

Record & Return to:
Professional Title of Indian River, Inc.
1546 N US 1, Sebastian, FL 32958

This instrument was prepared by
and should be returned to:
Warren W. Dill, Esq.
Dill & Evans, P.L.
1565 U.S. Highway 1
Sebastian, FL 32958

RECIPROCAL EASEMENT AGREEMENT FOR ACCESS

P-36585

This Reciprocal Easement Agreement (the "Agreement") made this 17th day of NOVEMBER, 2004, between CAPP CUSTOM BUILDERS, INC., also known of record as CAPP CUSTOM BUILDERS, a Florida corporation, whose address is 989 SEBASTIAN BLVD, UNIT 2, Sebastian, Florida 32958, ("Capp") and LEO ARNOLD and EILEEN F. ARNOLD, as Co-Trustees of the LEO ARNOLD LIVING TRUST and EILEEN F. ARNOLD LIVING TRUST U/T/D/ JUNE 30, 2000, whose post office address is 9600 Riverview Drive, Micco, Florida 32976, ("Arnold").

WITNESSETH

WHEREAS, Capp is the owner of that certain tract of land being more particularly described on Exhibit "A" attached hereto and incorporated herein ("Parcel 003.0"); and

WHEREAS, Arnold is the owner of that certain tract of land being more particularly described on Exhibit "B" attached hereto and incorporated herein ("Parcel 003.1"); and
to both properties.

NOW, THEREFORE, for and in consideration of the sale and purchase of Parcel 003.1 between Capp and Arnold and the mutual covenants and agreements hereinafter set forth, Capp and Arnold hereby grant, covenant and agree as follows:

1. Capp, the owner of Parcel 003.0 and Arnold, the owner of Parcel 003.1 [collectively, "the Owner(s)"] hereby grant, convey and confirm each to the other and their respective heirs, personal representatives, successors, assigns, licensees and invitees for the benefit of Parcel 003.0 and Parcel 003.1, a perpetual non-exclusive easement for ingress and egress over, across, through and beneath a 15-foot portion of their respective parcels of land described on Exhibit "A" and Exhibit "B" as Ingress and Egress Easement (the "Access Driveway", which means the total 30-foot easement). See sketch on Exhibit "C" and Exhibit "D" attached hereto and incorporated herein for the location of the 15-foot easement on Parcel 003.0 and Parcel 003.1, respectively. Together with the right to construct, maintain, improve and repair the roadway within the Access Driveway, along with the right to remove vegetation and other obstructions interfering with the rights granted herein. It is

intended that the rights granted by this Agreement shall include all rights necessary or customarily granted incidental to the rights of ingress, egress and passage, both pedestrian and vehicular.

2. Ownership. Capp and Arnold hereby covenant with each other that each is lawfully seized of their respective parcel of land in fee simple, and that each has good right and lawful authority to convey the easement established hereby. This reciprocal easement is appurtenant to and is intended to benefit both Parcel 003.0 and Parcel 003.1

3. Construction of Access Driveway. Neither Capp nor Arnold shall have the obligation to construct the Access Driveway. If either party elects to construct the Access Driveway on their own, without first having a written agreement with the other party regarding the design and the sharing of the cost of constructing the Access Driveway, it shall do so at its own expense.

4. Maintenance.

A. ~~The parties agree to equally divide the costs incurred for necessary maintenance~~ and repair of the Access Driveway. Specifically, each parcel owner is responsible for one-half (½) of the maintenance and repair costs. If a party fails to pay its share of the costs of maintenance and/or repair, the other party shall be entitled to recover the cost of such maintenance and/or repairs from the non-paying party, together with interest thereon from the date request for payment was made until paid in full, at the rate of eighteen percent (18%) per annum.

B. If repairs to the Access Driveway are necessary as a result of the acts of either party or its contractors or agents, then such responsible party shall promptly perform the necessary repairs at its sole expense. Should the responsible party fail or refuse to perform such repairs within fifteen (15) days after the other party delivers written notice to the responsible party of the need for such repairs, or if such repairs or maintenance are of a nature that they cannot be completed within such fifteen (15) day period but the defaulting party fails to commence such repairs or maintenance within such fifteen (15) day period and thereafter pursue such repairs or maintenance to completion, then the other party (hereinafter referred to as the "Curing Party") shall have the right, but not the obligation, to perform such repairs or maintenance. The Curing Party shall be entitled to recover

6. Obstruction of Access Driveway. Neither party shall in any way impair the rights of the other party to use the Access Driveway and shall not obstruct or block passage thereon or use thereof. The rights created by this Agreement shall not be deemed to include the right to have vehicles parked or standing on the Access Driveway.

