



# TOWN OF CAPE ELIZABETH

## PUBLIC WORKS DEPARTMENT

10 COOPER DRIVE  
CAPE ELIZABETH, MAINE 04107

ROBERT C. MALLEY  
PUBLIC WORKS DIRECTOR  
TEL. 799-4151  
FAX 799-4426  
E-MAIL: robert.malley@capeelizabeth.org

To: Matthew Sturgis, Town Manager

From: Robert C. Malley, Director of Public Works 

Date: September 18, 2019

Re: Consideration & Acceptance of Drainage Easements

In the fall of 2017, the Town worked cooperatively with multiple property owners in the Wood Road area of the Oakhurst neighborhood to relocate an existing storm drain. The purpose was to move the line to accommodate a proposed addition to a dwelling unit located at 34 Oakhurst Road. In the course of preliminary engineering for the project it was discovered that no recorded documents could be found in the Registry of Deeds to document an agreement with a previous property owner and the Town of Cape Elizabeth with the regard to any easement for the existing pipe. After enlisting the services of our Town Attorney (Tom Leahy) he informed us that between 1951 and 1962 there were probable discussions with the town about a ten foot wide easement with this previous property owner but there was no record evidence to document the easement.

As part of the relocation of a portion of the existing pipe and the upgrade of the segment not part of this relocation, the Mr. Leahy recommended that new easements be formalized with the affected property owners. This would allow the town perpetual rights to inspect, maintain and replace the stormwater infrastructure as needed. Though the drainage infrastructure was installed in the fall of 2017, the permanent drainage easements weren't fully secured until earlier this year. Though we are still awaiting a "Joinder Agreement" from one of the properties, we would like have the Town Council consider these for acceptance at this time in the event one of the properties is transferred and/or sold in the future before that agreement is provided to us. As soon as that is provided, we will forward that along for consideration. A "Joinder Agreement" protects the Town if the property is foreclosed upon. That action is not foreseen for the property in question.

# MONAGHAN LEAHY, LLP

ATTORNEYS AT LAW

THOMAS G. LEAHY  
KEVIN G. LIBBY  
CHRISTOPHER C. DINAN  
JOHN J. WALL, III  
KENNETH D. PIERCE  
CORNELIA S. FUCHS  
NICHOLAS R. LOUKES  
MATTHEW K. LIBBY

95 EXCHANGE STREET  
P.O. BOX 7046  
PORTLAND, MAINE  
04112-7046

THOMAS F. MONAGHAN  
RETIRED

TEL 207-774-3906  
FAX 207-774-3833

[tleahy@monaghanleahy.com](mailto:t Leahy@monaghanleahy.com)

May 2, 2016

Robert C. Malley, Director  
Public Work Department  
Town of Cape Elizabeth  
320 Ocean House Road  
P.O. Box 6260  
Cape Elizabeth, ME 04107

*Electronic Mail*

Re: 34 Oakhurst Road Storm Water Easement

Dear Bob:

From the email of April 28, 2016 and the thread of emails with Colin Lamb, I understand Mr. Lamb would like to make an addition to his home at 34 Oakhurst Road, however the existence and location of an easement to the Town of Cape Elizabeth to maintain a storm water drain pipe across his property has risen. Your email suggests some need to address the age and functionality of the current pipe and with potential repair or replacement thereof, possibly a need to review the existing easement of adjacent downstream parcels. The downstream parcels would be lots at 30 Oakhurst Road, owned by Thomas E. Ruff, as Trustee of his Revocable Trust and 64 Wood Road, owned by Jean Haron, Sandy Simpson and Susan DeCesare.

All three parcels came from the same common grantor, I. Alan Balfour. He obtained the property (along with several other parcels) in 1951 by deed from Maine Savings & Loan Association, dated May 15, 1951 and recorded in Book 2046, Page 223, Cumberland County Registry of Deeds. These parcels are described as lots on a plan entitled "Plan of Oakhurst" recorded in Plan Book 15, Page 49.

### **34 Oakhurst Road (Tax Map U04, Lot 71)**

34 Oakhurst Road is owned by Colin and Amanda Lamb by virtue of a deed from Joan Stephanie Rose, f/k/a Joan S. Rosenberg, dated August 16, 2010, recorded in Book 27999, Page 116. It is described as being Lots 26 and 27 on a plan of Oakhurst, Plan Book 15, Page 49. This parcel was conveyed out by I. Alan Balfour to Helen W. Rozelle in 1951 (Book 2063, Page 175) and it was conveyed together with an appurtenant easement as follows:

Mr. Malley  
May 2, 2016  
Page 2

“Also conveying as appurtenant to the premises hereby conveyed (*lots 26 and 27*) the right to maintain a ditch or drain as now constructed by me (*I. Alan Balfour*) from said land along the line between lots numbered 25 and 28 on said plan (*Plan Book 15, Page 49*) easterly to Wood Road.” (Book 2063, Page 175)

Helen W. Rozelle thereafter conveyed the property to Barbara Bates in 1962 and included the above easement, together with a servient easement:

“The above described premises are hereby conveyed subject to the right of way ten feet in width and other rights heretofore granted by said Helen W. Rozelle to Inhabitants of the Town of Cape Elizabeth.” (Book 2704, Page 164).

Apparently sometime between 1951 and 1962 Helen W. Rozelle must have had a discussion with the town about the ten foot wide easement however there is no record evidence indexed under Helen Rozelle’s name in the Registry of Deeds to document the easement. I looked back under the prior owner, I. Alan Balfour, and did not find an easement to the town under his name either.

