



Robinson Bradshaw & Hinson P.A. Ret. *mail*

⑪ Presenter *Hinson PA* Ret. *mail*

Total *44* Fee *5019* Int. *2*

Ck \$ *5019* Cash \$ *2*

Refund: *5019* Cash \$ *2* Finance *2*

☐ Portions of document are being filed to condone of original

☐ Document contains seals verified by original instrument that cannot be reproduced or copied.

### DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this “Declaration”) is made this *1<sup>st</sup>* day of June, 2010, by OCEAN ISLE LANDING, LLC, a Georgia limited liability company (“OIL”); THE EAST CAROLINA BANK, a North Carolina banking corporation (“ECB”); HT OF OCEAN ISLE BEACH, LLC, a North Carolina limited liability company (“HT”); OIB 179-1, LLC, a North Carolina limited liability company (“OIB 179-1”); OIB 179-1A, LLC, a North Carolina limited liability company (“OIB 179-1A”); OIB 179-2, LLC, a North Carolina limited liability company (“OIB 179-2”); OIB 179-2A, LLC, a North Carolina limited liability company (“OIB 179-2A”); and OIB 179-3, LLC, a North Carolina limited liability company (“OIB 179-3”).

### RECITALS

A. OIL is the owner of five (5) contiguous parcels of land fronting on the west side of Ocean Isle Beach Road (N.C. Highway 1184), and on the north side of Beach Drive (N.C. Highway 179/904), near the Town of Ocean Isle Beach, in Brunswick County, North Carolina (collectively, the “OIL Property”). The OIL Property is identified as “Lot 4,” “Lot 5,” “Lot 7,” “Lot 9” and “Lot 10” on the plat (the “Plat”) entitled “Final Plat of Final Master Use Land Plan – The Landing, Lots 1 to 10,” prepared by McKim & Creed, dated March 20, 2008 and recorded in Map Book 52 at Pages 79 through 81 in the Brunswick County Public Registry (the “Registry”).

B. ECB is the owner of a parcel of land on the north side of Beach Drive, adjacent to the OIL Property, which was conveyed by OIL to ECB by deed recorded in Book 2845 at Page 1125 in the Registry (“Outparcel 6”). Outparcel 6 is shown as “Lot 6” on the Plat.

C. HT is the owner of a parcel of land on the west side of Ocean Isle Beach Road, adjacent to the OIL Property, which was conveyed by OIL to HT by deed recorded in Book 3046 at Page 936 in the Registry (“Outparcel 8”). Outparcel 8 is shown as “Lot 8” on the Plat.

D. OIB 179-1 is the owner of a parcel of land on the north side of Beach Drive, near the OIL Property, which was conveyed by OIL to OIB 179-1 by deed recorded in Book 2833 at Page 523 in the Registry (“Outparcel 1”). Outparcel 1 is shown as “Lot 1” on the Plat.

C-1155580v1 04491.01271

Drawn By and Return To:

Robinson, Bradshaw & Hinson, P.A.  
Attention: Brent A. Torstrick  
101 N. Tryon Street, Suite 1900  
Charlotte, NC 28246



E. OIB 179-1A is the owner of a parcel of land on the north side of Beach Drive, near the OIL Property, which was conveyed by OIL to OIB 179-1A by deed recorded in Book 2833 at Page 560 in the Registry ("**Outparcel 1A**"). Outparcel 1A is shown as "Lot 1A" on the Plat.

F. OIB 179-2 is the owner of a parcel of land on the north side of Beach Drive, near the OIL Property, which was conveyed by OIL to OIB 179-2 by deed recorded in Book 2833 at Page 580 in the Registry ("**Outparcel 2**"). Outparcel 2 is shown as "Lot 2" on the Plat.

G. OIB 179-2A is the owner of a parcel of land on the north side of Beach Drive, near the OIL Property, which was conveyed by OIL to OIB 179-2A by deed recorded in Book 2833 at Page 600 in the Registry ("**Outparcel 2A**"). Outparcel 2A is shown as "Lot 2A" on the Plat.

