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NORTH CAROLINA

DARE COUNTY

COLLATERAL IS OR INCLUDES FIXTURES

**DEED OF TRUST,
SECURITY AGREEMENT
AND FIXTURE FILING**

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING is made and entered into as of the 1st day of March, 2023 (the "*Deed of Trust*"), from the **TOWN OF NAGS HEAD, NORTH CAROLINA** (hereinafter called the "*Grantor*"), a municipal corporation duly created and validly existing under the laws of the State of North Carolina, whose address is 5401 S. Croatan Hwy., Nags Head, North Carolina 27959, to **CRAIG T. LYNCH**, as trustee (hereinafter referred to as the "*Trustee*"), whose address is 620 S. Tryon Street, Suite 800, Charlotte, North Carolina 28202, for the benefit of **NAGS HEAD LEASING CORPORATION**, a nonprofit corporation duly created, existing and in good standing under the laws of the State of North Carolina, whose address is 2502 S. Croatan Highway, Nags Head, North Carolina 27959, as grantee (the "*Corporation*") (the Corporation and its successors and assigns are hereinafter referred to as "*Beneficiary*").

RECITALS:

The Grantor and the Corporation have entered into an Installment Financing Contract dated as of March 1, 2023 (the "*Contract*"), pursuant to which (1) the Corporation has agreed to advance certain funds to enable the Grantor to (a) finance the Projects (as defined in the Contract), and (b) pay the costs related to the execution and delivery of the Contract; and (2) the Grantor has agreed to make the Installment Payments (as defined in the Contract) to the Corporation. The Contract is incorporated herein by this reference.

The Corporation has assigned substantially all of its rights under the Contract to The Bank of New York Mellon Trust Company, N.A. pursuant to an Indenture of Trust dated as of March 1, 2023 (the "*Indenture*") between the Corporation and The Bank of New York Mellon Trust Company, N.A., as bond

trustee (the “*Bond Trustee*”), under which the Limited Obligation Bonds (Town of Nags Head, North Carolina), Series 2023 (the “*2023 Bonds*”), evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the Contract) under the Contract will be executed, delivered and sold. The Bond Trustee is unwilling to enter into the Indenture and the Corporation is unwilling to enter into the Contract unless the Grantor secures the obligations under the Contract and this Deed of Trust by the conveyance of the Mortgaged Property (as defined below), and the improvements and fixtures thereon, and as more fully described in this Deed of Trust.

This Deed of Trust has been executed and delivered to secure (1) the obligations of the Grantor to make the Installment Payments and (2) the payment and performance of all of the other liabilities and obligations, whether now existing or hereafter arising, of the Grantor to the Corporation under the Contract and this Deed of Trust, all such obligations and liabilities described in (1) or (2) above hereinafter collectively called the “*Indebtedness*.”

It is intended that this Deed of Trust comply with the provisions of Sections 45-67 *et seq.* of the North Carolina General Statutes. For purposes of complying with such provisions, the Grantor hereby represents as follows:

(a) That this Deed of Trust has been executed and delivered by the Grantor to secure future Indebtedness which may be incurred from time to time under the Contract;

(b) That the maximum principal amount, including present and future Indebtedness, which may be secured by this Deed of Trust at any one time is \$100,000,000 (exclusive of advances that may be made under the terms of the Contract or this Deed of Trust for fire and extended coverage insurance, taxes, assessment or other necessary expenditures for the preservation of the real property), subject to the limitation that at no time shall the total principal amount of Indebtedness secured hereby exceed said maximum principal sum of \$100,000,000 together with accrued interest and the payment for fire and extended coverage insurance, taxes, assessments or other necessary expenditures for the preservation of the real property; *provided that* the foregoing limitation shall apply only to the lien upon real property located in the State of North Carolina created by this Deed of Trust and shall not in any manner limit, affect or impair any grant of a security interest in or lien on any other real property or any personal property in favor of the Beneficiary;

(c) That the period within which such future Indebtedness may be incurred is the period between the date hereof and the date 30 years from the date hereof; and

(d) It shall not be a requirement for any such future Indebtedness to be secured hereby that the Grantor sign an instrument or other notation stipulating that such Indebtedness is secured by this Deed of Trust, as no such future Indebtedness is required, under the Contract or otherwise, to be evidenced by a written instrument or notation.

The Grantor desires to secure (a) the payment of the Indebtedness and any renewals, modifications or extensions thereof, in whole or in part, and (b) the additional payments hereinafter agreed to be made by or on behalf of the Grantor, by a conveyance of the lands and security interests hereinafter described.

NOW, THEREFORE, in consideration of the premises and for the purposes aforesaid, and in further consideration of the sum of Ten Dollars (\$10.00) paid to the Grantor by the Trustee and other valuable considerations, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, its

heirs, successors and assigns, the following property (hereinafter collectively referred to as the “*Mortgaged Property*”):

(a) The real property lying and being in the Town of Nags Head, Dare County, North Carolina and described below in the legal description attached as an exhibit hereto (hereinafter referred to as the “*Land*”):

SEE EXHIBIT “A” ATTACHED HERETO FOR LAND DESCRIPTION,
WHICH EXHIBIT “A” IS INCORPORATED HEREIN BY REFERENCE.