### **30 Oakhurst Road (Tax Map U4, Lot 70)**

30 Oakhurst Road is owned by Thomas E. Ruff, Trustee of the Thomas E. Ruff Revocable Trust dated September 29, 1998, by virtue of deed from Ross McPherson dated June 30, 2015 and recorded in Book 32429, Page 238. It is described as being Lot 25 on the Oakhurst Plan. This lot was conveyed out by I. Alan Balfour in 1953 by deed to Cymbid Hughes, Book 2127, Page 322. At the time it was conveyed, it was described as subject to the following easement:

“This conveyance is subject to the drainage rights granted to Helen W. Rozelle and to the Town of Cape Elizabeth.” (Book 2127, Page 322)

### **64 Wood Road (Tax Map U4, Lot 69)**

64 Wood Road is owned now by Jean Haron, Sandy Simpson and Susan DeCesare by deed dated January 21, 2009 and recorded in Book 26571, Page 137. It is described as lot 28 on the Oakhurst Plan. It was conveyed out by I. Alan Balfour in 1953 to Lilian K. Scott by deed recorded in Book 2150, Page 183, and at that time it was conveyed subject to the following easement:

“This conveyance is subject to the drainage rights granted to Helen W. Rozelle and to the Town of Cape Elizabeth.” (Book 2150, Page 183)

In conclusion, there is no recorded instrument that we could find that documents the agreement between Helen Rozelle and the Town of Cape Elizabeth with regard to the easement.

Mr. Malley  
May 2, 2016  
Page 3

It is apparent that there was an intention for Helen to convey an easement to the Town, and it was also anticipated by I. Alan Balfour when he conveyed out Lots 26 and 27 to her together with an easement across Lots 25 (30 Oakhurst) and 28 (64 Wood) to connect the contemplated easement to the catch basin on the north side of Wood Road.

The intent is particularly clear where the deed into the Lamb chain of title states:

“The above described premises are hereby conveyed subject to the right of way ten feet in width and other rights heretofore granted by said Helen W. Rozelle to Inhabitants of the Town of Cape Elizabeth.”

We suggest you make a diligent search of the Town's records to see if there is an easement deed from Helen W. Rozelle to the Town between 1951 and 1962, the latter being the date she conveyed 34 Oakhurst Road to Barbara Bates. If an easement cannot be found, we would be glad to prepare one and in support thereof would point out the Lamb chain of deeds indicates it was the intent to convey this easement and that a drainage pipe structure was placed upon his property. It obviously would connect to where the common boundary line exists between lots 34 Oakhurst Drive and 64 Wood Road.

The additional issue raised by Mr. Lamb is as to possible relocation of the existing easement and drainage pipe. Obviously the starting point should be a survey to locate where the pipe is actually located upon his property. He references in his email that it may in fact be under his deck. Assuming the existing pipe is under his deck, or in a location that would be covered by his proposed addition, then, the next question is whether from an engineering point of view it is feasible to relocate such easement to a different location upon his lot, presumably such move at Mr. Lamb's expense.

I attach copies of the deeds from I. Alan Balfour to each of his initial grantees. You will note that the deeds for 30 Oakhurst Road and 64 Wood Road subject those parcels “to the drainage rights granted to Helen W. Rozelle and to the Town of Cape Elizabeth.” This runs along their common boundary to Wood Road as stated above. We also enclose copies of the relevant tax map for the town and the Oakhurst Park Plan from which these lots were derived.

Please advise if we can assist further.

Best regards,

Monaghan Leahy, LLP

Thomas G. Leahy  
By Thomas G. Leahy, Esq.

TGL/kmd  
Enclosure

Cc: Michael K. McGovern, Town Manager

## DRAINAGE EASEMENT

COLIN LAMB AND AMANDA LAMB, individuals from the town of Cape Elizabeth, Cumberland County, State of Maine, ("Grantors"), owners of the real property and improvements more particularly described in the Deed (as defined herein) ("Grantors' Property") for consideration paid to its full satisfaction from the TOWN OF CAPE ELIZABETH, a municipal body, corporate and politic with a principal office at, and a mailing address of, 325 Ocean House Road, Cape Elizabeth, Maine 04107 ("Grantee"), do hereby give, grant, bargain and confirm unto Grantee, its successors and assigns, a non-exclusive, perpetual easement to construct, install, inspect, maintain and replace storm water drainage infrastructure, including, but not limited to, pipes, pumps, culverts and catch basins (collectively, the "Drainage Infrastructure"), and to drain stormwater into, on, over, through and across, so much of Grantors' Property located between Wood Road and High Bluff Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine, as described on EXHIBIT A attached hereto and as shown on Site Plan shown on EXHIBIT B, attached hereto and made apart hereof (the "Easement Area"), subject to the terms and conditions set forth herein.

Grantee shall have the right to enter upon and disturb the Easement Area, only to the extent necessary to construct, install, inspect, maintain and replace the Drainage Infrastructure, including the stockpiling of earth and construction materials; provided, however, Grantee agrees to restore the Easement Area and the Grantors' Property, including any disrupted pavement, lawns, shrubs or trees to their condition prior to installation of the Drainage Infrastructure by Grantee to the extent reasonably possible.

Grantee shall promptly pay when due the entire cost of all work done by Grantee, its agents and assigns that affects the Drainage Infrastructure and shall keep the Easement Area free of all liens for labor or materials arising from its exercise of its rights hereunder.