7. Miscellaneous.

A. No Waiver. No delay or omission in the exercise of any right accruing to any party under this Agreement shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time. A waiver by any party of a nonconforming condition or noncompliance with the terms and conditions set forth in this Agreement shall not be construed to be a waiver for any subsequent nonconforming condition or noncompliance.

B. Successors and Assigns. The easement conveyed, granted and declared herein shall be deemed to run with title to the Capp Parcel 003.0 and the Arnold Parcel 003.1 in perpetuity. This Agreement shall be binding upon the parties hereto and upon their respective heirs, personal representatives, successors and assigns, and all other persons, parties or legal entities claiming by, through or under such parties.

C. Notices. All notices, demands, requests and other communications required under this Agreement shall be in writing, shall be sent to the party's address set forth in the introductory paragraph of this Agreement (unless such party has designated a change of address as provided below) and shall be deemed to have been properly given when delivered by: (i) hand delivery; (ii) certified mail, return receipt requested; or (iii) guaranteed overnight delivery service. A party may designate a change of address by written notice to the other parties, given at least ten (10) days before such change of address is to become effective.

D. No Dedication. Nothing contained in this Agreement shall be deemed to constitute a dedication of the Access Driveway area, or any portion or portions thereof, to any governmental body or agency or to the general public, or construed to create any rights in or for the benefit of any persons other than the parties hereto and their licensees and invitees, it being the

H. Limitation on Liability. In the event that an Owner conveys fee simple title to real property that is benefitted or burdened by the Access Driveway easement, that Owner shall be released from any and all liability under this Agreement that arises after the date of such conveyance.

I. Attorneys' Fees and Costs. In the event of any legal action by either party against the other arising out of this Agreement, the prevailing party shall be entitled to recover from the other party all costs and expenses of litigation incurred, including reasonable attorneys' fees, paralegal charges and court costs at the trial level and all appellate levels.

J. Modifications. This Agreement may not be modified in any respect whatsoever or rescinded, in whole or in part, except by written agreement of the owners of Parcel 003.0 and Parcel 003.1, duly executed, acknowledged and recorded in the Public Records of Indian River County, Florida.

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

Signed, sealed and delivered
in our presence:
WITNESSES AS TO CAPP:

(Signature) Diane G. Hervey
(Print Name) DIANE G. HERVEY

(Signature) Cathy L. Snow
(Print Name) Cathy L. Snow

CAPP CUSTOM BUILDERS, INC.,
a Florida corporation

By: Michael P. Capp
Michael P. Capp, its President

Signed, sealed and delivered
in our presence:
WITNESSES AS TO ARNOLD:

LEO ARNOLD LIVING TRUST and
EILEEN F. ARNOLD LIVING TRUST
DATED JUNE 20, 2000

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 17th day of NOVEMBER, 2004, by Michael P. Capp, as President of Capp Custom Builders, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me ~~or who has produced~~ _____ as identification.

"SEAL"



Diane G. Hervey
Commission # DD 074830
Expires Nov. 28, 2005
Bonded Thru
Atlantic Bonding Co., Inc.

Diane G. Hervey
Notary Public
My Commission Expires:
My commission No. is:

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 17th day of NOVEMBER, 2004, by Leo Arnold and Eileen F. Arnold, individually and as Co-Trustees of the Leo Arnold Living Trust and Eileen F. Arnold Living Trust UT/D/ June 30, 2000, who are personally known to me or who have produced _____ as identification.

07/JUL. 29. 2004: 3:24PM

CAPP CUSTOM BUILDERS

NO. 384

P. 302/005

LEGAL DESCRIPTIONS;

