

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Fulton County Land Division
141 Pryor Street, Ste. 8021
Atlanta, Georgia 30303

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

THIS DOCUMENT MUST ONLY BE RECORDED BY PERSONNEL OF THE FULTON COUNTY LAND DIVISION

EASEMENT AGREEMENT

This EASEMENT AGREEMENT ("Agreement") is entered into effective as of the 13
day of OCT, 2014, by and between the **HIGHLANDS OWNERS ASSOCIATION, INC.**, a
Georgia non-profit corporation (the "**Grantor**") and **FULTON COUNTY, GEORGIA** a
political subdivision of the State of Georgia (the "**Grantee**").

WITNESSETH:

WHEREAS, Grantee obtained ownership of the water system within and serving The Highlands subdivision through an agreement titled TRANSFER OF OWNERSHIP FROM PRITCHARD MOUNTAIN WATER, LLC OF WATER EXTENSION LINES, MAINS AND FACILITIES TO FULTON COUNTY effective October 6, 2010; and,

WHEREAS, Grantee's ability to operate and maintain said water system was effected through the existence of public rights-of-way ("ROWs") for roadways within the subdivision; and

WHEREAS, the developer, Harmony Reserve Investments, LLC, made an application to the City of Milton to abandon the public ROWs within the Highlands subdivision; and

WHEREAS, the City of Milton did abandon the public ROWs within the Highlands subdivision effective July 16, 2012, which was evidenced by that certain Deed of Abandonment dated September 17, 2012, and recorded in the records of Fulton County, Georgia in Deed Book 51963, Page 58; and,

WHEREAS, there are existing water lines owned and operated by Grantee located in the previously public ROWs; and

WHEREAS, due to the abandonment of the previously public ROWs by the City of Milton, Grantee requires an easement to operate and maintain the water lines located in the previously public ROWs; and

WHEREAS, Grantor and Grantee are entering this Agreement for the purpose of conveying to Grantee an easement to use, maintain, repair, replace, relocate and remove water lines and associated facilities located in the previously public ROWs.

NOW THEREFORE, in consideration of Ten Dollars and 00/100 (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The recitals set forth above in this Agreement are incorporated into the body of this Agreement and made a part hereof as if fully set forth herein.

2. **Grant of Easement.** Grantor does hereby grant, bargain, sell, and convey to Grantee and to Grantee's successors and assigns a perpetual non-exclusive easement to access, use, maintain, repair, replace, relocate and remove underground water lines and associated facilities in the ROW (the "**Easement**"). The Easement shall lie across all that tract or parcel of land lying and being in Land Lots 191, 192 and 193 of the 2nd District and 2nd Section of Fulton County, Georgia being more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference. The Easement shall be centered on the roadways and extend a minimum of 44 feet in total width or a minimum of 10 feet beyond the back of the curb defining the roadway, whichever is greater. The named private roadways included in the Easement are: Heritage Pass, Legends Trail, Shadow Hawk and Timber Place. Grantee's right to access the Easement shall include methods for gaining entry through any locked gates or fencing for the purpose of handling emergency repairs 24 hours a day, 7 days a week.

3. **Reservation of Rights.** Grantor reserves the right to use the Easement for any and all lawful purposes, except that such use may not unreasonably interfere with the exercise by Grantee of its rights in the Easement granted hereby. Without limiting the generality of the foregoing, (i) Grantor may grant and establish other easements in all or any part of the Easement, so long as the grant is lawful and does not materially interfere with the rights hereby granted to Grantee, and (ii) Grantor may construct within the Easement, streets, roads, parking lots, sidewalks, fences, landscaping, signage, lighting, and other architectural or entry features that may be used in conjunction with the development or use of the Association's land, of which the Easement forms a part, however, such improvements may not cause damage to the water lines and associated facilities within the Easement. Grantee shall use its best efforts not to interfere with or negatively impact the quiet enjoyment of Grantor's members in the exercise by Grantee of its rights pursuant to this Agreement. During periods of maintenance and repair, Grantee shall endeavor to provide reasonable access for Grantor and Grantor's members and invitees across the Easement.

