularly described in that certain Deed recorded in Book 2228, Page 560, Dare County Registry (the "Property").

The Parties have learned that certain drainage improvements owned and maintained by the Town in connection with its maintenance of Dove Street encroach upon the Property as shown on Exhibit A attached hereto and incorporated herein by this reference (the "Encroachments"). The Parties hereto desire to acknowledge the presence of the Encroachments and provide for the permissive use and continued existence of the Encroachments on the Property.

In consideration of these Recitals, and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Existing Encroachments. The Owner hereby acknowledges the Encroachments, waives any objection to the Encroachments, and grants Town a nonexclusive permanent and perpetual right and easement for the continued presence of the Encroachments on the Property. This grant of easement and waiver shall not apply to any new encroachments arising after the

date of this Agreement. Owner agrees and acknowledges that the Encroachments have been installed for the benefit of Town in connection with Town's public maintenance of Dove Street.

2. Maintenance. Following execution of this Agreement, Town shall have the obligation to ensure that the Encroachments are maintained, functioning properly and in a good state of repair, at Town's sole cost and expense. In the event that Owner shall discover that Town has failed to repair, replace or maintain the Encroachments and such failure is a material threat to cause damage to the Property, Owner shall have the right to give Town written notice of such condition and Town shall have a period of ninety (90) days after receipt of such written notice to repair, replace or perform the maintenance necessary to correct such condition. If Town fails to promptly undertake said repairs, maintenance or replacement within the ninety (90) day period, Owner or its successors in title shall be entitled to do so after prior written notice to Town and failure of Town to undertake to remedy such condition within thirty (30) days after receipt of such written notice.

3. Miscellaneous. This Agreement constitutes the entire agreement between the parties on this subject matter. No modification of this Agreement shall be binding unless in writing and signed by the party against which it is sought to be enforced. No waiver of any right or remedy shall be effective unless in writing and nevertheless shall not operate as a waiver of any other right or remedy or of the same right or remedy on a future occasion. This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. This Agreement shall be construed in accordance with the laws of the State of North Carolina without giving effect to its conflict of laws principles. All words and phrases used in this Agreement in any one number or gender shall be construed to include any other number or gender as the context requires. In the event that any legal action or demand for arbitration (if applicable) is filed in relation to this Agreement, the unsuccessful party in that proceeding shall pay to the successful party the latter's reasonable attorneys' fees in addition to any other relief recovered.

[The remainder of this page is intentionally blank. Signature pages follow]

IN WITNESS WHEREOF, this Agreement was executed and delivered this the date first written above.

OWNER:

GANDT DEVELOPMENT, L.L.C., a North Carolina limited liability company

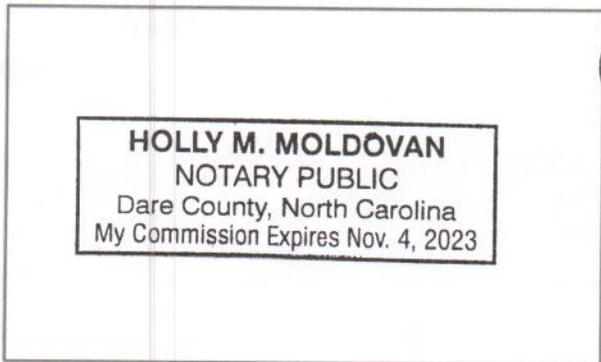
By: [Signature]
Name: GERRY WILKINS
Title: President

STATE OF North Carolina

COUNTY/CITY OF DARE

I certify that the following person(s) 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: Gerry Wilkins

Witness my hand and seal this A day of July, 2020.



[Signature]
Signature of Notary Public

Holly M Moldovan
Typed or printed name of Notary Public

My commission expires: Nov 4, 2023

Affix Notary Seal Inside This Box

[Signatures continue of the following page.]

IN TESTIMONY WHEREOF, The Town of Nags Head has caused this instrument to be executed in its name and behalf by its Mayor, attested by the Town Clerk and its seal affixed hereto, all as the act and deed of its Board of Commissioners, pursuant to a resolution adopted on the ____ day of _____, 20__, all the day and year first above written.