Grantors hereby reserve to their successors and assigns, as the case may be, the right to use the Easement Area and the lands of the Grantors adjacent to the Easement Area for any use and purpose which does not in any way interfere with the use of said Easement Area by the Grantee in the exercise of the easement rights herein granted.

By acceptance of this grant, the Town of Cape Elizabeth covenants and agrees to the terms set forth herein.

Reference may be made to deed from deed from Jean Haron to Jean Haron, Sandy Simpson and Susan DeCesare, dated January 21, 2009 and recorded in the Cumberland County Registry of Deeds in Book 26571, Page 137 (the "Deed").

*[Remainder of Page Intentionally Blank]*

IN WITNESS WHEREOF, Colin Lamb and Amanda Lamb have executed this instrument this 24 day of July, 2018.

Teresa D. Olson  
Witness

Colin Lamb  
Colin Lamb

Teresa D. Olson  
Witness

Amanda E Lamb  
Amanda Lamb

STATE OF MAINE  
CUMBERLAND, SS.

7/24, 2018

Then personally appeared the above-named Colin Lamb and Amanda Lamb, and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Antonietta J. Sweeney  
Notary Public/Maine Attorney at Law  
ANTONIETTA J. SWEENEY  
Notary Public, Maine

My Commission Expires September 11, 2021

Printed Name  
My commission expires:

**EXHIBIT A**

**Easement Area (Legal Description)**

A certain easement situated between Wood Road and High Bluff Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine shown on an Exhibit B of a Storm Drainage Easement by Sebago Technics, Inc. (Project number 16296) dated July 6, 2018 and being more particularly bounded and described as follows:

Beginning at a point on the easterly sideline of High Bluff Road and the westerly sideline of land now or formerly of Colin and Amanda Lamb as described in Deed Book 27999, Page 116 and being S 28°-27'-49" E, a distance of 61.70 feet from a ¼ -inch iron pipe on the southerly side of Oakhurst Street at the intersection with the easterly side of High Bluff Road;

Thence S 84°-30'-13" E, through land of Lamb, a distance of 58.96 feet to a point;

Thence N 08°-02'-24" E, through land of said Lamb, a distance of 38.57 feet to a point;

Thence N 62°-42'-21" E, through land of Lamb, a distance of 6.67 feet to land now or formerly of Thomas E. Ruff Revocable Trust as described in Deed Book 25292, Page 348;

Thence S 37°-40'-25" E, along land now or formerly of Thomas E Ruff Revocable Trust, a distance of 15.25 feet to a point;

Thence S 62°-42'-21" W, through land of Lamb, a distance of 1.67 feet to a point;

Thence S 08°-02'-24" W, through land of Lamb, a distance of 45.17 feet to a point;

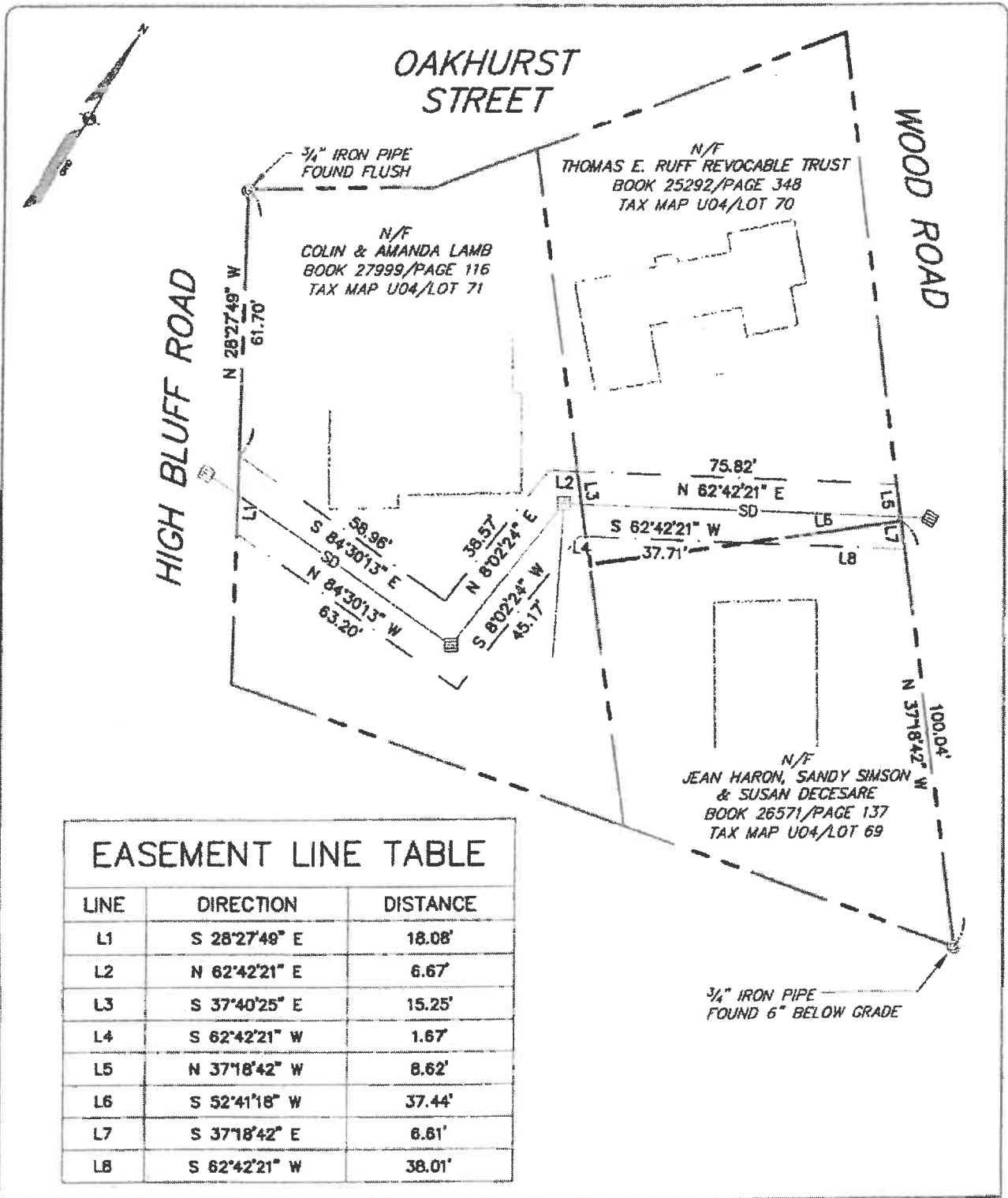
Thence N 84°-30'-13" W, through land of Lamb, a distance of 63.20 feet to the easterly side of High Bluff Road;