(b) All buildings, structures, additions and improvements of every nature whatsoever now or hereafter situated on or about the Land (the “*Improvements*”).

(c) Notwithstanding Section 1.16 hereof, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, fire extinguishers and any other safety equipment required by governmental regulation or law, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes and other machinery, equipment or other tangible personal property, which are or shall be so attached to the Improvements, including all extensions, additions, improvements, betterments, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, as to be deemed to be fixtures under North Carolina law (collectively, the “*Fixtures*”) and accessions to the Land and a part of the Mortgaged Property as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Indebtedness. The location of the collateral described in this paragraph is also the location of the Land, and the record owner of the Land is the Grantor.

(d) Notwithstanding Section 1.15 hereof, all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Mortgaged Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor.

(e) All leases affecting the Mortgaged Property or any part thereof and all income, rents and issues of the Mortgaged Property and the Improvements now or hereafter located thereon from time to time accruing (including without limitation all payments under leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits whether held by the Grantor or in a trust account, and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor of, in and to the same; reserving only the right to the Grantor to collect and apply the same (other than insurance proceeds and condemnation payments) so long as the Grantor is not in Default hereunder.

TO HAVE AND TO HOLD, the Mortgaged Property unto the Trustee, its heirs, successors and assigns, in fee simple forever, upon the trusts, terms and conditions and for the uses and purposes hereinafter set out;

And the Grantor covenants with the Trustee that the Grantor is lawfully seized of the Mortgaged Property in fee simple and has the right to convey the same in fee simple; that, except for Permitted Encumbrances (as defined in Exhibit “B” attached hereto and incorporated herein by reference), the same

are free and clear of all encumbrances, and that the Grantor will warrant and defend the title to the same against the claims of all persons whomsoever arising by, under or through the Grantor.

THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST, that if the Grantor shall pay the Indebtedness in accordance with the terms of the Contract, together with interest thereon, and any renewals or extensions thereof in whole or in part, and shall comply with all the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and at the cost of the Grantor.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, the Grantor hereby further covenants and agrees as follows:

ARTICLE I

1.01 *Payment of Indebtedness.* The Grantor will pay the Indebtedness and all other sums now or hereafter secured hereby promptly as the same shall become due.

1.02 *Taxes, Liens and Other Charges.* The Grantor will comply with the terms of the Contract in all matters relating to taxes, liens and other charges.

1.03 *Insurance.* The Grantor shall comply with the terms of the Contract in all matters relating to insurance.

1.04 *Condemnation.* The Grantor shall comply with the terms of the Contract in all matters relating to condemnation.

1.05 *Care of Mortgaged Property.* The Grantor shall comply with the Contract in all matters relating to the care of Mortgaged Property.

1.06 *Leases and Other Agreements Affecting Property.* The Grantor will duly and punctually perform all terms, covenants, conditions and agreements binding upon it under any lease or any other agreement of any nature whatsoever which involves or affects the Mortgaged Property or any part thereof. The Grantor will, at the request of Beneficiary, furnish Beneficiary with executed copies of all leases now or hereafter created upon the Mortgaged Property or any part thereof.

1.07 *Security Agreement and Fixture Filing.* With respect to the Fixtures, this Deed of Trust is hereby made and declared to be a security agreement in favor of Beneficiary encumbering each and every item of such property included herein as a part of the Mortgaged Property, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of North Carolina, and the Grantor hereby grants a security interest to Beneficiary in and to all of such Fixtures. This Deed of Trust shall constitute a financing statement filed as a fixture filing in accordance with N.C. Gen. Stat. §25-9-502 (or any amendment thereto). For purposes of complying with the requirements of N.C. Gen. Stat. §25-9-502, the name of Grantor, as Debtor, and Beneficiary, as Secured Party, and the respective addresses of Grantor, as Debtor, and Beneficiary, as Secured Party, are set forth on the first page of this Deed of Trust. Grantor authorizes Beneficiary to effect any filing or recording of any additional financing statements relating to the Fixtures or amendments thereto where appropriate to perfect and continue the security interest in, and to protect and preserve, the Fixtures. Subject to Article XIV of the Contract and the limitations on the remedies in Article XII of the Contract, the remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Deed of Trust shall be (1) as prescribed herein, or (2) as prescribed by general law, or (3) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Beneficiary's sole election. The mention in any such financing statement or statements of the rights in and to (1) the proceeds of any fire and/or

hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) the Grantor's interest as lessor in any present or future lease or rights to rents, issues or awards growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Beneficiary as determined by this Deed of Trust or affect the priority of Beneficiary's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Beneficiary in the event any court shall at any time hold with respect to the foregoing clauses (1), (2) or (3) of this sentence, that notice of Beneficiary's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