FOR 003.0

BEING A PORTION OF O.R.BOOK 1627, PAGE 0056 AS RECORDED ON AUGUST 18, 2003 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 31 SOUTH, RANGE 39 EAST; THENCE NORTH 00° 08' 12" EAST ALONG THE EAST LINE OF THE SAID NORTH-WEST QUARTER TO THE SOUTH RIGHT-OF-WAY OF SEBASTIAN BOULEVARD (C.R. 512) FOR 20.97 FEET; THENCE ALONG THE CHORD OF SAID SEBASTIAN BOULEVARD SOUTH 30° 16' 23" WEST FOR 159.43 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY ON A LINE PARALLEL WITH THE SAID EAST LINE SOUTH 00° 08' 12" WEST TO ACORN SUBDIVISION AS RECORDED IN PLAT BOOK 16, PAGE 14 OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA FOR 331.39 FEET; THENCE ALONG SAID SUBDIVISION SOUTH 89° 16' 30" WEST FOR 137.51 FEET; CONTINUE ALONG SAID SUBDIVISION LINE NORTH 00° 08' 12" EAST TO THE SOUTH RIGHT-OF-WAY OF SAID SEBASTIAN BOULEVARD FOR 274.22 FEET; THENCE ALONG SAID RIGHT-OF-WAY ON A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 1,592.30 FEET, AN ARC LENGTH OF 170.80 FEET, A CENTRAL ANGLE OF 06° 08' 46" ALONG WITH A CHORD BEARING OF NORTH 36° 12' 56" EAST, A CHORD DISTANCE OF 171.72 FEET TO THE PLACE AND POINT OF BEGINNING. ALL LANDS LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA.
CONTAINING 1.03 ACRES

INGRESS AND EGRESS EASEMENT

BEING A PORTION OF O.R.BOOK 1627, PAGE 0056 AS RECORDED ON AUGUST 18, 2003 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 31 SOUTH, RANGE 39 EAST; THENCE NORTH 00° 08' 12" EAST ALONG THE EAST LINE OF THE SAID NORTH-WEST QUARTER TO THE SOUTH RIGHT-OF-WAY OF SEBASTIAN BOULEVARD (C.R. 512) FOR 20.97 FEET; THENCE ALONG THE CHORD OF SAID SEBASTIAN BOULEVARD SOUTH 30° 16' 23" WEST FOR 159.43 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY ON A LINE PARALLEL WITH THE SAID EAST LINE SOUTH 00° 08' 12" WEST FOR 236.43 FEET TO THE POINT OF TERMINUS. SAID EASEMENT BEING 15 FEET IN WIDTH AND HAVING THE ENTIRE 15 FEET LYING ON THE NORTH SIDE OF SAID LINE. ALL LANDS LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA.

07/JUL. 29. 2004 3:24PM

CAPP CUSTOM BUILDERS

NO. 384

P. 403/005

LEGAL DESCRIPTIONS;

FOR 003.1

BEING A PORTION OF O.R.BOOK 1627, PAGE 0056 AS RECORDED ON AUGUST 18, 2003 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 31 SOUTH, RANGE 39 EAST THENCE; ALONG THE EAST LINE OF THE SAID NORTHWEST QUARTER SOUTH 00°08'12" WEST TO THE EAST LINE OF ACORN SUBDIVISION AS RECORDED IN PLAT BOOK 16, PAGE 14 OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA FOR 431.01 FEET; THENCE ALONG SAID PLAT LINE SOUTH 89°16'03" WEST FOR 137.52 FEET; THENCE PARALLEL WITH THE SAID EAST LINE NORTH 00°08'12" EAST TO THE SOUTH LINE OF SEBASTIAN BOULEVARD FOR 331.39 FEET; THENCE ON A NON-RADIAL CURVE ON THE SAID SOUTH LINE ALONG A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 1,592.30 FEET, AN ARC LENGTH OF 170.80 FEET, A DELTA OF 06°08'16" ALONG WITH A CHORD BEARING OF NORTH 36°12'56" EAST, A CHORD DISTANCE OF 171.72 FEET; THENCE SOUTH 00°08'12" WEST FOR 20.97 FEET TO THE PLACE AND POINT OF BEGINNING, ALL LANDS LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA. CONTAINING 1.31 ACRES

INGRESS AND EGRESS EASEMENT

BEING A PORTION OF O.R.BOOK 1627, PAGE 0056 AS RECORDED ON AUGUST 18, 2003 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 31 SOUTH, RANGE 39 EAST; THENCE NORTH 00°08'12" EAST ALONG THE EAST LINE OF THE SAID NORTHWEST QUARTER TO THE SOUTH RIGHT-OF-WAY OF SEBASTIAN BOULEVARD (C.R. 512) FOR 20.97 FEET; THENCE ALONG THE CHORD OF SAID SEBASTIAN BOULEVARD SOUTH 30°16'23" WEST FOR 159.43 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY ON A LINE PARALLEL WITH THE SAID EAST LINE SOUTH 00°08'12" WEST FOR 236.43 FEET TO THE POINT OF TERMINUS. SAID EASEMENT BEING 15 FEET IN WIDTH AND HAVING THE ENTIRE 15 FEET LYING ON THE SOUTH SIDE OF SAID LINE. ALL LANDS LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA.

