

Melanie Arthur 5P
CARTERET COUNTY
JL Date 10/03/2005 Time 16:29:00
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NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at
the date and time and in the Book and Page shown
on the first page hereof.

Melanie Arthur, Register of Deeds
By [Signature]
Asst./Deputy Register of Deeds

RETURN TO: Kirkman, Whitford, Brady & Berryman, P.A.

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

Abandonment & Relocation of Easement

This Agreement is made for purposes of reference on the 3rd
day of October 2005, by and between The Town of Atlantic Beach, a
North Carolina municipal corporation (herein referred to as
"Town") and FMB of Atlantic Beach, LLC, a North Carolina limited
liability company (herein referred to as "FMB").

STATEMENT OF EXPLANATION

The Town and FMB, Inc. pursuant to N.C.G.S. §160A-457(4)
entered into a Contract for Purchase of Real Estate dated November
21, 2003, (herein the "Contract") for five parcels of land in and
around the area of Atlantic Beach, North Carolina commonly known
as "The Circle." FMB, Inc. has subsequently assigned its interest
in the contract to FMB of Atlantic Beach, LLC, an affiliate
(hereinafter "FMB"). FMB has been named by the Town as the
redeveloper of The Circle and is acquiring the property described
in the Contract for purposes of redeveloping The Circle.

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The Town has a perpetual easement for ingress and egress to the beach and the present Boardwalk, said easement being described in Book 356, Page 41, Carteret County Registry (herein referred to as the "Old Easement"). The Old Easement is located between two properties currently owned by FMB and described in Deed Book 1057, Page 464, Carteret County Registry (said property was previously occupied by Ziggy's By The Sea). The Contract provided the Town would release its interest in the Old Easement and in exchange FMB would grant an easement from Atlantic Boulevard to the Boardwalk along the western property line described in the above referenced deed.

STATEMENT OF AGREEMENT

For good and valuable consideration stated herein the parties hereto agree as follows:

1. **CONVEYANCE OF OLD EASEMENT.** In consideration of the New Easement, Town hereby grants, bargains, sells and conveys the Old Easement to FMB which easement area is described as follows:

In the Town of Atlantic Beach and beginning at a point in the North line of the property previously purchased by John M. Mettrey and James Paul Mettrey trading as Coin-op Amusement Company from Royal H. Spence, et ux, dated January 15, 1971, recorded in Book 324, Page 206, said beginning point being located South 82-50 East 264.45 feet from the East line of Lot No. 10, Block "D", as shown and designated on the official map of the Town of Atlantic Beach, which said map is duly recorded in the office of the Register of Deeds of Carteret

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County in Map Book 1, Page 131; and running thence South 7-10 West 177 feet to the South line of the Mettre property; thence South 82-50 East 10 feet to a point (a concrete wall); thence North 7-10 East 177.0 feet to a point in the southern margin of Atlantic Boulevard; thence North 82-50 West 10 feet to the point or place of beginning. Also, all of the land between the southern property line of the above described tract and the mean highwater mark of the Atlantic Ocean and bounded on the East and West by the East and West line extended of the above described tract, including riparian and littoral rights incident thereto.

2. **GRANT OF NEW EASEMENT.** In consideration of the closing and abandonment of the Old Easement, FMB hereby does give, grant, and convey a perpetual easement for purposes of ingress and egress from Atlantic Boulevard to the Boardwalk an easement ten (10) feet in width (herein referred to as the "New Easement") which is more particularly described as follows:

Beginning at a point in Atlantic Boulevard which is located the following two courses and distances from the southeast corner of the hotel property shown on that map recorded in Map Book 1, Page 149, Carteret County Registry: (1) N 7° 10" E, 177.00 feet and (2) N 82° 50" W, 43.6 feet to the point and place of beginning (said point also being the northwest corner of Tract 2 described in that deed into FMB of Atlantic Beach, LLC recorded in Deed Book 1057, page 464, Carteret County Registry), from said point and place of beginning running thence S 7° 10" W, 177.00 feet to a point in the boardwalk; thence with the boardwalk S 82° 50" E, 10.00 feet; thence N 7° 10" E, 177.00 feet to a point in Atlantic Boulevard; thence with the southern right of way of Atlantic Boulevard, N 82° 50" W, 10.00 feet to the point and place of beginning. Also all of the property within the extension of the eastern and western boundary lines of the above described tract between the southern property line and the mean highwater of the Atlantic Ocean.

3. **EFFECT.** The effect of this transaction is to

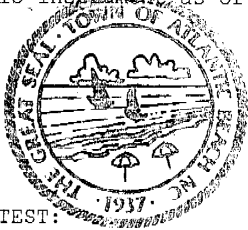
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extinguish the Old Easement as shown on that map recorded in Map Book 1, Page 111, Map Book 1, Page 104, Map Book 1, Page 131, and Map Book 2, Page 21 to create a new easement in the place thereof

4. **NO OBSTRUCTIONS.** The parties hereto shall keep the New Easement free from obstructions.

5. **RUNS WITH THE LAND.** The New Easement shall run with the title of FMB's property as described in that deed recorded in Deed Book 1057, Page 464, Carteret County Registry.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.



TOWN OF ATLANTIC BEACH

By:

Eddie Daniels
Mayor

ATTEST:

Sabrina Simpson
Sabrina Simpson - Deputy Clerk

FMB of Atlantic Beach, LLC

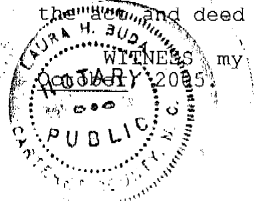
By:

Fred M. Bunn
Fred M. Bunn, Manager

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STATE OF NORTH CAROLINA
COUNTY OF CARTERET

I, Laura Buda, a Notary Public in and for the above-named State and County, do hereby certify that Eddie Dawkins personally appeared before me this date, who being by me duly sworn, says that she is the Mayor of the Town of Atlantic Beach and that she knows that Sabrina Simpson is the Deputy Clerk, and that she knows the common seal of the said Town; that the Town's name was subscribed to the within document by him as Mayor and was attested by its Deputy Clerk, with its seal thereto affixed, all by order of its Town Council duly given, and that the said instrument is the deed and deed of said Town.



Witness my hand and notarial seal, this the 3rd day of

Laura H. Buda
Notary Public

My Commission Expires: 7/13/08

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

I, Hilary B. Watrous, a Notary Public of the County and State aforesaid, certify that Fred M. Bunn, Member/Manager of FMB of Atlantic Beach, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 3rd day of October, 2005.

Hilary B. Watrous
Notary Public

My Commission Expires: 11/29/08



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