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Tammie Mosley Clerk Superior Court

Participant ID(s): 4878462932,  
7067927936

**BK 2907 PG 742 - 752**

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**ABOVE SPACE FOR RECORDING INFORMATION ONLY**

Prepared by:

**BOUHAN  
FALLIGANT**

ATTORNEYS & COUNSELORS AT LAW

One West Park Avenue

Savannah, Georgia 31401

ATTN: Robert B. Brannen, Jr., Esq.

(912) 644-5721

File No: 20877-0004

**JOINT DRIVEWAY MAINTENANCE  
AND EASEMENT AGREEMENT**

**THIS JOINT DRIVEWAY MAINTENANCE AND EASEMENT AGREEMENT** (the “Agreement”) is made as of this 2<sup>nd</sup> day of September, 2022, by and between **4410 PROPERTIES, LLC**, a Georgia limited liability company (“4410 Properties”), and **RICHARD A. STARLING** (“Starling”).

**RECITALS:**

**WHEREAS** 4410 Properties is the fee simple owner of that real property known as Area IV-1 of Parcel A of the Hendrix Machinery Company Tract, as defined below (the “4410 Properties Parcel”); and

**WHEREAS** Starling is the fee simple owner of that real property known as Area IV-2 of Parcel A of the Hendrix Machinery Company Tract, as defined below (the “Starling Parcel”); and

**WHEREAS** the Plat, as defined below, creates various easements across the 4410 Properties Parcel for the benefit of the Starling Parcel, including a 40’ Private Access Easement & Utility Easement and two 15’ Utility Easements; and

**WHEREAS** the Plat, as defined below, creates a 20’ Relocatable Drainage Easement across the Starling Parcel for the benefit of the 4410 Properties Parcel;

WHEREAS the parties desire to confirm the conveyance of said easements and establish reasonable terms and conditions for the use of said easements;

NOW, THEREFORE, for and in consideration of TEN DOLLARS (\$10.00), the benefits accruing to each of the Parcels (as defined herein) from the easement and other agreements created hereby, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1.

**Definitions**

1.1 Unless the context otherwise requires, capitalized terms used herein shall have the meanings set forth below:

Access Easement Area shall mean the real property shown as 40' Private Access Easement & Utility Easement on the Plat.

Utility Easement Area shall mean and include both of the real properties shown as 15' Utility Easement on the Plat.

4410 Properties Parcel shall mean that real property known as Area IV-1 of Parcel A of the Hendrix Machinery Company Tract, as more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference

Starling Parcel shall mean that real property known as Area IV-2 of Parcel A of the Hendrix Machinery Company Tract, as more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference

Parcel or Parcels shall mean the 4410 Properties Parcel and the Starling Parcel, either individually or collectively, as the context requires.

Pavement shall refer to concrete or asphalt surface or other covering of substantially equivalent quality and color installed within the Access Easement Area or over any parking or other common area of any portion of any of the Parcels including any curbing, gutters and related facilities.

Plat shall mean that plat entitled "Minor Subdivision of Area IV, Land Title Survey Parcel A, Being a Portion of the Hendrix Machinery Company Tract," dated December 1, 2020, prepared by Coleman Company, Don Edward Taylor, Jr., Georgia Registered Land Surveyor 3417, and recorded in Plat Book 52, page 762, Chatham County, Georgia records, said plat being incorporated herein and made a part hereof by this reference

2.

**Creation of Easements**

4410 Properties hereby grants, conveys, and establishes a non-exclusive, perpetual

easement, right and privilege in favor and for the benefit of the Starling Parcel and appurtenant to and running with title to the Starling Parcel over, across, under and through the Access Easement Area for the purpose of construction, maintenance, and repair of a paved roadway, utilities, and vehicular and pedestrian access, ingress and egress, as shown on the plat, but not parking, subject to the terms hereof.

There shall be no parking or any other obstruction within the driveway within the Access Easement Area that would prevent or otherwise hinder access, ingress and egress as necessary to effectuate the purposes of the easements granted herein.