1.08 Further Assurances; After Acquired Property. At any time, and from time to time, upon request by Beneficiary, the Grantor will make, execute and deliver or cause to be made, executed and delivered, to Beneficiary and/or Trustee and, where appropriate and on request of the Trustee or the Beneficiary, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Beneficiary, any and all such other and further deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Beneficiary, be necessary or desirable to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of the Grantor under the Contract or this Deed of Trust and (b) the lien of this Deed of Trust as a first and prior lien, subject to Permitted Encumbrances, upon and security title in and to all of the Mortgaged Property, whether now owned or hereafter acquired by Grantor. Upon any failure by the Grantor so to do, Beneficiary may make, execute, record, file, re-record and/or refile any and all such deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of the Grantor and the Grantor hereby irrevocably appoints Beneficiary as its agent and attorney-in-fact to do so.

1.09 Expenses. To the extent permitted by applicable law and Article XIV of the Contract, the Grantor will pay or reimburse Beneficiary and Trustee, upon demand therefor, for all reasonable attorneys' fees, costs and expenses actually incurred by Beneficiary and the Trustee in any suit, action, legal proceeding or dispute of any kind in which Beneficiary and/or Trustee is made a party or appears as party plaintiff or defendant, affecting the Indebtedness secured hereby, this Deed of Trust or the interest created herein, or the Mortgaged Property, including, but not limited to, the exercise of the power of sale contained in this Deed of Trust, any condemnation action involving the Mortgaged Property or any action to protect the security hereof, but excepting therefrom any negligence or misconduct by Beneficiary or any breach of this Deed of Trust by Beneficiary; and all such amounts paid by Beneficiary shall be added to the Indebtedness.

1.10 Limit of Validity. If from any circumstances whatsoever fulfillment of any provision of this Deed of Trust or the Contract at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then *ipso facto* the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Deed of Trust or the Contract that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity.

1.11 Use and Management of the Mortgaged Property. Unless required by applicable law, the Grantor shall not materially alter or change the use of the Mortgaged Property or abandon the Mortgaged Property without the prior written consent of Beneficiary which shall not be unreasonably withheld; provided, however, that nothing contained in this Section 1.11 or elsewhere in the Deed of Trust shall be deemed or construed so as to in any way estop, limit or impair the Grantor from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions of a municipal corporation

pursuant to applicable law. This provision will not be construed to restrict replacement or substitution of any property in violation of Section 160A-20(d).

1.12 Acquisition of Collateral. The Grantor shall not acquire any portion of the Fixtures, if any, covered by this Deed of Trust, subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Deed of Trust without the prior written consent of the Beneficiary (which consent will not be unreasonably withheld or delayed).

1.13 Hazardous Material.

(a) The Grantor represents, warrants and agrees that, except as previously disclosed to the Corporation in writing, (1) the Grantor has not used or installed any Hazardous Material on or in the Mortgaged Property in material violation of applicable Environmental Laws, and to the Grantor's actual knowledge no other person has used or installed any Hazardous Material on or in the Mortgaged Property in material violation of applicable Environmental Laws; (2) to the Grantor's actual knowledge: (A) the Mortgaged Property is presently in material compliance with all applicable Environmental Laws, and (B) there is not now pending or threatened any action, suit, investigation or proceeding against the Grantor or the Mortgaged Property (or against any other party relating to the Mortgaged Property) seeking to enforce any right or remedy against the Grantor or the Mortgaged Property under any of the Environmental Laws; (3) the Grantor shall not use the Mortgaged Property to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process (collectively "*Handle*") Hazardous Materials other than the Handling of materials in the ordinary course of the Grantor's business as of the date hereof and in material compliance with Environmental Laws; (4) the Grantor shall not cause a Release of Hazardous Materials unto or from the Mortgaged Property in material violation of Environmental Laws; (5) the Grantor shall comply with Environmental Laws applicable to the Mortgaged Property in all material respects; (6) the Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary for the Mortgaged Property to comply with applicable Environmental Laws in all material respects (the "*Permits*") and the Grantor will be and at all times remain in material compliance with the terms and provisions of the Permits; (7) to the Grantor's actual knowledge there has been no Release of any Hazardous Materials on or from the Mortgaged Property in violation of applicable Environmental Laws, whether or not such Release emanated from the Mortgaged Property or any contiguous real estate, which Release has not been, or is not being, addressed to the extent required by the governmental agency exercising jurisdiction over the Release pursuant to applicable Environmental Laws; (8) the Grantor shall give the Beneficiary prompt oral and written notice in the event that the Grantor receives any written notice from any governmental agency, entity, or any other party with regard to the presence of Hazardous Materials on, from or affecting the Mortgaged Property in material violation of applicable Environmental Laws; and (9) if a Release of Hazardous Materials is discovered in, on or under the Mortgaged Property in violation of applicable Environmental Laws, the Grantor shall complete all Response Actions required of Grantor by a governmental agency exercising jurisdiction over such Release to the extent necessary to comply with applicable Environmental Laws. The Grantor shall have the right to conduct and control such Response Actions as provided in Subsection 1.13(e), below.

