



B2738 P0743 02-06-2008 15:17:28.010  
Robert J. Robinson  
Brunswick County, NC Register of Deeds page 1 of 8

Presentor Smith Moore Ret: 15  
 Total 35 Rev      Int.       
 Ck \$ 999 Ck # FBS Cash \$       
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Prepared by and return to:  
Smith Moore LLP  
300 N. 3<sup>rd</sup> Street, Suite 301  
Wilmington, North Carolina 28401

STATE OF NORTH CAROLINA

**CONSTRUCTION AND ACCESS EASEMENT AGREEMENT**

COUNTY OF BRUNSWICK

THIS CONSTRUCTION AND ACCESS EASEMENT AGREEMENT ("Agreement") is entered in to this 9 day of January, 2008, by and between **LR RiverSea LLC**, a Georgia limited liability company, ("Grantor"), and **WILLIAM H. MUELLER and wife, LYNDIA S. MUELLER** ("Grantee"). The designations Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

**WITNESSETH:**

**WHEREAS**, Grantor's interest in certain property located in Brunswick County, North Carolina, and more particularly described on **Exhibit A**, attached hereto and incorporated herein by reference ("Grantor's Property"), was conveyed via a deed dated March 26, 2004 and recorded in Book 1915, Page 1200 of the Brunswick County Register of Deeds; and

**WHEREAS**, Grantee is the fee simple owner of certain property located immediately adjacent to and adjoining Grantor Property, and more particularly described on **Exhibit B** attached hereto and incorporated herein by reference ("Grantee's Property"); and

**WHEREAS**, Grantor has agreed to grant to Grantee certain easements over the Grantor's Property for the purpose of Grantee's construction and use of a dock to be located upon Grantor's Property along the Lockwood Folly River (the "Dock") and right of ingress, egress and regress thereto.

**NOW, THEREFORE,** in consideration of the foregoing recitals, the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Access Easement:** Grantor does hereby remise and release and forever quitclaim unto Grantee, for the benefit of Grantee, its successors and assigns, invitees, employees, agents, contractors, licensees, and tenants an easement on, over, and upon Grantor's Property described on **Exhibit A** attached hereto and incorporated herein by reference (the "Easement Area") for ingress, egress, and regress, and specifically for the free and unobstructed movement of Grantee over the Easement Area for use of the Dock ("Access Easement").

2. **Construction Easement:** Grantor does hereby remise and release and forever quitclaim unto Grantee, for the benefit of Grantee, its successors and assigns, invitees, employees, agents, tenants, contractors and licensees, an easement ("Construction Easement") on, over, and upon the Easement Area, from time to time, for the construction of the Dock and any other related improvements (the "Easement Improvements"). Prior to the commencement of construction, Grantee shall obtain all necessary governmental permits and Grantee shall provide written notice to Grantor advising Grantor of same.

3. **Maintenance:** Grantee, its successors and assigns, shall maintain the Easement Area and the Easement Improvements in good repair and condition commensurate with a first-class residential dock facility. Grantor shall have no maintenance obligations with respect to the Easement Area, Easement Improvements, and the Access Easement. In the event Grantee fails to perform such maintenance, repair, and replacement obligations as described above, then Grantor shall give Grantee written notice specifying in detail the nature of such failure, and if Grantee has not commenced correction of such failure within thirty (30) days from receipt of such notice or does not diligently pursue the correction of the same at all times after the commencement of action to correct the same, then Grantor, its agents, successors, or assigns, shall have the right to perform such correction, and Grantee shall immediately pay the Grantor the reasonable costs for doing such work within fifteen (15) days after submission of an invoice for such work to Grantee. Notwithstanding anything contained herein to the contrary, under no circumstances shall Grantor be obligated or required to perform any or all of the maintenance, repair, or replacement obligations of Grantee as set forth herein.

4. **Restoration:** Promptly following any construction, maintenance, or other disturbance of the Easement Area and the Access Easement, the party performing such construction, maintenance, or other disturbance shall remove all debris, excess soil and rock, grade, mulch, or resow grass on all disturbed earth to their original condition in accordance with and to the extent permitted by applicable local, state and federal rules, regulations and ordinances.



5. **Indemnification:** Grantee and its successors and assigns, and any future holders of the easement rights granted herein agree to indemnify, defend, save, and hold harmless Grantor and its successors and assigns, and all current and future owners of Grantor's Property, or any part thereof, from and against any and all losses, liabilities, costs (including reasonable attorneys' fees), expenses, penalties, judgments, claims and damages of every kind or character arising out of or in connection with the negligence of Grantee, its successors and assigns, agents, employees, invitees, licensees, tenants and contractors with respect to any use or other activities on or about the Easement Area and Easement Improvements, except to the extent such losses are caused by the negligence or willful misconduct of Grantor or its successors and assigns, agents, employees or contractors.

6. **No Rights in Public:** Neither this instrument nor the recordation hereof are intended to, and neither shall be construed to, create any rights, easements, or privileges in the public generally by dedication or otherwise in and to the easements granted herein or any portions thereof. The Easement Area, Access Easement and Construction Easement shall be exclusively for the benefit of Grantee, its successors and assigns, invitees, employees, agents, contractors, licensees, and tenants.