Thence N 28°-27'-49" W along High Bluff Road, a distance of 18.01 feet to the Point of Beginning.

The total area of the above-described easement is approximately 1,607 square feet.

Meaning and intending to describe a 15-foot wide drainage easement centered on a new storm drain line and associated structures and being over a portion of the land described in a deed to Colin and Amanda Lamb recorded in the Cumberland County Registry of Deeds in Book 27999, Page 116.

Bearings herein are based on Grid North, Maine State Plane Coordinate System, West Zone 1802, NAD83.



EASEMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S 28°27'49" E	18.08'
L2	N 62°42'21" E	6.67'
L3	S 37°40'25" E	15.25'
L4	S 62°42'21" W	1.67'
L5	N 37°18'42" W	8.62'
L6	S 52°41'18" W	37.44'
L7	S 37°18'42" E	6.81'
L8	S 62°42'21" W	38.01'

<p>78 John Roberts Rd. Dunbar, ME 04108 Tel. 207-200-2100</p>	<b>EXHIBIT B</b> <b>OF A STORM DRAINAGE EASEMENT</b>		SCALE: 1" = 30' DATE: 7/6/18
	LOCATION: HIGH BLUFF & WOOD ROAD CAPE ELIZABETH, MAINE	FOR: TOWN OF CAPE ELIZABETH 10 COOPER DRIVE	SHEET: 1 OF 1



CONSENT AND JOINDER OF MORTGAGEE

For valuable consideration given, the receipt and sufficiency of which is hereby acknowledged Kennebunk Savings Bank, holder of a mortgage from Colin Lamb and Amanda Lamb, individuals residing in the Town of Cape Elizabeth, County of Cumberland and State of Maine, which mortgage is upon premises commonly known as 34 Oakhurst Road in said Town of Cape Elizabeth and which mortgage is dated July 18, 2017 and recorded in the Cumberland County Registry of Deeds in Book 34188, Page 320, does hereby consent to the grant of the Easement and Agreement to and with the Town of Cape Elizabeth dated effective as of January 11, 2019, a copy of which Easement and Agreement is attached hereto, join as a holder of the above described mortgage in the granting of the easement therein to the Town of Cape Elizabeth, its successors or assigns, and agree that in the exercise of its rights under the mortgage that it will recognize and agree to be bound by the terms and provisions thereof.

IN WITNESS WHERE OF, Kennebunk Savings Bank has caused this instrument to be executed this 11th day of January, 2019.

WITNESS:

KENNEBUNK SAVINGS BANK



By Sharon L. Royce  
Its Vice President

STATE OF Maine  
York, SS.

January 11, 2019

Personally appeared the above named Sharon L. Royce, in ~~his~~ her capacity as Vice President of Kennebunk Savings Bank, and acknowledged the foregoing instrument to be ~~his~~ her free act and deed in said capacity and the free act and deed of Kennebunk Savings Bank.

Before me



Notary Public - State of Maine

Lori L. Johnson

Printed Name

My commission expires: June 18, 2019

CONSENT AND JOINDER OF MORTGAGEE

Mortgage Electronic Registration Systems, Inc.  
P.O. Box 2026  
Flint, MI 48501-2026  
Tel (888)679-MERS

MIN 1002041-2823020033-0

For valuable consideration given, the receipt and sufficiency of which is hereby acknowledged Mortgage Electronic Registration Systems, Inc., holder of a mortgage from Colin Lamb and Amanda Lamb, individuals residing in the Town of Cape Elizabeth, County of Cumberland and State of Maine, which mortgage is upon premises commonly known as 34 Oakhurst Road in said Town of Cape Elizabeth and which mortgage is dated March 8, 2013 and recorded in the Cumberland County Registry of Deeds in Book 30467, Page 330, does hereby consent to the grant of the Easement and Agreement to and with the Town of Cape Elizabeth dated effective as of January 3rd, 2019, a copy of which Easement and Agreement is attached hereto, join as a holder of the above described mortgage in the granting of the easement therein to the **Town of Cape Elizabeth**, its successors or assigns, and agree that in the exercise of its rights under the mortgage that it will recognize and agree to be bound by the terms and provisions thereof.

IN WITNESS WHERE OF, Mortgage Electronic Registration Systems, Inc. has caused this instrument to be executed this 03 day of January, 2019.