(b) To the extent permitted by applicable law and Article XIV of the Contract, the Grantor hereby agrees to indemnify Beneficiary, the Bond Trustee, and Trustee (collectively the "*Indemnitees*") and hold the Indemnitees harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages, judgments, obligations, penalties, injuries, costs, expenses (including, without limitation, reasonable attorneys' and experts' fees, costs, and expenses) (collectively "*Claims*") paid, incurred or, suffered by an Indemnatee as a result of a Claim by a third party asserted against such Indemnatee and arising out of: (1) the presence of Hazardous Materials in, on or under the Mortgaged Property, or the Release on or from the Mortgaged Property of any Hazardous Materials; (2) the violation of any Environmental Laws applicable to the Mortgaged Property or the Grantor; (3) the

failure by the Grantor to comply fully with the terms and provisions of this Section 1.13; (4) the violation of any of the Environmental Laws in connection with any other property owned by the Grantor, which violation gives rise to rights in any party with respect to the Mortgaged Property by virtue of any of applicable Environmental Laws; or (5) any warranty or representation made by the Grantor in paragraph (a) of Section 1.13 being false or untrue in any material respect. The Indemnitees shall provide the Grantor with prompt notice of any Claim which may be subject to this Section 1.13(b), and the Grantor shall thereafter have the right, but not the obligation, to conduct and control the defense of such Claim at its expense, including without limitation the right to select counsel of its choosing. The indemnities provided herein shall survive the termination of this Deed of Trust or the sooner resignation or removal of the Trustee, or the Bond Trustee pursuant to the Indenture, and shall inure to the benefit of any such successors and assigns.

(c) In the event Beneficiary has a reasonable basis to suspect that the Grantor has violated any of the covenants, warranties or representations contained in this Section 1.13, or that the Mortgaged Property is not in material compliance with applicable Environmental Laws, the Grantor shall, after written notice from Beneficiary, take such steps as are reasonably necessary to confirm or deny such occurrences, which steps may include, if necessary and without limitation, the preparation of environmental studies, surveys or reports. If such steps confirm a material violation of applicable Environmental Laws concerning the Mortgaged Property, the parties shall have the rights provided in Section 1.13(e), below.

(d) For purposes of this Deed of Trust: (1) “*Hazardous Material*” or “*Hazardous Materials*” means (a) hazardous waste, as defined in RCRA, or in any analogous state or local law or regulation, (b) hazardous substances, as defined in CERCLA, or in any analogous state or local law or regulation, (c) toxic substances, as defined in TSCA, or in any applicable state or local law or regulation or (d) insecticides, fungicides or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, as each such Act, statute or regulation is currently in effect and as they may be amended from time to time; (2) “*Release*” has the meaning given in Section 101(22) of CERCLA; (3) “*Response Action*” means action to implement a “*response*” as that term is defined in Section 104(25) of CERCLA, and (4) “*Environmental Law*” or “*Environmental Laws*” means any “*Super Fund*” or “*Super Lien*” law, or any other federal, state or local statute, law, ordinance or code, regulating or imposing liability concerning Hazardous Materials as are now or in the future be legally in effect, including, without limitation, the following, and all regulations promulgated and officially adopted thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986 (“*SARA*”); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“*CERCLA*”); the Clean Air Act (“*CAA*”); the Clean Water Act (“*CWA*”); the Toxic Substance Control Act (“*TSCA*”); the Solid Waste Disposal Act (“*SWDA*”), as amended by the Resource Conservation and Recovery Act (“*RCRA*”); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 (“*OSHA*”).

(e) To the extent permitted by applicable law and subject to Article XIV of the Contract, the obligations and liabilities of the Grantor under this Section 1.13 which arise out of events or actions occurring prior to the satisfaction of this Deed of Trust shall survive the exercise of the power of sale under or foreclosure of this Deed of Trust, the delivery of a deed in lieu of foreclosure of this Deed of Trust, the cancellation or release of record of this Deed of Trust and/or the payment in full of the Indebtedness.

(f) Any matter or event under this Section 1.13 which may be deemed to be a default under this Deed of Trust shall not be a default until Beneficiary has notified the Grantor of such matter or event in writing, and provided the Grantor with such grace period as specified in the Contract for the cure of such default. Further, with respect to any alleged default, the Grantor shall have the right to conduct and control the remedy of any alleged default, including without limitation the right to avail itself of any defense or response to any notice, demand, claim or other facts or circumstances underlying the alleged default. Without limiting the foregoing, the Grantor shall have the right to conduct and control Response Actions, hire consultants and counsel of its choosing, negotiate with governmental agencies and select remedial

options and goals (which options and goals may including, without limitation, risk-based remedies). If a governmental agency is exercising jurisdiction over the matter, the Grantor shall perform the actions required by this subsection in a manner and timeframe consistent with the directives of such agency. In the event that the Grantor refuses to cure the default as described in this subsection, Beneficiary, after written notice to Grantor, may take such actions as are required by applicable Environmental Laws and, if applicable, the governmental agency exercising jurisdiction over the matter, to bring the Mortgaged Property into compliance with Environmental Laws. The reasonable cost and expenses of such actions taken by Beneficiary, including without limitation Beneficiary's reasonable consultant, expert and attorneys' fees, costs, and expenses, shall be added to the Indebtedness.