H. OIB 179-3 is the owner of a parcel of land on the north side of Beach Drive, near the OIL Property, which was conveyed by OIL to OIB 179-3 by deed recorded in Book 2833 at Page 620 in the Registry ("**Outparcel 3**"). Outparcel 3 is shown as "Lot 3" on the Plat.

I. The OIL Property, along with the seven (7) additional Outparcels described above (collectively, the "**Property**"), constitute all of the real property shown on the Plat. The Property is served by a common engineered stormwater control facility (the "**Stormwater Facility**") that accepts stormwater runoff from each parcel within the Property (each, a "**Parcel**"). In connection with OIL's application for stormwater management permits for the Stormwater Facility, the Division of Water Quality of the North Carolina Department of Environment and Natural Resources ("**DWQ**") has, in accordance with Title 15 NCAC 2H.1000 of the North Carolina Administrative Code, required the recordation of certain deed restrictions and protective covenants encumbering each Parcel, which are set forth in this Declaration. These restrictions and covenants are necessary to ensure that each Parcel within the Property maintains a built-upon area consistent with the design criteria used to size the Stormwater Facility.

J. Because OIL has conveyed fee simple title to the seven (7) Outparcels described above, and no longer owns those Parcels, it has requested ECB, HT, OIB 179-1, OIB 179-1A, OIB 179-2, OIB 179-2A and OIB 179-3 to join in the execution of this Declaration, in order to impose the protective covenants and deed restrictions required by DWQ on their respective Parcels.

### STATEMENT OF RESTRICTIONS

**NOW, THEREFORE**, in consideration of the covenants set forth below and for the purposes set forth above, the parties to this Declaration, for themselves and their respective successors and assigns, hereby impose the following covenants and restrictions upon the Property:

1. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8070322 (the "**Permit**") as issued by DWQ under Title 15 NCAC 2H.1000.

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required to submit a separate stormwater permit application to DWQ and receive a permit prior to construction.

9. This Declaration has been entered into under, and shall be construed in accordance with, the laws of the State of North Carolina.

[signatures begin on following page]

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2. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Permit.
3. These covenants are to run with the land and be binding on all persons and parties claiming under them.
4. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of DWQ.
5. Alteration of the drainage as shown on the stormwater plan approved by DWQ in connection with the issuance of the Permit may not take place without the concurrence of DWQ.
6. The maximum built-upon area for each Parcel within the Property, in square feet, is as listed below (lot numbers for each Parcel below refer to the Plat):

Lot #	BUA		Lot #	BUA		Lot #	BUA
Lot-1	34,068		Lot-1A	35,080		Lot-2	36,106
Lot-2A	39,576		Lot-3	48,375		Lot-4	44,241
Lot-5	46,141		Lot-6	48,635		Lot-7	352,057
Lot-8	55,702		Lot-9	55,702		Lot-10	59,443

This allotted amount includes any built-upon area constructed within the boundaries of each Parcel, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

7. All runoff from the built-upon areas on each Parcel must drain into the permitted Stormwater Facility. This may be accomplished through a variety of means including roof drain gutters, which drain to the street, grading the lot to drain toward the street, or grading perimeter swales to collect the lot runoff and directing them into a component of the Stormwater Facility. Parcels that will naturally drain into the system are not required to provide these additional measures.

8. The owner of each Parcel, whose ownership is not retained by the permittee, is required to submit a separate stormwater permit application to DWQ and receive a permit prior to construction.

9. This Declaration has been entered into under, and shall be construed in accordance with, the laws of the State of North Carolina.

**[signatures begin on following page]**



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

OIL:

OCEAN ISLE LANDING, LLC, a Delaware limited liability company

By: Crescent Resources, LLC, a Georgia limited liability company, its sole member and manager

By:

Name: ERIC JAEGER

Title: VICE PRESIDENT

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Miriam M. Hofress, a Notary Public for said County and State, do hereby certify that ERIC JAEGER, a VICE PRES. of Crescent Resources, LLC, a Georgia limited liability company, acting in its capacity as sole member and manager of OCEAN ISLE LANDING, LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company, acting on behalf the limited liability company.