### 3.

#### **Construction and Maintenance of Access Road**

- 3.1 The owner of the 4410 Properties Parcel has constructed a paved driveway within the Access Easement Area providing access from Ogeechee Road to the Starling Parcel, and installed and constructed utilities, including water, and sanitary sewer to service improvements constructed on the 4410 Properties Parcel, some of which are presently located outside of the Access Easement Areas and Utility Easement Area. The owner of the Starling Parcel shall coordinate and pay for the installation and maintenance of any utilities (water, sewer, electric, telephone, internet, gas, etc.) serving the Starling Parcel within the Access Easement Area and Utility Easement Area.
- 3.2 The owner of the 4410 Properties Parcel shall perform routine maintenance of the Pavement comprising the paved driveway.
- 3.3 Notwithstanding the foregoing provisions, if any improvements in the Access Easement Area are damaged as the result of the actions of the owner(s) of the Starling Parcel, the owner of the Starling Parcel shall reimburse the owner of the 4410 Properties Parcel for its direct, out-of-pocket costs and expenses incurred to repair said damage.
- 3.4 Notwithstanding the foregoing provisions, at all times during the term of this Agreement, the owners of each Parcel shall share equally any material capital costs for repairs and maintenance of the Pavement within the Access Easement Area. These material capital costs shall include, without limitation, the obligation to maintain pavement within the Access Easement Area, in a level, smooth and evenly-covered condition

The owner of the 4410 Properties Parcel containing the Access Easement Area shall coordinate the performance of said maintenance, and submit to the owner of the Starling Parcel written statements for reimbursement, together with receipt for such payment (an "Invoice"), not more often than once a month, and not less often than once a year. The owners of the Starling Parcel agree to pay each Invoice within thirty (30) days of the receipt of the notice transmitting such Invoice. In the event that an owner fails to pay an Invoice within said thirty (30) day period, then the outstanding balance thereof shall bear interest at the rate of eight percent (8%) per annum until paid and, together with reasonable attorneys' fees and expenses, actually incurred in collection, shall constitute a charge and

continuing lien on the Starling Parcel, provided that said lien shall be subordinate to any bona fide, first priority mortgage on the Starling Parcel.

- 3.5 Should the owner of either Parcel (the “Failing Parcel”) fail to perform all or part of its obligations as set forth in this Section, and such failure continues for thirty (30) days after receipt of written notice from the owner of the other Parcel (the “Complaining Parcel”), stating the nature of said failure and requesting certain repairs to be performed, the owner of the Complaining Parcel shall have the right to complete said construction, repair or maintenance work. In the event that the failure to perform said maintenance has resulted in an emergency situation reasonably likely to cause material damage to persons or property if not immediately resolved, the owner of the Complaining Parcel is not required to send said notice prior to completing said maintenance and repair work. The easements granted herein shall be deemed to include the right and easement to enter upon the Failing Parcel with men and machines to perform such repair and maintenance work in accordance with the terms hereof.

Upon completion of said work, the owner of the Complaining Parcel may submit to the owner of the Failing Parcel a statement or multiple statements which show all reasonable, direct, out of pocket costs and expenses associated with said construction, repair or maintenance work including invoices for same (the “Invoice”). The owner of the Failing Parcel agrees to pay each Invoice within thirty (30) days of the receipt of the notice transmitting such Invoice. In the event that the owner of the Failing Parcel fails to pay an Invoice within said thirty (30) day period, then the outstanding balance thereof shall bear interest at the rate of eight percent (8%) per annum until paid and shall constitute a charge and continuing lien on the Failing Parcel, provided that said lien shall be subordinate to any bona fide, first priority mortgage on the Failing Parcel.

#### 4.

#### **Maintenance of Access Easement Area and Utilities Easement Area**

- 4.1 Except as otherwise specifically provided below, at all times during the term of this Declaration, the owner of the Starling Parcel shall:
- 4.1.1 During any period in which its Parcel is a construction zone, or during which improvements are being installed or constructed within the Access Easement Area, Utility Easement Area or on the Starling Parcel, keep the Access Easement Area free and clear of any mud, dirt or other debris, and not interfere with the proper use or operation of the 4410 Properties Parcel. In the event that the owner of the 4410 Properties Parcel notifies the owner of the Starling Parcel that there is mud, dirt or other debris in the Access Easement Area related to construction on the Starling Parcel, the owner of the Starling Parcel shall promptly remove such mud, dirt or other debris.
- 4.1.2 During any period in which its Parcel is vacant, plant grass or other suitable ground

cover, keep such grass or other ground cover mowed and trimmed in a clean and slightly condition and take measures necessary to prevent erosion; and

- 4.1.3 Except as otherwise provided herein, maintain in good operating order all utilities located or installed within the Access Easement Area and Utility Easement Area and serving any Improvements located on the Starling Parcel.