1.14 Release of Mortgaged Property. Notwithstanding any other provisions of this Deed of Trust, so long as there is no Event of Default, the Trustee must release the Mortgaged Property or any part thereof from the lien and security interest of this Deed of Trust when and if the following requirements have been fulfilled:

(a) In connection with any release of the Mortgaged Property, or any part thereof, there shall be filed with the Beneficiary a certified copy of the resolution of the Board of Commissioners for the Grantor stating the purpose for which the Grantor desires such release of the Mortgaged Property, giving an adequate legal description of the part of the Mortgaged Property to be released, requesting such release and providing for the payment by the Grantor of all expenses in connection with such release.

(b) In connection with the release of any part of the Mortgaged Property constituting less than the entire Mortgaged Property, either (1) the tax, insured or appraised value of the Mortgaged Property remaining after the proposed release is not less than 50% of the aggregate principal component of the Installment Payments related to the Bonds then Outstanding under the Indenture or (2) the Grantor (i) provides for the substitution of other real property therefor and the tax, insured or appraised value of the Mortgaged Property remaining after the proposed substitution is not less than the replacement value of the Mortgaged Property (as determined above) immediately before the proposed substitution, (ii) delivers to the Trustee and the Corporation or its assignee an opinion of Bond Counsel to the effect that the substitution (A) is permitted by law and under this Deed of Trust and (B) will not adversely affect the tax treatment of any Outstanding Bonds (as defined in the Indenture), and (iii) records a modification to this Deed of Trust reflecting such substitution of the Mortgaged Property.

(c) In connection with the release of any part of the Mortgaged Property constituting less than the entire Mortgaged Property, such release shall not prohibit Grantor's ingress, egress and regress to and from the remainder of the Mortgaged Property not being released, or materially interfere with the use of the remainder of the Mortgaged Property not being released.

(d) In connection with the release of all property constituting the entire Mortgaged Property, there is paid to the Beneficiary an amount sufficient to provide for the payment in full of all Outstanding Bonds in accordance with Article VI of the Indenture.

1.15 Grant and Release of Easements. Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, with the consent of the Trustee, the Grantor may at any time or times grant easements, licenses, rights of way and other rights and privileges in the nature of easements with respect to any part of the Mortgaged Property and the Grantor may release existing interests, easements, licenses, rights of way and other rights or privileges with or without consideration. The Beneficiary agrees that it shall execute and deliver and will cause, request or direct the Trustee to execute and deliver any instrument reasonably necessary or appropriate to grant or release any such interest, easement, license, right of way or other right or privilege but only upon receipt of (a) a copy of the

instrument of grant or release, (b) a written request of the Grantor requesting such instrument and (c) a certificate executed by the Grantor that the grant or release is not detrimental to the proper conduct of the operations of the Grantor at the Mortgaged Property and will not impair the effective use, nor materially decrease the value, of the Mortgaged Property.

1.16 Release of Fixtures. Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, the Grantor may at any time or times release Fixtures to be added to the Mortgaged Property from the security interest created hereby with or without consideration. The Beneficiary agrees that it shall execute and deliver and will cause, request or direct the Trustee to execute and deliver any instrument reasonably necessary or appropriate to release any such Fixture but only upon receipt of (a) a copy of the instrument of release, (b) a written request of the Grantor requesting such instrument and (c) a certificate executed by the Grantor that the release is not detrimental to the proper conduct of the operations of the Grantor at the Mortgaged Property and will not impair the effective use, nor materially decrease the value, of the Mortgaged Property.

ARTICLE II

2.01 Events of Default. The terms “*Default*”, “*Event of Default*” or “*Events of Default*”, wherever used in this Deed of Trust, shall mean any one or more of the following events:

(a) The occurrence of any “*Event of Default*” under the Contract; or

(b) Failure by the Grantor to perform or observe any term, condition or covenant of this Deed of Trust on its part to be observed or performed, other than as referred to in (a) above, or breach of any warranty by the Grantor herein contained, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the Grantor by the Trustee or the Beneficiary unless the Trustee or the Beneficiary agrees in writing to an extension of such time before its expiration; provided, however, that if the failure cannot be corrected within the stated period, the Trustee or the Beneficiary will not unreasonably withhold consent for an extension.