WITNESS my hand and official seal, this the 15<sup>th</sup> day of May, 2010.

Miriam M. Hofress  
Notary Public

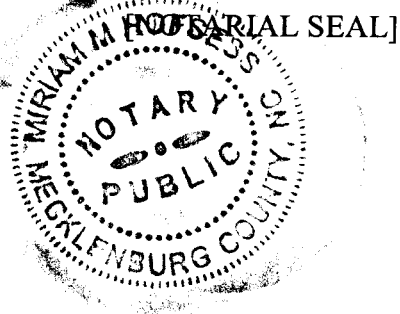
My commission expires:

My Commission Expires August 17, 2013

Printed or typed name:

Miriam M. Hofress

[SIGNATURES CONTINUED]



ECB:

THE EAST CAROLINA BANK, a North Carolina banking corporation

By: [Signature]  
Name: J. Dorson White  
Title: Executive Vice President & COO

STATE OF NORTH CAROLINA

COUNTY OF Pitt

This 12 day of February, 2010, personally came before me J. Dorson White who, being by me duly sworn, says that he is the Executive Vice President of THE EAST CAROLINA BANK, a North Carolina banking corporation, and that said writing was signed by him, on behalf of said corporation, by its authority duly given. And the said Executive Vice President acknowledged the said writing to be the act and deed of said corporation.

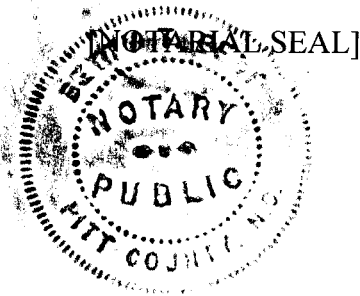
[Signature]  
Notary Public

My commission expires:

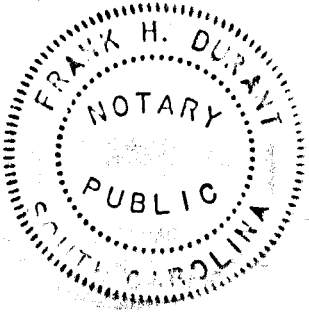
8/17/2013

Printed or typed name:

Betty T. Best



[SIGNATURES CONTINUED]



HT:

**HT OF OCEAN ISLE BEACH, LLC**, a North Carolina limited liability company

By:

Name: Yhehzkel Elia

Title: Managing Member

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

I, Frank H. DuRant, a Notary Public for said County and State, do hereby certify that Yhehzkel Elia, a managing member of **HT OF OCEAN ISLE BEACH, LLC**, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official seal, this the 27th day of May, 2010.

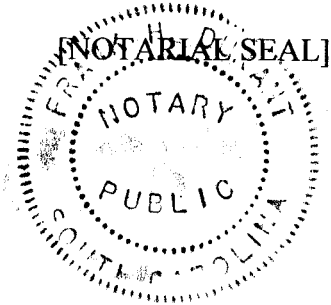
Notary Public

My commission expires:

11/7/2016

Printed or typed name: Frank H. DuRant

Notary Public for South Carolina



[SIGNATURES CONTINUED]



OIB 179-1:

OIB 179-1, LLC, a North Carolina limited liability company

By:

Name:

Title:

James B. Myers III  
JAMES B. MYERS III  
MEMBER

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, Mary G. Wile, a Notary Public for said County and State, do hereby certify that James B. Myers III Member of OIB 179-1, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

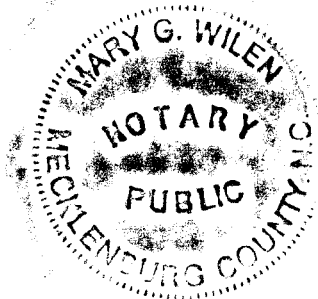
WITNESS my hand and official seal, this the 17<sup>th</sup> day of May, 2010.