4. **Obligation to Repair.** Grantee hereby covenants and agrees that it shall, at Grantee's cost and expense, be responsible for and carry out any and all maintenance or repair to the Easement necessitated or caused by the use of the Easement by Grantee, its agents,

contractors and employees for the specific purpose defined in this Agreement. After any exercise of Grantee's rights under this Agreement, Grantee shall, at its expense, promptly restore the Easement to as near to its original condition as is feasible with the exceptions as noted below. Sod or seeded lawns and landscaping shall be graded, smoothed, and re-sodded or re-seeded, whichever is appropriate. Any trees, shrubbery and flower beds located within the Easement which are damaged during repair or maintenance efforts shall be the responsibility of the Association or other entity having responsibility for the maintenance of the Easement area. Only driveways, sidewalks, using standard poured (ready Mix) concrete (with the exception of streets) shall be repaved to their original dimensions. Streets shall be repaved according to Fulton County Street Standards. Any additional repairs to streets above and beyond the requirements of the Fulton County Street Standards shall be the responsibility of Grantor. Decorative stone walls, sidewalks, driveways and other roadway surfaces damaged by repair and maintenance efforts will be filled with crushed stone and/or temporarily covered with steel plates. Permanent repairs to the decorative stone walls, sidewalks and driveways shall be made by Grantor, or other entity having maintenance responsibilities for the Easement. Repairs and restoration will only be made to those areas immediately affected by the maintenance effort with the exception of concrete driveways, which may be re-poured in entire sections, depending on the extent of the affected area, manner and method of the concrete removal (i.e. sawcut with no damage to surrounding concrete), or condition of concrete prior to the repair or maintenance effort. Maintenance responsibility by Grantee for individual water service lines shall extend only to the water meter. Responsibility for any maintenance beyond the meter will be borne by the individuals being served. Any work performed by Grantee pursuant to this Agreement shall be done in a good workmanlike manner.

5. **Notices.** All notices and communications required or permitted hereunder shall be in writing. Any notices or demands shall be deemed to have been duly and sufficiently given if a copy thereof has been personally served, forwarded by expedited messenger or recognized overnight courier service with evidence of delivery or mailed by United States registered or certified mail in an envelope properly stamped and addressed to the applicable party at the addresses identified below or at such other address as the such party may theretofore have furnished to the other party by written notice. The effective date of such notice shall be the date of actual delivery, except that if delivery is refused, the effective date of notice shall be the date delivery is refused. Notices shall be addressed as follows:

Grantor:

Highlands Owners Assn. Inc.
Milton, Georgia
Attn: President

Grantee:

Kun Suwanarpa
Assistant Director, Water Resources
141 Pryor St., S.W., Ste. 6001
Atlanta, Georgia 30303

6. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

7. **Severability.** If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstance other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

8. **Effective Date.** This Agreement will become effective upon approval by the Fulton County Board of Commissioners of their interest in the Easement and will be recorded by Grantee as soon as practicable after such approval and execution by Grantee.

9. **Third Party Beneficiaries.** This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.

10. **Waiver.** Nothing in this Agreement shall be construed as a waiver of sovereign immunity.


11. **Miscellaneous.** This Agreement may not be modified orally or in any manner other than by a written agreement signed by the parties hereto. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns. Time is of the essence in this Agreement. This Agreement shall be governed by the laws of the State of Georgia without regard to the conflict of laws provisions thereof.