## 5.

### **Conditions of Work.**

- 5.1 In the event the owner of any Parcel performs work, including repairs and maintenance, on any Parcel pursuant to the terms of this Agreement (the "Work"):
  - 5.1.1 The Work shall be performed in such a manner so as not to unreasonably interfere with the use or operation of any other Parcel, including, without limitation, any interruption to any utility service to any improvements constructed on such other Parcel;
  - 5.1.2 Upon the completion of any Work, the owner of a Parcel performing the Work shall restore the other Parcels to the condition which existed immediately prior to such Work, except to the extent that such Parcels have been maintained or improved as a result of such Work;
  - 5.1.3 The owner of a Parcel performing the Work shall obtain all necessary licenses and permits required for such Work and all Work shall be done and all improvements constructed in a good and workmanlike manner and shall be free and clear of all liens of contractors, subcontractors, laborers and materialmen and all other liens;
  - 5.1.4 All Work shall be performed and all improvements constructed in accordance with all laws, ordinances, codes, rules and regulations of all governmental authorities having jurisdiction over such Work.

## 6.

### **Indemnification, Insurance and Eminent Domain**

- 6.1 The owner of the Starling Parcel hereby indemnifies and saves the owners of the 4410 Properties Parcel harmless from and against any and all liabilities, damages, reasonable expenses, causes of action, suits, claims or judgments (including, without limitation, reasonable attorney's fees and court costs) arising from personal injury, death or property damage and occurring on or from the Access Easement Area; provided, however, that said party shall not be protected or held harmless to the extent such personal injury, death or property damage was caused by the act or neglect of the owner of the 4410 Properties Parcel. For purposes of this Section 7.1, the term "owner" shall be deemed to include the owner and its agents, licensees, invitees, employees and guests.

- 6.2 The owner of the Starling Parcel agrees to procure and maintain in full force and effect, throughout the term of this Agreement, general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about its respective Parcel, the insurance with respect to each Parcel to afford protection to the limit of not less than \$2,000,000.00 combined single limit over bodily injury or property damage for any one occurrence. Such insurance may be written by additional premises endorsement on any master policy of insurance which may cover other property in addition to the Parcel covered by this Agreement provided such master policy specifically identifies such Parcel as being covered by such policy.

## 7.

### Miscellaneous

- 7.1 In the event of a breach or threatened breach of this Agreement, only record owners of the Parcels at any time affected thereby and their successors and assigns at the time such breach occurs shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. In no event shall such a breach result in a reversion of the title to any Parcel, or any of the easements granted by this Agreement.
- 7.2 The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the title to each Parcel. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns.
- 7.3 The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Agreement nor in any way affect the terms and provisions hereof.
- 7.4 This Agreement shall not be modified or altered in any respect except by a writing executed and delivered by the then owner(s) of all the Parcels.

Notwithstanding the foregoing, in the event that any Parcel is further subdivided for development purposes, the owners of said subdivided Parcel may unilaterally amend this Agreement for the purpose of incorporating reference to said subdivided Parcels and extending the easement areas and other easement rights granted herein over, under and across said subdivided Parcels, so long as said amendment does not adversely affect the rights or obligations of any other party hereto.

- 7.5 Notices given pursuant to this Agreement will be effective only if in writing and delivered (i) in person, (ii) by courier, (iii) by reputable overnight courier guaranteeing next business day delivery, (iv) if sent on a business day during the business hours of 9:00 a.m. until 7:00 p.m., eastern time, via email, if acknowledged by e-mail from at least one addressee, or, if a copy is sent by reputable overnight courier guaranteeing next business day delivery, or (v) by United States certified mail, return receipt requested. All notices will be directed to the other party at its address provided below or such other address as either party may designate by notice given in accordance with this Section. Notices will be effective (i) in

the case of personal delivery or courier delivery, on the date of delivery, (ii) if by overnight courier, one (1) business day after deposit with all delivery charges prepaid, (iii) if by email, on the date of delivery, provided that receipt is acknowledged or a copy of the notice is sent as required above, and (iv) in the case of certified mail, the earlier of the date receipt is acknowledged on the return receipt for such notice or five (5) business days after the date of posting by the United States Post Office. The notice addresses are as follows:

4410 Properties:

Starling:

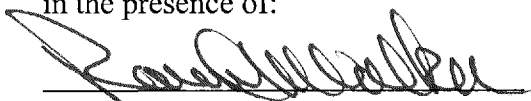
Any Parcel owner may register the address to which notices should be sent hereunder by recording in the Chatham County, Georgia real estate records a notice specifying such address and cross referencing this Agreement, and by sending a copy of such notice to all parties whose addresses are listed herein and to all parties who have previously recorded such notices.