2.02 Acceleration upon Default; Additional Remedies. In the event an Event of Default shall have occurred and is continuing, Beneficiary shall, at the written direction of a majority in aggregate principal amount of the Owners of the Outstanding Bonds, declare all Indebtedness to be due and payable and the same shall thereupon become due and payable in accordance with the Contract and this Deed of Trust without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may, to the extent permitted by applicable law and subject to Article XIV of the Contract:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Property, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof, and, with or without taking possession of the Mortgaged Property, sue for or otherwise collect the rents and issues thereof, including those rents and issues past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorney’s fees, upon any Indebtedness, all in such order as Beneficiary may determine. The entering upon and taking possession of the Mortgaged Property, the collection of such rents and issues and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Default or pursuant to such notice of Default, and, notwithstanding the continuance in possession of the Mortgaged Property or the collection, receipt and application of rents and issues, the Trustee

or Beneficiary, to the extent permitted by applicable law and subject to Article XIV of the Contract, shall be entitled to exercise every right provided for in any instrument securing or relating to the Indebtedness or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, specially enforce any of the covenants hereof, or cause the Trustee to foreclose this Deed of Trust by power of sale; and

(c) To the extent permitted by applicable law and subject to Article XIV of the Contract, exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of North Carolina or under any other applicable laws.

NOTWITHSTANDING ANY PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES TO COMPLY WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES SECTION 160A-20. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE GRANTOR IN FAVOR OF THE BENEFICIARY IN VIOLATION OF SECTION 160A-20, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED UNDER THE CONTRACT OR THIS DEED OF TRUST WHEN THE SALE OF ALL OR ANY PORTION OF THE MORTGAGED PROPERTY IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THE CONTRACT OR THIS DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS DEED OF TRUST, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS DEED OF TRUST, NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE GRANTOR IN ANY ACTION TO COLLECT ANY OF THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST AND THE TAXING POWER OF THE GRANTOR IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEY DUE OR SECURED UNDER THIS DEED OF TRUST.

2.03 Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

Upon application of Beneficiary, it shall be lawful for and the duty of Trustee, and Trustee is hereby authorized and empowered, to expose to sale and to sell the Mortgaged Property at public auction for cash, after having first complied with all applicable requirements of North Carolina law with respect to the exercise of powers of sale contained in deeds of trust, and, upon such sale, Trustee shall convey title to the purchaser in fee simple. After retaining from the proceeds of such sale just compensation for Trustee's services and all expenses incurred by Trustee, including a reasonable trustee's commission not exceeding one-half of one percent (.5%) of the bid and reasonable attorneys' fees, costs, and expenses for legal services actually performed, Trustee shall apply the residue of the proceeds, first, to the payment of all sums expended by Beneficiary under the terms of this Deed of Trust, second, to the payment of the Indebtedness and interest thereon secured hereby, and the balance, if any, shall be paid to the Grantor. The Grantor agrees that in the event of sale hereunder, Beneficiary shall have the right to bid thereat. Trustee may require the successful bidder at any sale to deposit immediately with Trustee cash or certified check in an amount not to exceed twenty-five percent (25%) of the bid, provided notice of such requirement is contained in the advertisement of the sale. The bid may be rejected if the deposit is not immediately made and thereupon the Trustee shall at the same time and place again offer the Mortgaged Property for sale. Such deposit shall be refunded in case a resale is had; otherwise, it shall be applied to the purchase price.

2.04 Performance by Beneficiary on Defaults by the Grantor. If the Grantor shall Default in the payment, performance or observance of any term, covenant or condition of this Deed of Trust, Beneficiary may, at its option, pay, perform or observe the same, and all payments made or costs or

expenses incurred by Beneficiary in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by the Grantor to Beneficiary with interest thereon at the rate provided in the Contract. Beneficiary shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Beneficiary is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to the Grantor or any person in possession holding under the Grantor.

2.05 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. The Grantor agrees to the full extent permitted by law, that in case of a Default hereunder, neither the Grantor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, exemption or redemption laws now or hereafter in force, to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Mortgaged Property, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Grantor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof.

2.06 Leases. Beneficiary and Trustee, or either of them, at their option and to the extent permitted by law, are authorized to foreclose this Deed of Trust subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceedings instituted by Beneficiary and Trustee to collect the sums secured hereby.

2.07 Discontinuance of Proceedings and Restoration of the Parties. In case Beneficiary and Trustee, or either of them, shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary and Trustee, or either of them, then and in every such case the Grantor and Beneficiary and Trustee, and each of them, shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary and Trustee, and each of them, shall continue as if no such proceeding had been taken.