7. **Modification:** This Agreement may not be modified except by written agreement executed by Grantor and Grantee or their successors in interest.

8. **Notices:** All notices, consents, and other communications must be written (except for emergencies, where oral notice followed promptly by written notice is enough) and sent by certified mail (return receipt requested) or hand-delivered. Mailed communications must be addressed as follows (as that address may be changed by the addressee from time to time):

Grantor: LR RiverSea, LLC  
5323 Millenia Lakes Blvd., Suite 300  
Orlando, Florida 32839

Grantee: William and Lynda Mueller  
6172 Otter Run Court  
Clifton, Virginia 20124

9. **Compliance with Laws:** Grantee shall at all times comply with all applicable laws, including but not limited to, all local, state and federal rules, regulations and ordinances with regard to the Easement Area.

10. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

11. **Easements Run With the Land:** All of the easements, restrictions, provisions, agreements, rights, powers, covenants, conditions, and obligations contained in this Agreement shall be binding upon Grantor and Grantee, their



successors and assigns, and all other persons acquiring any interest in either Grantor's Property or Grantee's Property, whether by operation of law, or by assignment, or in any manner whatsoever, and shall inure to the benefit of the owners' respective properties and their respective heirs, successors and assigns. All of the provisions of this Agreement shall constitute covenants running with the land.

12. **Counterparts:** This Agreement may be executed in several counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same agreement.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed and delivered as of the day and year first above written.

**GRANTOR:**

**LR RiverSea, LLC,**  
a Georgia limited liability company

By: Land Resource Group, Inc.,  
Its Manager

By: [Signature] (SEAL)  
John C. Alvarez  
Executive Vice President

STATE OF FL  
COUNTY OF ORANGE

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: John C. Alvarez as Executive Vice President of Land Resource Group, Inc.

Date: JAN 09, 2008

Barbara Robey LeBar  
[Notary's signature as name appears on seal]



Barbara Robey LeBar  
[Notary's printed name as name appears on seal]

My commission expires: APR 10, 2011

[Affix Notary Seal in Space Above]



**GRANTEE:**

William H. Mueller (SEAL)  
William H. Mueller

Lynda S. Mueller (SEAL)  
Lynda S. Mueller

STATE OF Virginia

COUNTY OF Prince William

I certify that the following person(s) personally appeared before me this day acknowledging to me that he signed the foregoing document: William H. Mueller

Date: November 2, 2007

Bettye B. Harris  
[Notary's signature as name appears on seal]

Bettye B. Harris  
[Notary's printed name as name appears on seal]

My commission expires: 12-31-08, 20



[Affix Notary Seal in Space Above]

STATE OF Virginia

COUNTY OF Fairfax

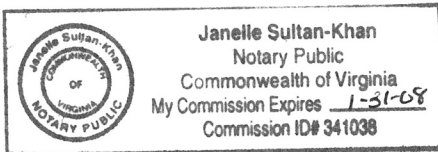
I certify that the following person(s) personally appeared before me this day acknowledging to me that she signed the foregoing document: Lynda S. Mueller

Date: November 8<sup>th</sup>, 2007

Janelle Sultan-Khan  
[Notary's signature as name appears on seal]

Janelle Sultan-Khan  
[Notary's printed name as name appears on seal]

My commission expires: January 31, 2008



[Affix Notary Seal in Space Above]



## EXHIBIT "A"

Being a portion of that certain real property lying and being in or near RiverSea Plantation, Phase Three, in Brunswick County, North Carolina, and being more particularly described on a survey entitled "RiverSea-Phase Three-Riparian Areas" by Michael N. Underwood and Associates, PA, dated September, 2005 as "Riparian Area Associated with Lot 212" and as follows:

Beginning at the southwesternmost corner of Lot 212, Phase Three, River Sea Plantation, according to the plat thereof recorded in Map Cabinet 31, at Page 267, in the Office of the Register of Deeds for Brunswick County, North Carolina, being the Point of Beginning, thence South 67 degrees, 57 minutes, 18 seconds West 467 +/- feet along the Riparian Line along the northern boundary line of the Riparian Area thence following the mean high-water mark of the Lockwood Folly River to the southwesternmost corner of the Riparian Area, thence North 66 degrees, 51 minutes, 44 seconds East 346 +/- feet along the Riparian Line along the southern boundary line of the Riparian Area, thence North 65 degrees, 50 minutes, 58 seconds East 285.01 feet along the Riparian Line along the southern boundary line of the Riparian Area to the southeasternmost corner of Lot 212, thence South 87 degrees, 41 minutes, 54 seconds West 183.68 feet to the Point of Beginning.



Brunswick County, NC Register

**B2738 P0750**

02-06-2008  
15:17:28.010

Robert J. Robinson  
of Deeds

page 8 of 8

**EXHIBIT "B"**

BEING all of Lot 212, Phase Three, RiverSea Plantation Subdivision, as same is shown on a map thereof recorded in Map Cabinet 31, Page 267, in the Office of the Register of Deeds of Brunswick County, North Carolina.