WITNESS:

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

Kathleen Timmsen  
Kathleen Timmsen

Harvey M. Corvins  
By Harvey M. Corvins  
Its A.N.P.

STATE OF \_\_\_\_\_, SS. \_\_\_\_\_, 2019

Personally appeared the above named \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of Mortgage Electronic Registration Systems, Inc., and acknowledged the foregoing instrument to be his/her free act and deed in said capacity and the free act and deed of Mortgage Electronic Registration Systems, Inc.

*see attached*

Before me,

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sonoma )

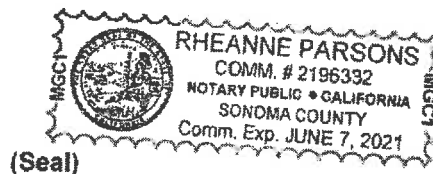
On 1/3/2019 before me, Rheanne Parsons, notary public  
(insert name and title of the officer)

personally appeared Karen M. Corkins  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rheanne Parsons



## **DRAINAGE EASEMENT**

**THOMAS E. RUFF, TRUSTEE OF THE THOMAS E. RUFF REVOCABLE TRUST DATED SEPTEMBER 29, 1998**, from the town of Cape Elizabeth, Cumberland County, State of Maine, (“Grantor”), owner of the real property and improvements more particularly described in the Deed (as defined herein) (“Grantor’s Property”) for consideration paid to its full satisfaction from the **TOWN OF CAPE ELIZABETH**, a municipal body, corporate and politic with a principal office at, and a mailing address of, 325 Ocean House Road, Cape Elizabeth, Maine 04107 (“Grantee”), do hereby give, grant, bargain and confirm unto Grantee, its successors and assigns, a non-exclusive, perpetual easement to construct, install, inspect, maintain and replace storm water drainage infrastructure, including, but not limited to, pipes, pumps, culverts and catch basins (collectively, the “Drainage Infrastructure”), and to drain stormwater into, on, over, through and across, so much of Grantor’s Property located between Wood Road and High Bluff Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine, as described on **EXHIBIT A** attached hereto and as shown on Site Plan shown on **EXHIBIT B**, attached hereto and made apart hereof (the “Easement Area”), subject to the terms and conditions set forth herein.

Grantee shall have the right to enter upon and disturb the Easement Area, only to the extent necessary to construct, install, inspect, maintain and replace the Drainage Infrastructure, including the stockpiling of earth and construction materials; provided, however, Grantee agrees to restore the Easement Area and the Grantors’ Property, including any disrupted pavement, lawns, shrubs or trees to their condition prior to installation of the Drainage Infrastructure by Grantee to the extent reasonably possible.

Grantee shall promptly pay when due the entire cost of all work done by Grantee, its agents and assigns that affects the Drainage Infrastructure and shall keep the Easement Area free of all liens for labor or materials arising from its exercise of its rights hereunder.

Grantors hereby reserve to their successors and assigns, as the case may be, the right to use the Easement Area and the lands of the Grantors adjacent to the Easement Area for any use and purpose which does not in any way interfere with the use of said Easement Area by the Grantee in the exercise of the easement rights herein granted.

By acceptance of this grant, the Town of Cape Elizabeth covenants and agrees to the terms set forth herein.

Reference may be made to deed from deed from Ross McPherson to Thomas E. Ruff, Trustee of the Thomas E. Ruff Revocable Trust dated September 29, 1998, which deed is dated June 30, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32429, Page 238. (the “Deed”).

IN WITNESS WHEREOF, Thomas E. Ruff, in his capacity as Trustee of the Thomas E. Ruff Revocable Trust dated September 29, 1998, has executed this instrument this 18 day of July, 2018.

**THOMAS E. RUFF REVOCABLE TRUST  
DATED SEPTEMBER 29, 1998**

[Signature]  
Witness

[Signature]  
By: Thomas E. Ruff, Trustee

STATE OF MAINE  
CUMBERLAND, SS.

7/18, 2018

Then personally appeared the above-named Thomas E. Ruff, Trustee of the Thomas E. Ruff Revocable Trust dated September 29, 1998, and acknowledged the foregoing instrument to be his free act and deed as Trustee and the free act and deed of said Trust.

Before me,

[Signature]

Notary Public/Maine Attorney at Law  
ANTONIETTA J. SWEENEY  
Notary Public, Maine  
My Commission Expires September 11, 2021

Printed Name

My commission expires:

## EXHIBIT A

### Easement Area (Legal Description)

A certain easement situated between Wood Road and High Bluff Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine shown on an Exhibit B of a Storm Drainage Easement by Sebago Technics, Inc. (Project number 16296) dated July 6, 2018 and being more particularly bounded and described as follows:

Beginning at a point on the southwesterly side of Wood Road and land now or formerly of Thomas E Ruff Revocable Trust as described in Deed Book 25292, Page 348 and being N 37°-18'-42" W, a distance of 100.04 feet from a ¾ -inch iron pipe at the southeasterly corner of land now or formerly of Jean Haron, Sandy Simson and Susan Decesare as described in Deed Book 26571, Page 137;

Thence S 52°-41'-18" W, along land now or formerly of Haron, Simson and Decesare, a distance of 37.44 feet to a point;

Thence S 62°-42'-21" W, through land of Ruff, a distance of 37.71 feet to a point at land now or formerly of Colin and Amanda Lamb as described in Deed Book 27999, Page 116;

Thence N 37°-40'-25" W along land now or formerly of Lamb, a distance of 15.25 feet to a point;

Thence N 62°-42'-21" E, through land of Ruff, a distance of 75.82 feet to the westerly side of Wood Road;

Thence S 37°-18'-42" E, along the westerly side of Wood Road, a distance of 8.62 feet to the Point of Beginning.