2.08 Remedies Not Exclusive. To the extent permitted by applicable law and subject to Article XIV of the Contract, Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any Indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or any other agreement securing or relating to the Indebtedness secured hereby or any laws now or hereafter in force, notwithstanding some of the Indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or preclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any instrument securing or relating to the Indebtedness secured hereby to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

2.09 Waiver. No delay or omission of Beneficiary or the Trustee to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Deed of Trust to Beneficiary and Trustee, and each of them, may be exercised from time to time and as often as may be deemed expedient by Beneficiary and Trustee, and each of them. No consent or waiver, expressed or implied, by Beneficiary to or of any breach or Default by the Grantor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations of the Grantor hereunder. Failure on the part of Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Beneficiary of its rights hereunder or impair any rights, powers or remedies consequent on any breach or Default by the Grantor.

2.10 Suits to Protect the Mortgaged Property. Beneficiary and Trustee, and each of them, shall have power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or in violation of this Deed of Trust, with notice of commencement of such suits and proceedings to be given to the Grantor, (b) to preserve or protect their interest in the Mortgaged Property and in the rents and issues arising therefrom and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Beneficiary.

2.11 Beneficiary May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Grantor, its creditors or its property, Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable to have the claims of Beneficiary allowed in such proceedings for the entire amount due and payable by the Grantor under this Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by the Grantor hereunder after such date.

ARTICLE III

3.01 Successors and Assigns. This Deed of Trust shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Deed of Trust to Grantor, Trustee or Beneficiary such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Grantor, Trustee or Beneficiary, respectively.

3.02 Terminology. All personal pronouns used in this Deed of Trust whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed of Trust itself, and all references herein to Articles, Sections or subsections thereof, shall refer to the corresponding Articles, Sections or subsections thereof, of this Deed of Trust unless specific reference is made to such Articles, Sections or subsections thereof of another document or instrument.

3.03 Severability. If any provision of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, then, subject to applicable law and Article XIV of the Contract, the remainder of this Deed of Trust and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.04 *Applicable Law and Jurisdiction.* This Deed of Trust shall be interpreted, construed and enforced according to the laws of the State of North Carolina, without regard to conflict of law principles. The exclusive forum and venue for all actions arising out of this Deed of Trust are with the North Carolina General Court of Justice in Dare County, North Carolina or the U.S. District Court for the Eastern District of North Carolina. Any attempt to contravene this Section shall be an express violation of this Deed of Trust.

3.05 *Notices, Demands and Request.* All notices, demands or requests provided for or permitted to be given pursuant to this Deed of Trust must be in writing and shall be deemed to have been properly given or served by personal delivery or by depositing in the United States Mail, prepaid and registered or certified, return receipt requested, and addressed to the addresses set forth in the Contract or by Electronic Means (as defined in the Indenture). All notices, demands and requests shall be effective upon delivery or upon being deposited in the United States Mail. However, the time period in which a response to any notice, demand or request must be given, if any, shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving at least thirty (30) days written notice thereof, the Grantor, the Trustee or Beneficiary shall have the right from time to time and at any time during the term of this Deed of Trust to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

3.06 *Appointment of Successor Trustee.* Beneficiary shall at any time have the irrevocable right to remove Trustee herein named without notice to such Trustee for cause and to appoint a successor thereto by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in this state, and in the event of the death or resignation of Trustee named herein, Beneficiary shall have the right to appoint a successor thereto by such written instrument, and any Trustee so appointed shall be vested with the title to the Mortgaged Property and shall possess all the powers, duties and obligations herein conferred on Trustee in the same manner and to the same extent as though such were named herein as Trustee. In the event of such substitution of Trustee, Beneficiary shall furnish notice thereof to the Grantor.

3.07 *Trustee's Powers.* At any time, or from time to time, without liability therefor and without notice, upon written request of Beneficiary and Grantor and presentation of this Deed of Trust, and without affecting the liability for payment of the Indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Mortgaged Property, Trustee may (1) reconvey any part of said Mortgaged Property, (2) consent in writing to the making of any map or plat thereof, (3) join in granting any easement therein or (4) join in any extension agreement or any agreement subordinating the lien or charge hereof. This provision shall not limit the powers of Trustee under applicable law or Section 2.03 hereof.

3.08 *Beneficiary's Powers.* Without affecting the liability for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of all unpaid obligations, Beneficiary may, from time to time and without notice, (1) release any person so liable, (2) extend the maturity or alter any of the terms of any such obligation, (3) grant other indulgences, (4) cause to be released or reconveyed at any time at Beneficiary's option, any parcel, portion or all of the Mortgaged Property, (5) take or release any other or additional security for any obligation herein mentioned or (6) make compositions or other arrangements in relation thereto. The provisions of N.C. Gen. Stat. Section 45-45.1 or any similar statute hereafter enacted in replacement or in substitution thereof shall be inapplicable to this Deed of Trust.

3.09 *Acceptance by Trustee.* Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made of public record as provided by law.

3.10 *Miscellaneous* The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the term “*Beneficiary*” shall include any payee of the indebtedness hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor has caused this Deed of Trust to be executed under seal the day and year first above written.