TOWN OF NAGS HEAD

By: _____
Benjamin Cahoon, Mayor

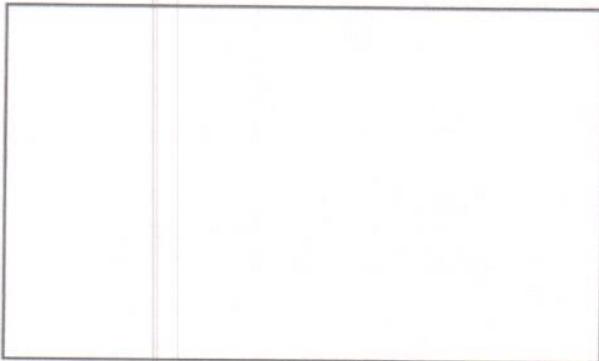
Attest:

Carolyn F. Morris, Town Clerk

STATE OF NORTH CAROLINA
COUNTY OF DARE

I, _____, a Notary Public of the County and State aforesaid, certify that Benjamin Cahoon personally came before me this day and acknowledged that he is Mayor of The Town of Nags Head, a North Carolina municipal corporation, and that by authority duly given and as the act of the town, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by Carolyn F. Morris, its Town Clerk.

Witness my hand and seal this ____ day of _____, 20____.



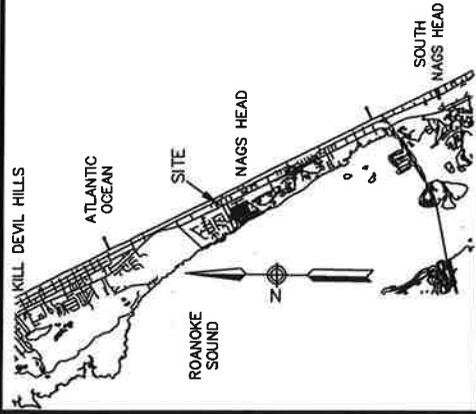
Signature of Notary Public

Typed or printed name of Notary Public

My commission expires: _____

Affix Notary Seal Inside This Box

EXHIBIT A
Plat Depicting Encroachments
(See attached)



VICINITY MAP (NTS)