Mary G. Wile  
Notary Public

My commission expires:

June 4, 2011

[NOTARIAL SEAL]



Printed or typed name:

Mary G. Wile

[SIGNATURES CONTINUED]

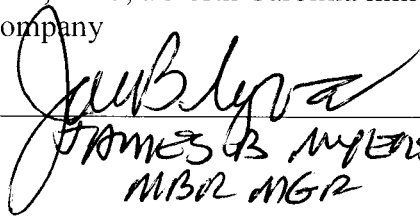
OIB 179-1A:

OIB 179-1A, LLC, a North Carolina limited liability company

By:

Name:

Title:

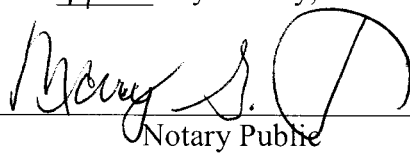
  
 JAMES B MYERS II  
 MGR MGR

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, Mary G Wiles, a Notary Public for said County and State, do hereby certify that James B Myers II MGR of OIB 179-1A, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official seal, this the 17<sup>th</sup> day of May, 2010.

  
 Notary Public

My commission expires:

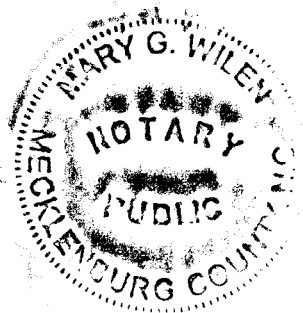
June 4, 2011

[NOTARIAL SEAL]

Printed or typed name:

Mary G. Wiles

[SIGNATURES CONTINUED]







OIB 179-2:

OIB 179-2, LLC, a North Carolina limited liability company

By:

Name:

Title:

*[Signature]*  
JAMES B. MYERS  
MEMBER

STATE OF NORTH CAROLINA

COUNTY OF Mechlenburg

I, Mary G. Wiles, a Notary Public for said County and State, do hereby certify that James B. Myers a Member of OIB 179-2, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official seal, this the 17<sup>th</sup> day of May, 2010.

*[Signature]*  
Notary Public

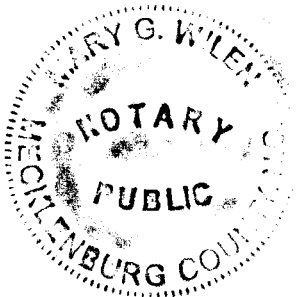
My commission expires:

June 4, 2011

[NOTARIAL SEAL]

Printed or typed name:

Mary G. Wiles



[SIGNATURES CONTINUED]



OIB 179-2A:

OIB 179-2A, LLC, a North Carolina limited liability company

By:

Name:

Title:

*James B. Myers III*  
 JAMES B. MYERS III  
 MBR MBR

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, Mary G. Wile, a Notary Public for said County and State, do hereby certify that James B. Myers III MBR of OIB 179-2A, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official seal, this the 17<sup>th</sup> day of May, 2010.

*Mary G. Wile*  
 Notary Public

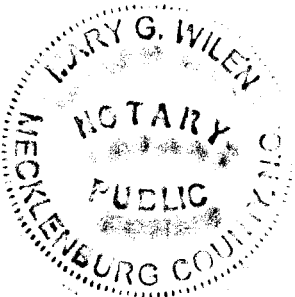
My commission expires:

June 4, 2011

[NOTARIAL SEAL]

Printed or typed name:

Mary G. Wile



[SIGNATURES CONTINUED]



Brunswick County, NC Register of Deeds  
OIB 179-3:

B3056 P0305 06-21-2010  
12:33:30.000  
Brenda M. Clemmons  
page 11 of 11

OIB 179-3, LLC, a North Carolina limited liability company

By:

Name:

Title:

*James B. Myers IV*  
MBR MGR

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, Mary G. Wilen, a Notary Public for said County and State, do hereby certify that Jane Myers and MGR of OIB 179-3, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official seal, this the 17<sup>th</sup> day of May, 2010.

*Mary G. Wilen*  
Notary Public

My commission expires:

June 4, 2011

[NOTARIAL SEAL]

Printed or typed name:

Mary G. Wilen