07 JUL 29 2004: 3:25PM

CAPP CUSTOM BUILDERS

NO. 384

P. 4/20/2004

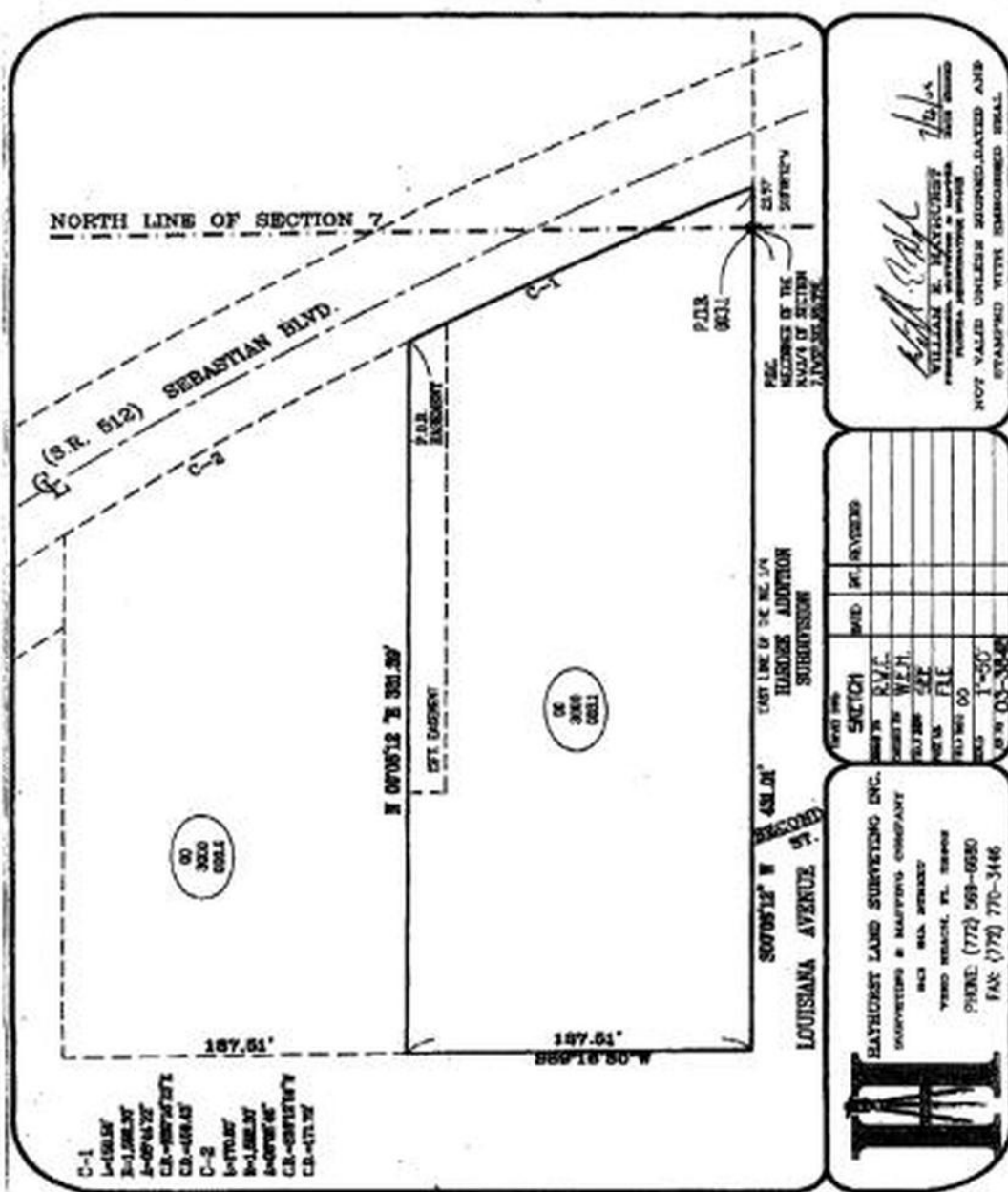


EXHIBIT "D"