The total area of the above-described easement is approximately 1,013 square feet.

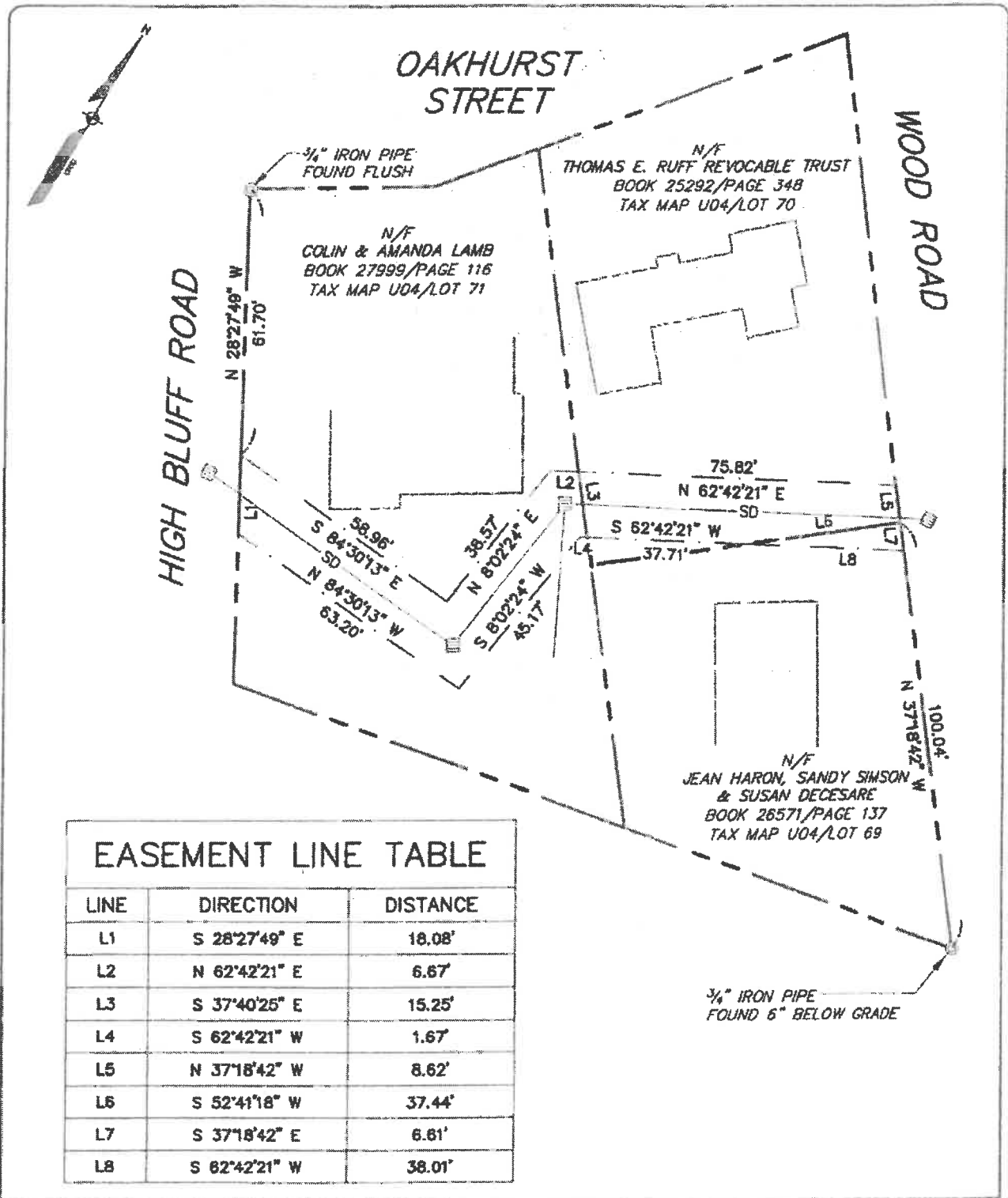
Meaning and intending to describe a portion of a 15-foot wide drainage easement centered on a new storm drain line and associated structures and being over a portion of the land described in a deed to Thomas E. Ruff Revocable Trust recorded in the Cumberland County Registry of Deeds in Book 25292, Page 348.

Bearings herein are based on Grid North, Maine State Plane Coordinate System, West Zone 1802, NAD83.