- 7.6 The owner of the 4410 Properties Parcel agrees not to record a security deed encumbering said Parcel prior to recordation of the Agreement.

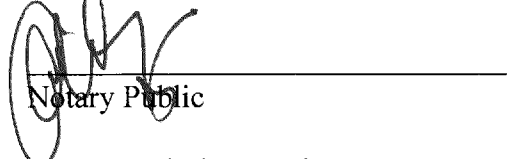
[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement under seal the day and year written above.

Signed, sealed and delivered  
in the presence of:



Unofficial Witness



Notary Public

My Commission Expires:

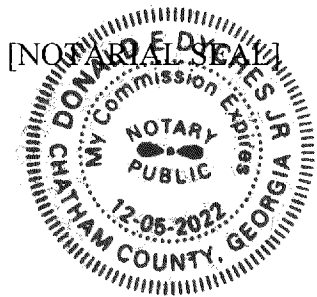
12-5-2022

**OWNER:**

**4410 PROPERTIES, LLC,**  
a Georgia limited liability company

By: 

Its: SOLE MEMBER.





Signed, sealed and delivered  
in the presence of:

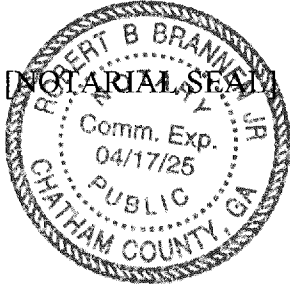
Robert B. Branley  
Unofficial Witness

R. B. Branley  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**STARLING:**

Richard A. Starling (SEAL)  
Richard A. Starling



**EXHIBIT "A"**

**4410 Properties Parcel**

ALL that certain tract of land known as Area IV-1, Parcel A of the Hendrix Machinery Company Tract, 7<sup>th</sup> G.M. District, City of Savannah, Chatham County, Georgia, as shown on that certain map or plan of said tract entitled, "A Minor Subdivision of Area IV, Land Title Survey Parcel A, Being a Portion of the Hendrix Machinery Company Tract," dated December 1, 2020, prepared by Coleman company, Don Edward Taylor, Jr., Georgia Registered Land Surveyor 3417, and recorded in the Office of the Clerk of the Superior Court, Chatham County, Georgia in Plat Record Book 52, page 762. Said map or plan is incorporated herein for a more particular description of the metes, bounds, and dimensions of the property hereby described, to wit:

Commencing at the approximate intersection of the center lines of U.S. Highway No. 17 (Ogeechee Road) and Heathcote Circle, N61°13'38"E a distance of 199.52' to a 3/4" iron pipe, the Point of Beginning; thence along the property line of now or formerly Judy R. Hughes and James A. Hughes Sr., N16°27'09"W a distance of 327.46' to a 1" iron pipe; thence along the property line of Area IV-2, N73°29'50"E a distance of 199.47' to a 1" iron pipe; thence along the property line of Leila Jenkins L/T, S16°29'29"E a distance of 327.46' to a right-of-way monument; thence along the northern right-of-way line of U.S. Highway No. 17 (Ogeechee Road); S73°29'50"W a distance of 199.69' to the Point of Beginning.

Property Address: 4410 Ogeechee Road, Savannah, Georgia 31405

PIN: 2-0873-01-029

**EXHIBIT "B"**

**STARLING PARCEL**

All that certain lot, tract or parcel of land situate, lying and being in the City of Savannah, Chatham County, Georgia, being known and designated as **AREA IV-2, PARCEL "A" OF THE HENDRIX MACHINERY COMPANY TRACT** on that certain plat entitled, "A Minor Subdivision of Area IV, Parcel "A" of the Hendrix Machinery Company Tract, 7<sup>th</sup> G.M. District, City of Savannah, Chatham County, Georgia," prepared by Don Edward Taylor, Jr., G.R.L.S.S No. 3417, dated December 1, 2020, and recorded in Plat Book 52, page 762, Chatham County, Georgia records, said plat being incorporated herein and made a part hereof by this reference.