TOWN OF NAGS HEAD, NORTH CAROLINA

[SEAL]

By: _____
Benjamin Cahoon
Mayor
Town of Nags Head, North Carolina

ATTEST:

Carolyn F. Morris
Town Clerk
Town of Nags Head, North Carolina

STATE OF NORTH CAROLINA

COUNTY OF DARE

I, a Notary Public of the County and State aforesaid, certify that Carolyn Morris (the “*Signatory*”) personally came before me this day and acknowledged that she is the Town Clerk of the Town of Nags Head, North Carolina (the “*Town*”) and that by authority duly given and as the act of the Town, the foregoing instrument was signed in its name by the Mayor of the Town.

I certify that the Signatory personally appeared before me this day, and
(check one of the following)

- _____ (I have personal knowledge of the identity of the Signatory); **or**
- _____ (I have seen satisfactory evidence of the Signatory’s identity, by a current state or federal identification with the Signatory’s photograph in the form of:
(check one of the following)
- ___ a driver's license *or*
- ___ in the form of _____); **or**
- _____ (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal, this the _____ day of March, 2023.

Notary Public
Print Name: _____
[Note: Notary Public must sign exactly as on notary seal]
My Commission Expires: _____
☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

EXHIBIT A

REAL PROPERTY DESCRIPTION

Public Services Facilities

PARCEL ONE:

Dare County Tax Parcel # 005200001

Property Address: 2110 S. Pond Ave., Nags Head, NC 27959

All that certain lot or parcel of land situated in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described as follows:

All that certain lot or parcel of land lying and being in the Town of Nags Head, Nags Head Township, Dare County, North Carolina, and known and designated as being Lots Nos. 1, 2, 3, 4, 5, 6, and K, Block 10, in the subdivision known as Fresh Pond Beaches, as shown and delineated on a map or plat of the said subdivision made by T. R. Pettit, Registered Engineer, May, 1955 and duly recorded in Map Book 2, Page 68, in the office of the Register of Deeds of Dare County, North Carolina, reference to which is hereby made for a more particular description thereof.

Being the same property conveyed to the Town of Nags Head by Deeds recorded in Book 116, Page 59, Book 116, Page 162, Book 116, Page 636, and Book 118, Page 204, Dare County Registry.

PARCEL TWO:

Dare County Tax Parcel # 027934002

Property Address: 2208 S. Lark Ave., Nags Head, NC 27959

All that certain lot or parcel of land situated in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described as follows:

Being all of Parcel B of the Subdivision of Lot 5, Satterfield Landing, now known as "Lampe Business Park," as platted of record in Plat Cabinet C, Slides 8E and 9A, in the office of the Register of Deeds of Dare County, North Carolina.

Being the same property conveyed to the Town of Nags Head by Deed recorded in Book 747, Page 808, Dare County Registry.

PARCEL THREE:

Dare County Tax Parcel # 027934011

Property Address: 0 S. Lark Ave., Nags Head, NC 27959

All that certain lot or parcel of land situated in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described as follows:

Being all of Lot "C" of the Fox Commercial Lots as shown on that map or plat entitled in part "Subdivision Final Plat for Fox Commercial Lots, Satterfield Landing, Nags Head, Nags Head Township, Dare County, North Carolina" by Waterway Surveys and Engineering, Ltd., which is recorded in Plat Cabinet C, Slides

104E and 104F, reference to which is hereby made for a more particular and concise description of the lands being herein conveyed.

The above described real property is hereby conveyed subject to that Declaration of Covenants and Conditions as recorded in Book 665, Page 364 and as supplemented by Supplemental Declaration as recorded in Book 735, Page 84, Dare County Public Registry.

Being the same property conveyed to the Town of Nags Head by Deed recorded in Book 917, Page 811, Dare County Registry.

PARCEL FOUR:

Dare County Tax Parcel # 027934001

Property Address: 2200 South Lark Ave., Nags Head, NC 27959

All that certain lot or parcel of land situated in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described as follows:

Parcel "A" as shown on that certain plat entitled "Subdivision of Lot 5, Satterfield Landing to be known as Lampe Business Park", prepared by George W. Midgette, Jr., Land Surveyor, which map or plat is duly recorded in Plat Cabinet C, Slides 8E and 9A, Dare County Registry.

Being the same property conveyed to the Town of Nags Head by Deed recorded in Book 471, Page 6, Dare County Registry.

EXHIBIT B

PERMITTED ENCUMBRANCES

“*Permitted Encumbrances*” means, as of any particular time: (a) this Deed of Trust; (b) the Contract, as it may be amended from time to time; (c) the Indenture; (d) utility, access and other easements and rights of way, restrictions and exceptions which exist of record as of the closing date and date which do not interfere with or impair the intended use of the Mortgaged Property; (e) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Mortgaged Property and as do not materially impair title to the Mortgaged Property, and (f) any other encumbrances described in Schedule B-II to the Title Insurance Commitment Number [] dated [] issued by [], which commitment is incorporated herein by this reference, pursuant to which such title insurance company will issue the title insurance policy as required by Section 5.5 of the Contract.