**EXHIBIT B**

**Easement Area (Site Plan)**

**See Attached Site Plan**



76 John Roberts Rd.  
Suite 44  
South Portland, ME 04106  
Tel. 207-200-2100

**EXHIBIT B**  
**OF A STORM DRAINAGE EASEMENT**

**LOCATION:**  
HIGH BLUFF & WOOD ROAD  
CAPE ELIZABETH, MAINE

**FOR:**  
TOWN OF CAPE ELIZABETH  
10 COOPER DRIVE

**SCALE:** 1" = 30'

**DATE:** 7/6/18

**SHEET:**  
1 OF 1



## **DRAINAGE EASEMENT**

**JEAN HARON, SANDY SIMPSON and SUSAN DECESARE**, individuals from the town of Cape Elizabeth, Cumberland County, State of Maine, (“**Grantors**”), owners of the real property and improvements more particularly described in the Deed (as defined herein) (“**Grantors’ Property**”) for consideration paid to its full satisfaction from the **TOWN OF CAPE ELIZABETH**, a municipal body, corporate and politic with a principal office at, and a mailing address of, 325 Ocean House Road, Cape Elizabeth, Maine 04107 (“**Grantee**”), do hereby give, grant, bargain and confirm unto Grantee, its successors and assigns, a non-exclusive, perpetual easement to construct, install, inspect, maintain and replace storm water drainage infrastructure, including, but not limited to, pipes, pumps, culverts and catch basins (collectively, the “**Drainage Infrastructure**”), and to drain stormwater into, on, over, through and across, so much of Grantors’ Property located between Wood Road and High Bluff Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine, as described on **EXHIBIT A** attached hereto and as shown on Site Plan shown on **EXHIBIT B**, attached hereto and made apart hereof (the “**Easement Area**”), subject to the terms and conditions set forth herein.

Grantee shall have the right to enter upon and disturb the Easement Area, only to the extent necessary to construct, install, inspect, maintain and replace the Drainage Infrastructure, including the stockpiling of earth and construction materials; provided, however, Grantee agrees to restore the Easement Area and the Grantors’ Property, including any disrupted pavement, lawns, shrubs or trees to their condition prior to installation of the Drainage Infrastructure by Grantee to the extent reasonably possible.

Grantee shall promptly pay when due the entire cost of all work done by Grantee, its agents and assigns that affects the Drainage Infrastructure and shall keep the Easement Area free of all liens for labor or materials arising from its exercise of its rights hereunder.

Grantors hereby reserve to their successors and assigns, as the case may be, the right to use the Easement Area and the lands of the Grantors adjacent to the Easement Area for any use and purpose which does not in any way interfere with the use of said Easement Area by the Grantee in the exercise of the easement rights herein granted.

By acceptance of this grant, the Town of Cape Elizabeth covenants and agrees to the terms set forth herein.

Reference may be made to deed from deed from Jean Haron to Jean Haron, Sandy Simpson and Susan DeCesare, dated January 21, 2009 and recorded in the Cumberland County Registry of Deeds in Book 26571, Page 137 (the “**Deed**”).

*[Remainder of Page Intentionally Blank]*

IN WITNESS WHEREOF, Jean Haron, has executed this instrument this 7 day of MARCH, ~~2018~~. 2019

[Signature]  
Witness

Jean Haron  
Jean Haron

STATE OF MAINE  
CUMBERLAND, SS.

March 7, 2018-2019

Then personally appeared the above-named Jean Haron, and acknowledged the foregoing instrument to be her free act and deed.

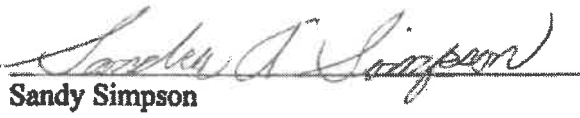
Before me,

Teresa D. Olsen  
Notary Public/Maine Attorney at Law

Teresa D Olsen  
Notary Public, Maine  
Printed Name  
My commission expires: My Commission Expires October 11, 2025

IN WITNESS WHEREOF, Sandy Simpson has executed this instrument this 8 day of MARCH, 2018.

  
Witness

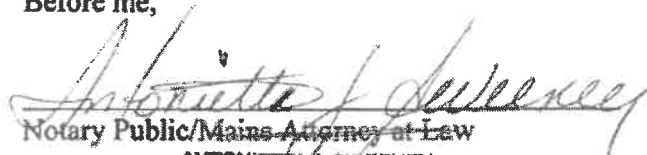
  
Sandy Simpson

STATE OF MAINE  
CUMBERLAND, SS.

March 8, 2019

Then personally appeared the above-named Sandy Simpson, and acknowledged the foregoing instrument to be her free act and deed.

Before me,



Notary Public/Maine Attorney at Law

ANTONIETTA J. SWEENEY

Notary Public, Maine

My Commission Expires September 11, 2021

Printed Name

My commission expires:

IN WITNESS WHEREOF, Susan DeCesare has executed this instrument this 14 day of March, 201~~8~~<sup>9</sup>.

*Antoinette J. Sullivan* Susan DeCesare  
Witness Susan DeCesare

STATE OF MAINE  
CUMBERLAND, SS.

March 14, 201~~8~~<sup>9</sup>

Then personally appeared the above-named Susan DeCesare, and acknowledged the foregoing instrument to be her free act and deed.

Before me,

*Linda J. Winker*  
Notary Public/Maine Attorney at Law

Linda J. Winker  
Printed Name  
My commission expires: 08/06/2021

LINDA J. WINKER  
Notary Public, Maine  
My Commission Expires August 6, 2021

**EXHIBIT A**

**Easement Area (Legal Description)**

A certain easement situated between Wood Road and High Bluff Road in the Town of Cape Elizabeth, County of Cumberland, and State of Maine shown on an Exhibit B of a Storm Drainage Easement by Sebago Technics, Inc. (Project number 16296) dated July 6, 2018 and being more particularly bounded and described as follows:

Beginning at a point on the southwesterly side of Wood Road and at land now or formerly of Thomas E Ruff Revocable Trust as described in Deed Book 25292, Page 348 and being N 37°-18'-42" W, a distance of 100.04 feet from a ¾ -inch iron pipe at the southeasterly corner of land now or formerly of Jean Haron, Sandy Simson and Susan Decesare as described in Deed Book 26571, Page 137;

Thence S 37°-18'-42" E, along the side of Wood Road, a distance of 6.61 feet to a point;

Thence S 62°-42'-21" W, through land of Haron, Simson and Decesare, a distance of 38.01 feet to a point at land now or formerly of Ruff;

Thence N 52°-41'-18" E, along Ruff, a distance of 37.44 feet to the Point of Beginning.