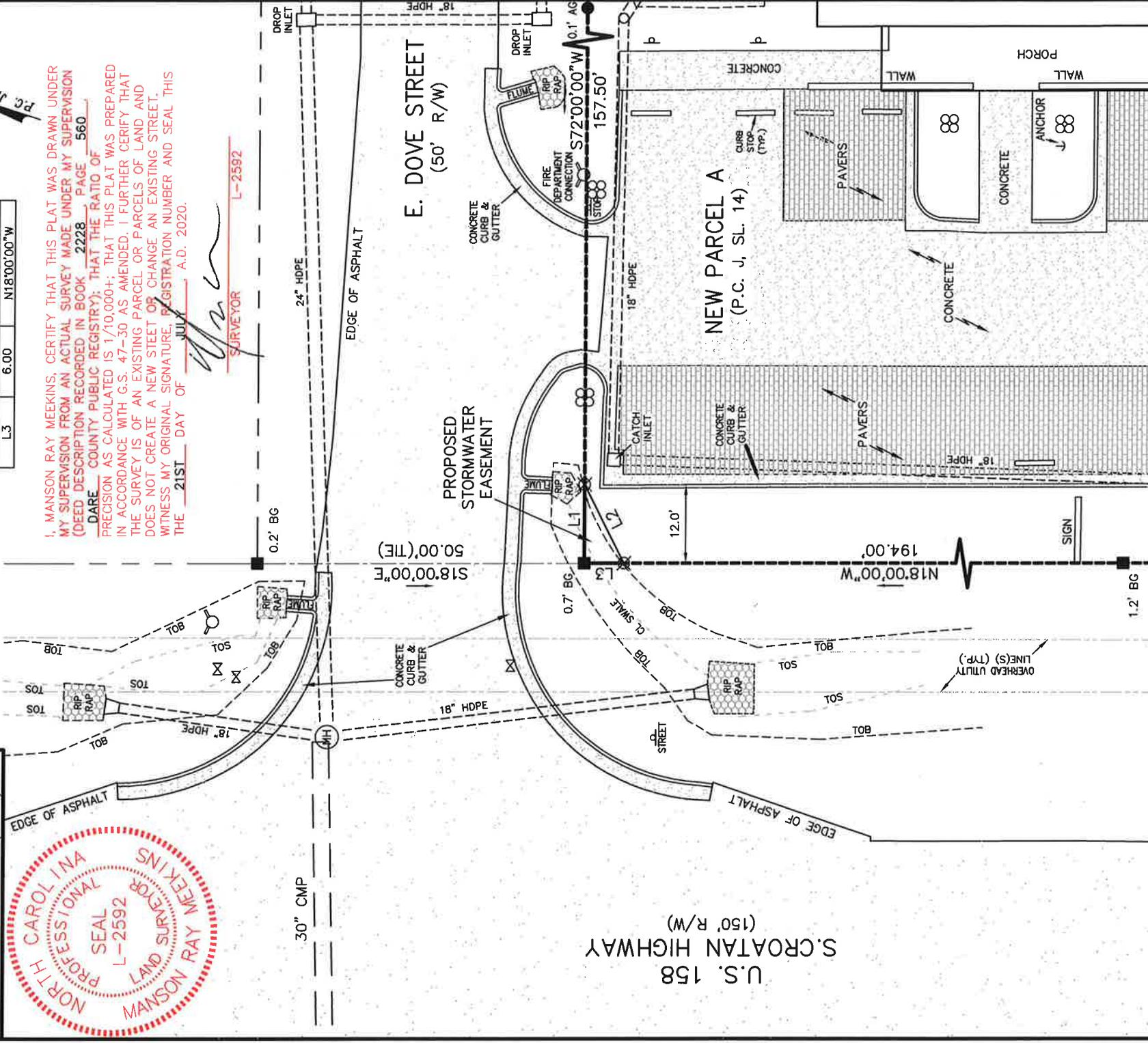
LEGEND

- - EX. 1" OPEN PIPE
- - EX. 1/2" REBAR
- - 8" WOOD PILING
- - EX. 4" X 4" CONC. MON.
- - EX. MAG NAIL
- ▲ - CALCULATED POINT
- ⊗ - FIRE HYDRANT
- ⊗ - WATER VALVE WITHIN CONCRETE COLLAR
- AG - ABOVE GRADE
- BG - BELOW GRADE
- PL - PROPERTY LINE
- CL - CENTERLINE
- TOB - TOP OF BANK
- TOS - TOE OF SLOPE

NOTES:

1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH AND EASEMENTS & RESTRICTIONS OF RECORD.
2. AREA BY COORDINATE COMPUTATION = 36 S.F.
3. F.I.R.M. ZONE: "X" (R.F.P.E.: 9.0')
4. PIN NO.: 14-080109-06-2755
5. RECORDED REFERENCE: P.C. J. SL. 14; D.B. 2228, PG. 560
6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
7. ELEVATIONS (NAVD 1988): N/A
8. THE EXISTING STORMWATER DRAINAGE INFRASTRUCTURE SHOWN HEREON ARE FROM PLAT ENTITLED "AS-BUILT SURVEY FOR GANDT DEVELOPMENT, LLC - DOVE STREET - 50' R/W", DATED AUGUST 23, 2019.

LINE	LENGTH	BEARING
L1	12.00	N72°00'00"E
L2	13.42	S45°26'06"W
L3	6.00	N18°00'00"W



SURVEYOR
L-2592

I, MANSON RAY MEEKINS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 2228, PAGE 560 DARE COUNTY PUBLIC REGISTRY); THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS THE 21ST DAY OF JULY, A.D. 2020.

U.S. 158
S. CROATIAN HIGHWAY
(150' R/W)

PLAT OF PROPOSED STORMWATER EASEMENT TO BE CONVEYED TO

TOWN OF NAGS HEAD

NEW PARCEL A - "RECOMBINATION PLAT FOR GANDT DEVELOPMENT, LLC"
NAGS HEAD - NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



1 inch = 20 ft.

FILE: 1808054-PARCELA-ESMT
SURVEYED: 06/03/20 JC PLATTED: 07/17/20 TG



SEABOARD SURVEYING & PLANNING, INC. C-1536
103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
OFFICE: (252) 480-9998 FAX: (252) 480-0571