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REGISTER OF DEEDS
STRAFFORD COUNTY

DECLARATION OF COLES POND ROAD-PRIVATE WAY COVENANTS

3 THIS DECLARATION OF PRIVATE ROAD COVENANTS is made this day of ~~SEPTEMBER~~ 2004 by Neale A. Hubbard, of Cole's Pond Road, Somersworth, County of Strafford, State of New Hampshire 03878 (hereinafter referred to as "Hubbard") in favor to The City of Somersworth, a City with offices at 1 Government Way, Somersworth, County of Strafford, State of New Hampshire (hereinafter referred to as "City") and does declare the following covenants to run with the land:

WITNESSETH:

WHEREAS, Hubbard is the sole owner in fee simple of certain property in the City of Somersworth, County of Strafford, State of New Hampshire, more particularly described by deed of Donald T. Owen to Neale A. Hubbard dated September 2, 1994, recorded at the Strafford County Registry of Deeds in Book 1766, and Page 647 and subdivision plan approved on August 18, 2004,
: and

WHEREAS, City is sole owner of land depicted on Tax Map 50, Lot 11 and Tax Map 55 and a right-of-way, as indicated on the plan, Pocket 2, Folder 20, Plan 26, which shows the "right-of-way abutting the property of Claude Guy Patterson" and is the portion of Coles Pond Road after the existing developed lots; and

WHEREAS, Neale A. Hubbard is seeking subdivision approval of Tax map 50, Lot 12 and has a variance from the City of Somersworth to apply Section 24, Somersworth Zoning Ordinance 19:78, as a driveway and it is acknowledged that the right of way was laid out in subdivisions plans prior to comprehensive subdivision regulations and has never been accepted as Class V road, and

WHEREAS, the Planning Board by condition of approval does bind Hubbard and any heirs, assigns or successors as owners of said lots to have the obligation to maintain, plow and improve said portion of Coles Pond Road; and

NOW, THEREFORE, Hubbard declares a covenant in perpetuity over portion of Coles Pond Road owned by the City, and being a portion of the a right-of-way as indicated on the plan, Pocket 2, Folder 20, Plan 26 and Hubbard's subdivision plan dated in 2004 by Atlantic Survey Co, Inc. entitled "Subdivision of Land prepared for Neale A. Hubbard that Hubbard and his heirs, assigns or successors as owners of said lots shall have the sole responsibility for snow plowing and maintenance and does stipulate that the driveway-right of way cannot be offered to the City for acceptance as a public way and further declares as follows:

- A. The burden of these Covenants shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity.

- B. Hubbard or his successors or assigns, as owners of the parcel shall provide a maintenance cash bond in an amount of \$2,000.00 to be placed in escrow in the name of City of Somersworth as a special trust fund to be used for emergency snow plowing and maintenance or sanding as deemed necessary by the Director of Public Works and replenished as necessary.
- C. Hubbard or his successors or assigns, as owners of the parcel shall indemnify the City of Somersworth and its agents and officials and save it harmless from all claims, actions, damages, liability and expense in connection with loss of life, personal injury or damage to property arising from or out of any occurrence whereby the City is unable to access the property for emergency purposes or is delayed due to non-maintenance of the driveway by the Grantor and assigns.
- D. Notwithstanding the provisions of the covenants set forth above, nothing in this Declaration shall affect the rights or any person who shall have an existing right of access across the right of way, nor shall anything in this Declaration affect any obligation which any such person shall have to contribute to the maintenance of the roadway. The City shall only be liable to costs to the extent of damage done by use of the road by its agents or invitees.

WHEREBY, by Declaration and recording of these Covenants, for himself, his successors and assigns, agrees that the property be bound, and any Grantee be bound to observe and enforce its provisions, and to assume the rights and responsibilities granted to and incumbent upon any Grantee, all in furtherance of the purpose(s) for which this Easement is delivered.

IN WITNESS WHEREOF, Grantor has set its hand on this 3 day of SEPTEMBER

2004

Sandra L. England
 Witness

Neale A. Hubbard
 Neale A Hubbard

STATE OF NEW HAMPSHIRE
 STRAFFORD, SS

2004

On this 3 day of SEPTEMBER personally appeared the above-named NEALE A. HUBBARD who acknowledge the foregoing to be their voluntary act and deed.



Sandra L. England
 Justice of the Peace/Notary Public
 My Commission Expires:

SANDRA L. ENGLAND, Notary Public
 My Commission Expires November 10, 2004