The total area of the above-described easement is approximately 124 square feet.

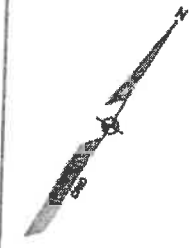
Meaning and intending to describe a portion of a 15-foot wide drainage easement centered on a new storm drain line and associated structures and being over a portion of the land described in a deed to Jean Haron, Sandy Simson and Susan Decesare recorded in the Cumberland County Registry of Deeds in Book 26571, Page 137.

Bearings herein are based on Grid North, Maine State Plane Coordinate System, West Zone 1802, NAD83.

**EXHIBIT B**

**Easement Area (Site Plan)**

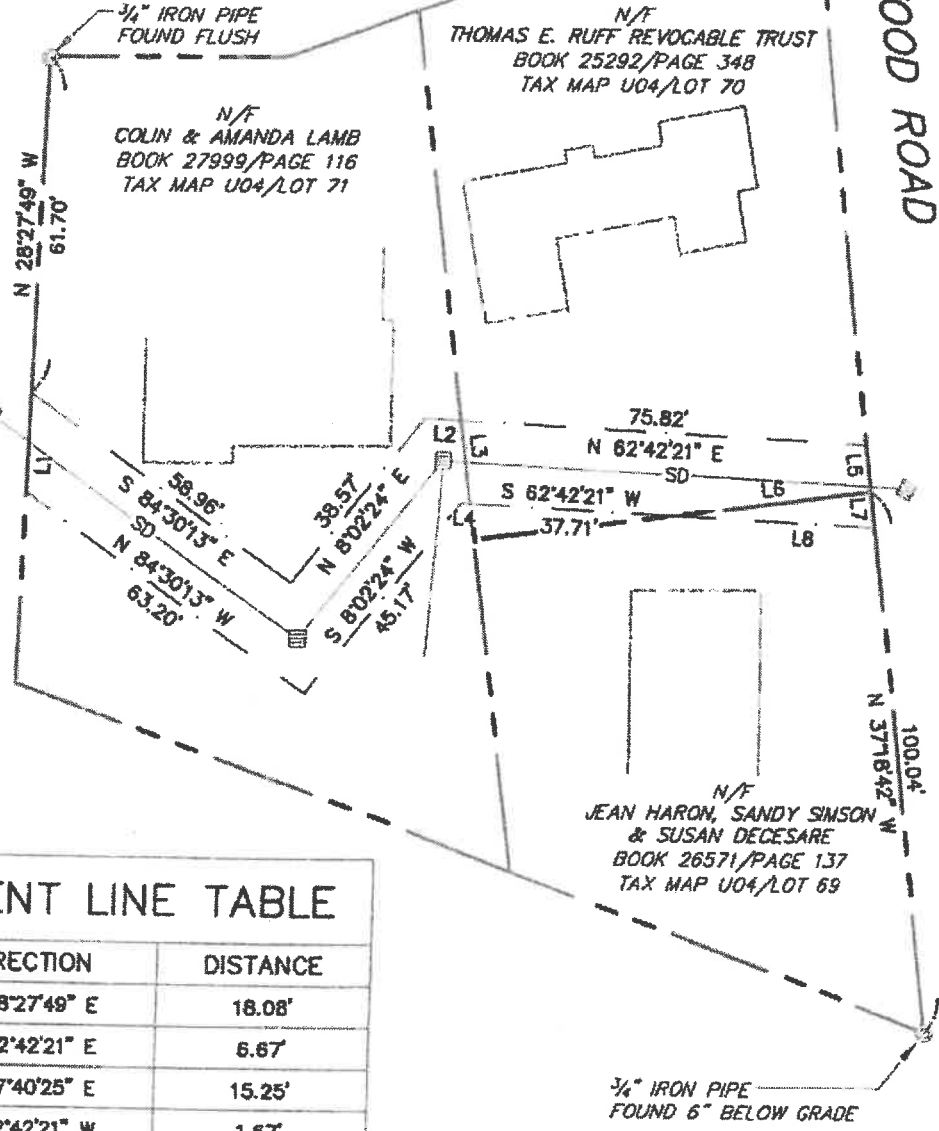
**See Attached Site Plan**



OAKHURST STREET

WOOD ROAD

HIGH BLUFF ROAD



EASEMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S 28°27'49" E	18.08'
L2	N 62°42'21" E	6.67'
L3	S 37°40'25" E	15.25'
L4	S 62°42'21" W	1.67'
L5	N 37°18'42" W	6.62'
L6	S 52°41'18" W	37.44'
L7	S 37°18'42" E	6.61'
L8	S 62°42'21" W	38.01'

**SEBAGO**  
TECHNICS  
WWW.SEBAGOTECHNICS.COM  
75 John Roberts Rd.  
Suite 4A  
South Portland, ME 04106  
Tel. 207-260-2100

EXHIBIT B  
OF A STORM DRAINAGE EASEMENT

LOCATION:  
HIGH BLUFF & WOOD ROAD  
CAPE ELIZABETH, MAINE

FOR:  
TOWN OF CAPE ELIZABETH  
10 COOPER DRIVE

SCALE: 1" = 30'  
DATE: 7/6/18  
SHEET: 1 OF 1