[Signatures appear on the following page]

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

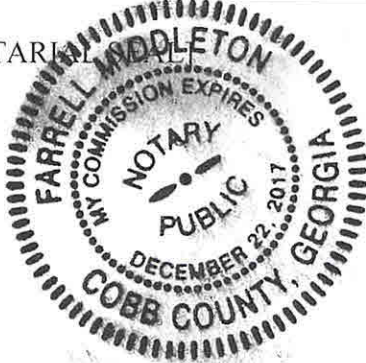
Signed, sealed and delivered in the presence of:


Unofficial Witness



Notary Public

My commission expires: 12/22/17

[NOTARY]




ATTEST:


Mark Massey
Clerk [Seal]




APPROVED AS TO CONTENT:


Kun Suwanarpa
Assistant Director, Water Resources

GRANTOR

HIGHLANDS OWNERS ASSOCIATION, INC., a Georgia non-profit corporation

By: 
Name: DARCI DANLYKEN
Title: Sec.

GRANTEE

FULTON COUNTY, GEORGIA


John H. Eaves, Chairman
Board of Commissioners

APPROVED AS TO FORM:


Office of the County Attorney

ITEM # 14-0831 RCS 10/15/2014
RECESS MEETING

Exhibit A

All right of way for the roads within The Highlands at Echelon Subdivision, Phase One and Phase Two, such road right of way being named as Timber Pass, Heritage Pass, Legends Trail and Shadow Hawk (the "Roads"), which is situation in Land Lots 191, 192 and 193 of the 2nd District, 2nd Section of Fulton County, Georgia.

These rights of way being shown on The Highlands at Echelon, Phase One and Phase Two, subdivision plats prepared by LCE Engineers, Inc. dated 8/21/2007 and recorded in the records of Fulton County, Georgia in Plat Book 331, Pages 137-143 (Phase One) and 133-136 (Phase Two).

Deed Book 54245 Pg 477
Filed and Recorded Oct-13-2014 04:30pm
2014-0280513
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

[Space Above This Line For Recording Data]

RETURN TO:
Moore Ingram Johnson & Steele, LLP
326 Roswell Street, Ste. 100
Marietta, Georgia 30060
Attn: ELB

QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF FORSYTH

THIS INDENTURE made the 10 day of October in the year of Two Thousand Fourteen, between

HARMONY RESERVE INVESTMENTS, LLC

a Georgia limited liability company, as party or parties of the first part, hereinafter called Grantor, and

HIGHLANDS OWNERS ASSOCIATION, INC.

a Georgia non-profit corporation, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns, where the context requires or permits).

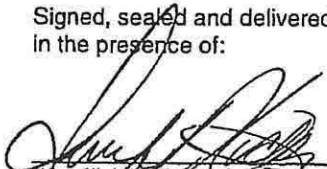
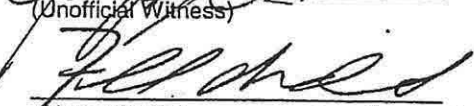
WITNESSETH that Grantor, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey, and forever QUITCLAIM unto the said Grantee

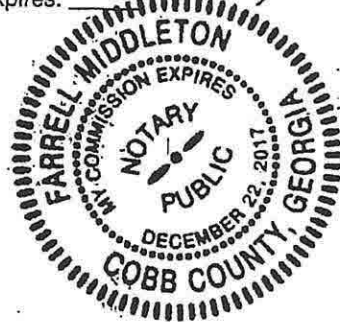
ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 191, 192 AND 193 OF THE 2ND DISTRICT AND 2ND SECTION OF FULTON COUNTY, GEORGIA, BEING THE ROADS IN THE HIGHLANDS AT ECHELON SUBDIVISION AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

TO HAVE AND TO HOLD the said described premises to grantee, so that neither grantor nor any person or persons claiming under grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered
in the presence of:


(Unofficial Witness)

(Notary Public)
My Commission Expires: 12/22/17



HARMONY RESERVE INVESTMENTS, LLC


(Seal)
BY: DARCY PAULSEN
Title: MANAGER

Exhibit A

All right of way for the roads within The Highlands at Echelon Subdivision, Phase One and Phase Two, such road right of way being named as Timber Pass, Heritage Pass, Legends Trail and Shadow Hawk (the "Roads"), which is situation in Land Lots 191, 192 and 193 of the 2nd District, 2nd Section of Fulton County, Georgia.

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