

Revenue Stamps \$ _____

PERMANENT UTILITY EASEMENT

THIS INSTRUMENT DRAWN BY Ben Sox CHECKED BY _____

RETURN TO: Division R/W Agent, NCDOT- Eric Ray
5501 Barbados Blvd.
Castle Hayne NC 28429

NORTH CAROLINA	TIP/PARCEL NUMBER: <u>U-6233 001</u>
COUNTY OF <u>New Hanover</u>	WBS ELEMENT: <u>48929.2.1</u>
TAX PARCEL <u>NA</u>	ROUTE: <u>US 421 and Hamlet Ave.</u>

THIS EASEMENT, made and entered into this the _____ day of _____ 20 _____
by and between Town of Carolina Beach
1121 N. Lake Park Blvd
Carolina Beach NC 28428

hereinafter referred to as GRANTORS, and the Department of Transportation, an agency of the State of North Carolina, 1546 Mail Service Center, Raleigh, NC 27611, hereinafter referred to as the Department;

WITNESSETH

THAT WHEREAS, the DEPARTMENT desires to construct and maintain a utility facility through and across the property of GRANTORS,

AND WHEREAS, GRANTORS, recognizing the benefits accruing to their said property through the construction and maintenance by the DEPARTMENT of roads and highways upon or in the vicinity of said property of GRANTORS,

NOW, THEREFORE, in consideration of said benefits, and further consideration of \$ 1.00 and other valuable considerations, GRANTORS hereby release the DEPARTMENT, its successors and assigns, from any and all claims for damages by reason of the construction and maintenance of said utility facility across and through the lands of GRANTORS, and GRANTORS hereby give, grant, bargain, sell and convey unto the DEPARTMENT, its successors, and assigns, an easement for the construction and maintenance of a utility facility across and through the property of GRANTORS located in Carolina Beach Township, New Hanover County, and being more fully described in a Plat recorded in Book 2, Page 1, New Hanover County Registry, said easement being described as follows:

Area 1: Commencing at an existing iron pin referenced as EIP-1 and having observed localized coordinates of Northing 104,504.19 Easting 2,334,704.83; running thence with the southern right-of-way line of Hamlet Avenue (50' Right-of-Way) S 73-28-29 E 65.00' to set iron pin at the southwest most corner of said 0.069 acre Utility Easement and Place of Beginning; running thence continuing with the northern right-of-way line of Hamlet Avenue S 73-28-29 E 60.00' to a set iron pin at the southwest most intersection corner of Hamlet Avenue & Lake Park Boulevard (US 421) said point also being the southeast most corner of said 0.069 Acre Tract; running thence leaving the southern right-of-way line of said Hamlet Avenue with the said western right-of-way of said Lake Park Boulevard (80' Right-of-Way) N 16-34-12 E 50.00 feet to an existing iron pin at the northwest most intersection corner of Hamlet Avenue & Lake Park Boulevard (US 421) said point also being the northeast most corner of said 0.069 Acre Tract; running thence leaving the western right-of-way line of said Lake Park Boulevard with the said northern right-of-way of said Hamlet Avenue N 73-28-29 W 60.00 feet to a new iron pin said point being the northwest most corner of said 0.069 acre tract; running thence leaving the said northern right-of-way of said Hamlet Avenue S 16-34-12 W 50.00 feet to the Place of Beginning.

Area 2: Commencing at an existing iron pin referenced as EIP-1 and having observed localized coordinates of Northing 104,504.19 Easting 2,334,704.83; running thence with the southern right-of-way line of Hamlet Avenue (50' Right-of-Way)S 73-28-29 E 205.00' to an existing iron pin at the southeast most intersection corner of Hamlet Avenue & Lake Park Boulevard (US 421) said point also being southwest most corner of said 0.069 acre Utility Easement and Place of Beginning; running thence leaving the northern right-of-way line of Hamlet Avenue with the eastern right-of-way line of Lake Park Boulevard (US 421) (80' Right-of-Way)N 16-34-12 E 50.00' to set iron pin at the northeast most intersection corner of Hamlet Avenue & Lake Park Boulevard (US 421) said point also being the northwest most corner of said 0.069 Acre Tract; running thence leaving the eastern right-of-way line of said Lake Park Boulevard with the northern right-of-way of said Hamlet Avenue S 73-28-29 E 60.00' to set iron pin at the northeast most corner of said 0.069 acre tract; running thence leaving the said northern right-of-way of said Hamlet Avenue S 16-34-12 W 50.00 feet to a set iron pin at the southeast most corner of said 0.069 acre tract at the southern right-of-way of said hamlet Avenue; running thence with the said southern right-of-way of said Hamlet Avenue N 73-28-29 W 60.00 feet to the Place of Beginning

The final right of way plans showing the above described area are to be certified and recorded in the Office of the Register of Deeds for said county pursuant to N.C.G.S. 136-19.4, reference to which plans is hereby made for purposes of further description and for greater certainty.

Said Permanent Utility Easement in perpetuity is for the installation and maintenance of utilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents or assigns shall have the right to construct and maintain in a proper manner in, upon and through said premises utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said utility lines, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress. The underlying fee owner shall have the right to continue to use the Permanent Utility Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent utility easement area(s). It is further understood and agreed that Permanent Utility Easement shall be used by the Department for additional working area during the above described project.

This easement is subject to the following provisions only:

NA

There are no conditions to this EASEMENT not expressed herein.

To HAVE AND TO HOLD said perpetual easement for highway purposes unto the DEPARTMENT, its successors and assigns, and the GRANTORS, for themselves, their heirs, successors, executors and assigns, hereby warrant and covenant that they are the sole owners of the property; that they solely have the right to grant the easement; and that they will forever warrant and defend title to the same against the lawful claims of all persons whomsoever;

The Grantors acknowledge that the project plans for Project # U-6233 have been made available to them. The Grantors further acknowledge that the consideration stated herein is full and just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the acquisition of the said interests and areas by the Department of Transportation and for any and all damages to the value of their remaining property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project # U-6233, New Hanover County; and for the past and future use of said areas by the Department of Transportation, its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.

IN WITNESS WHEREOF, GRANTOR, pursuant to a resolution dated _____, has caused this instrument to be signed in its corporate name by its MAYOR, its corporate seal hereto affixed, and attested by its Town CLERK, by order of the Carolina Beach Town COUNCIL, this the day and year first above written

This instrument does not transfer the herein described interests unless and until this document is accepted by an authorized agent of the Department of Transportation.

Town of Carolina Beach

(CORPORATE SEAL)

BY: _____
Lynn Barbee, Mayor Town of Carolina Beach

ATTEST: _____
Kim Ward, Clerk of the Town of Carolina Beach

ACCEPTED FOR THE DEPARTMENT OF
TRANSPORTATION BY:

(Official Seal)	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, certify that _____ personally came before me this day and acknowledged that he/she is the CLERK of the TOWN OF <u> Carolina Beach </u> , and that by authority duly given, the foregoing instrument was signed in its name by its MAYOR of the TOWN OF Carolina Beach sealed with its corporate seal, and attested by _____ as its TOWN CLERK.
	Witness my hand and official seal this the _____ day of _____, 20 ____.
	_____ Notary Public My commission expires: