

**MEDIATED SETTLEMENT AGREEMENT**

**THIS MEDIATED SETTLEMENT AGREEMENT** (this “**Agreement**”) is executed as of the 11<sup>th</sup> day of ~~June~~<sup>July (BKA)</sup>, 2016 (the “**Effective Date**”), by and among ALBERT L. HIGGINBOTHAM, an individual, and SHARI T. GRAHAM, an individual (collectively, the “**Petitioners**”) and NASSAU COUNTY, FLORIDA, a political subdivision of the State of Florida (the “**County**”).

**RECITALS**

WHEREAS, the Petitioners or their affiliates own or previously owned certain real property in and around Countree Life Way and Wildlife Way in Callahan, Nassau County, Florida, which property is more particularly identified on the Map attached hereto as Exhibit “A” (the “**Countree Life Property**”);

WHEREAS, ingress and egress for the Countree Life Property is provided through the certain private roads and easements known as Countree Life Way and Wildlife Way as identified on the Map attached hereto as Exhibit “B” (collectively, the “**Private Roads**”);

WHEREAS, the Countree Life Property is zoned Open Rural and is designated as AGR (Agricultural) on the Countee’s Future Land Use Map;

WHEREAS, on September 21, 2015, the County issued Notice of Violation #001413 (the “**Countree Life Notice of Violation**”) alleging that Petitioners violated the regulations found in County Ordinance 99-17 (Nassau County Roadway and Drainage Standards) and Chapter 29 of the Nassau County Code of Ordinances (Subdivision and Development Review) (collectively, the “**Subdivision Regulations**”) which impose upon property owners certain requirements to secure approval for a subdivision plat;

WHEREAS, Petitioners deny the allegations set forth in the Countree Life Notice of Violation. In connection therewith, Petitioners further contend that they have at all times acted in reliance on the County’s “formal policy” to apply the Subdivision Regulations without reference to historic parcel divisions;

WHEREAS, the County does not agree that there is a “formal policy” as described by Petitioners;

WHEREAS, on October 19, 2015, Petitioners submitted to the County a Claim for Dispute Resolution invoking the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes (the “**Dispute Resolution Process**”), and, thereafter Petitioners and the County retained Carlos Alvarez (“**Alvarez**”) to serve as mediator and special magistrate;

WHEREAS, beginning on March 15, 2016, Petitioners and the County agreed to participate in a voluntary mediation conducted and governed by the Mediation Confidentiality and Privilege Act, Sections 44.401-44.406, Florida Statutes, and subsequent thereto the parties have engaged in voluntary mediation with Alvarez serving as mediator.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants, promises, agreements and undertakings that follow, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree, each with the other, as follows:

#### AGREEMENT

1. Recitals. The recitations set forth in the Recitals are true and accurate and incorporated herein.

2. Resolution of Notice of Violation. The parties have agreed to resolve all claims and issues arising from the Countree Life Notice of Violation upon the terms and conditions set forth below.

3. Maintenance of Private Roads.

- a. The Private Roads (Countree Life Way and Wildlife Way), as acknowledged by both parties, were sixty foot (60’) “logging roads” utilized by Petitioners for access to the parcels sold and were not created or approved by the County. Further, the County does not nor will not have any obligation to improve or maintain the Private Roads and consistent herewith cannot guarantee the delivery of police, fire and rescue services to the properties that utilize the Private Roads for access. In addition, the County is not responsible for

drainage of the road.

- b. The maintenance and improvement of the private roads is the exclusive obligation of the Owners whose properties are accessed by the Private Roads. Petitioners acknowledge that they have informed all owners of parcels on the roads of that obligation.
- c. The Private Roads (Countree Life Way and Wildlife Way) as acknowledged by both parties have been improved by the owners of parcels that utilize the roads (Countree Life Way and Wildlife Way) for access to their properties.
- d. Petitioners shall prepare and record, after approval by the County, a document that indicates that the roads are private and tracks the information set forth in paragraphs 3 (a) and (b).
- e. Petitioners shall include, in the deeds of conveyance to purchasers of property that utilize the Private Roads for access, language, approved by the County, that indicates that the roads are private and not maintained or improved by the County and the maintenance is the responsibility of each property owner and includes the language in paragraphs 3(a) and (b).
- f. Petitioners agree that, for a period of no more than one (1) year from the effective date hereof and so long as they have a fee simple ownership interest in property that is accessed by the Private Roads, they shall maintain the Private Roads to ensure unimpeded access to the properties that are accessed by both roads (Countree Life Way and Wildlife Way). In connection therewith, it is acknowledged and agreed by Parties that as of the execution of this Agreement the existing roadbeds substantially comport with the roadbed specifications set forth in Exhibit "C" hereto. Failure to maintain the roads in such condition during the period of time referenced herein may cause the County to issue code enforcement violation notices.
- g. Within 90 days of the effective date of this agreement, Petitioners shall cause to be created a "hammer-T" turn around at (1) the terminus of Countree Life Way (being at the southeastern corner of property owned by Rayonier Atlantic Timber Co and identified as PIN 28-3N-25-0000-0001-0000); and (2) the existing gate on Wildlife Way (which is at a point along the easterly boundary

of lands now owned by Barnes, identified as PIN 28-3N-25-0002-0070, approximately 1.2 miles from the intersection of Countree Life Way and Wildlife Way, and along the eastern boundary of the land now owned by Barnes. Said turn around shall be constructed to substantially comport with the drawings set forth in Exhibit "D" attached hereto as well as substantially comport with the roadbed specifications set forth in Exhibit "C" hereto. Additionally, the turn around shall be constructed with drainage swales on each side of the turn around, said swales being substantially similar to the existing drainage swales along the Private Roads. The creation of the "hammer-T" and swales shall be inspected and approved by the Director of Public Works and the Fire Chief or their designee(s) and based upon the requirements in this subparagraph.

4. Dismissal of Notice of Violation. Upon the execution of this Agreement and completion of the "hammer-T" and swales as set forth in paragraph 3.g., the County shall withdraw and cause the dismissal of the Countree Life Notice of Violation with a finding of no code violation by Petitioners.

5. Status of Countree Life Property. As depicted in Exhibit "A" attached hereto, the Countree Life Property currently includes twenty-three (23) discrete parcels. The County agrees that each of these twenty-three (23) parcels is eligible for the issuance of a building permit(s) consistent with the Countree Life Property's zoning and land use designation, subject to the terms of this Agreement and the terms of the Nassau County Code of Ordinances, and the County will not deny, limit or impair the issuance of such permit(s) for any reason set forth in the Countree Life Notice of Violation. Petitioners further agree that any additional lot splitting by Petitioners within the Countree Life Property shall be subject to then-existing Nassau County Code of Ordinances irrespective of the provisions of this Agreement.

6. Base Flood Elevations. Pursuant to the Floodplain Management Ordinance of Nassau County, with respect to any portion(s) of the Countree Life Property located within a flood hazard area without base flood elevation data, the base flood elevation shall be deemed and established to be three (3) feet above the highest adjacent grade, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet. Any owner(s) wishing to

establish a differing base flood elevation may do so by submitting to the County base flood elevation data available from a federal or state agency or as prepared in accordance with currently accepted engineering practices.

7. County Release. Except for the obligations set forth in this Agreement, the County, on behalf of itself and its agents, successors and assigns (collectively, the “**County Parties**”), does hereby release, remise and forever discharge Petitioners and their respective members, managers, officers, directors, employees, affiliates, subsidiaries, owners, agents, attorneys, successors and assigns (collectively, the “**Petitioner Parties**”), from any and all claims, demands, actions, causes of action, rights of action, debts, covenants, contracts, agreements, representations, judgments, executions, costs, expenses, obligations, or liabilities of any nature whatsoever, known or unknown, at law or in equity or by statute (collectively, “**Claims**”), from any matter relating to, arising from, for or on account of, or in relation to, or in any way in connection with the Countree Life Notice of Violation or the Dispute Resolution Process.

8. Petitioners’ Release. Except for the obligations set forth in this Agreement, the Petitioner Parties do hereby release, remise and forever discharge the County Parties from any and all such Claims from any matter relating to, arising from, for or on account of, or in relation to, or in any way in connection with the Countree Life Notice of Violation or the Dispute Resolution Process.

9. Pending Proceedings. The Dispute Resolution Process shall survive the execution of this Agreement in light of the County’s issuance of Notice of Violation #001444.

10. No Assignment of Claims. The parties each warrant to each other that they have not assigned any claims, demands, actions or causes of action released by them or contemplated to be released by them in this Agreement.

11. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon the parties, and their respective successors, assigns, heirs and personal representatives, including certain successors in title.

12. Recordation. The Parties shall cause to be recorded a Memorandum of Agreement to confirm the effectiveness of paragraphs 3.a and 3.b. above.

13. Entire Agreement and Amendments. This Agreement and the exhibits hereto contain the entire settlement agreement among the parties with respect to the Countree Life Property. Amendments to and waivers of the provisions contained in this Agreement may be

made only by an instrument in writing which is executed by all parties hereto.

14. Savings Clause. In the event that any provisions of this Agreement shall be held void or unenforceable, the remaining provisions hereof shall remain in full force and effect.

15. No Duress; Neutral Interpretation. The parties each warrant to each other that they are represented by counsel in this transaction and have thoroughly read and reviewed the terms and provisions of this Agreement and that the terms and provisions contained herein are clearly understood by them and have been unconditionally consented to by them. The parties each further warrant to each other that they have entered into this Agreement freely, voluntarily, with full knowledge and without duress, and that in executing this Agreement, they are not relying upon any representations or warranties made to them by each other or any of each other's employees, contractors or agents. In the event that an ambiguity or question of intent or interpretation arises as to any provision or provisions hereof, no presumption, rule of construction or burden of proof shall apply favoring or disfavoring any of the parties by virtue of the authorship of any provision hereunder inasmuch as this Agreement has been mutually drafted.

16. Limitations on Governmental Liability. Nothing in this Agreement shall be deemed as a waiver of the County's sovereign immunity or the County's limits of liability as set forth in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

17. Default. In the event of any default under this Agreement, the party not in default shall be entitled to any and all remedies available at law or in equity, including but not limited to an injunction or specific performance. In the event that any of the parties to this Agreement institutes legal proceedings in connection with, or for the enforcement of this Agreement or any provision hereof, the prevailing party shall be entitled to recover from the non-prevailing party its costs, including reasonable attorneys' fees, at both trial and appellate levels.

18. **WAIVER OF JURY TRIAL. PETITIONERS AND THE COUNTY EACH HEREBY KNOWINGLY AND VOLUNTARILY WAIVES THEIR RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO OR ARISING FROM: (I) THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES TO EXECUTE THIS AGREEMENT.**

19. Governing Law/Stipulated Jurisdiction. This Agreement shall be interpreted in

accordance with the laws of the State of Florida. The parties agree that the Circuit Courts in and for Nassau County, Florida are the proper venue for any and all disputes arising out of or resulting from this Agreement.

20. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart. This Agreement may be executed as facsimile originals or verified scanned e-mail originals, each of which shall constitute an authorized signature and each copy of this Agreement bearing the authorized transmitted signature of any party's authorized representative shall be deemed to be an original.

21. Authorization. By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this Agreement, and that each party has complied with all requirements of law and has full power and authority to comply with the terms and provisions of this Agreement. Provided, this Agreement shall not become effective or binding upon either party hereto, until approved by the Board of County Commissioners of Nassau County.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed and their respective seals affixed hereto as of the date listed in the introductory paragraph.

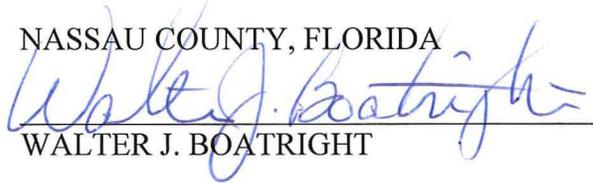
NASSAU COUNTY, FLORIDA

  
ALBERT L. HIGGINBOTHAM

  
TED SELBY, County Manager

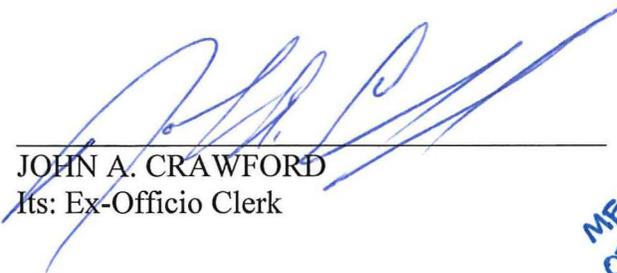
  
SHARI T. GRAHAM

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
WALTER J. BOATRIGHT

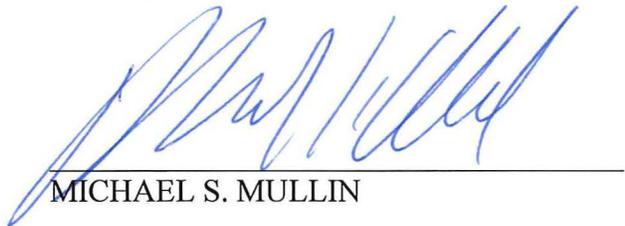
Its: Chairman

Attest as to Chairman's Signature:

  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

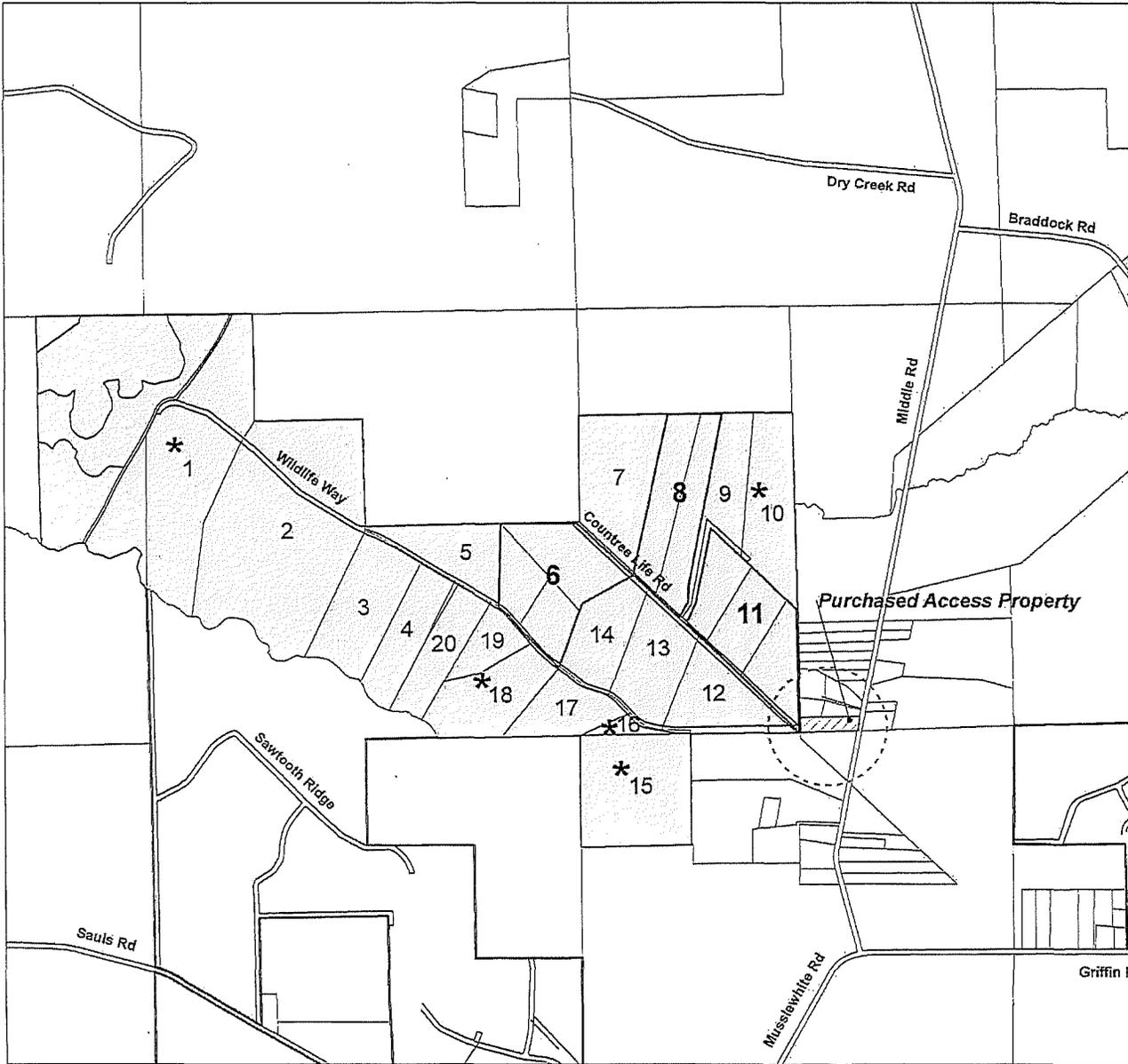
MES  
07.12.16

Approved as form by the Nassau County  
Attorney:

  
MICHAEL S. MULLIN

**Exhibit "A"**

**Countree Life Property**

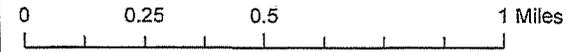


### CounTree Life Land Records

Lot	Grantor	Grantee	Rec Date	Book/Page
1	Thomas Wooten *	Higginbotham Albert	3/31/2008	1558/873
2	Albert Higginbotham & Sharl Graham	Barnes	9/6/2013	1878/175
3	Albert Higginbotham & Sharl Graham	Dillard	8/15/2014	1937/1017
4	Albert Higginbotham & Sharl Graham	Urse	7/26/2013	1871/860
5	Albert Higginbotham & Sharl Graham	Davidson	1/30/2013	1838/258
6	Albert Higginbotham & Sharl Graham	Empty Nest	9/17/2014	1937/1445
7	Albert Higginbotham & Sharl Graham	Harman	4/14/2013	1849/458
8	Albert Higginbotham & Sharl Graham	Page	5/27/2014	1954/91
9	Albert Higginbotham & Sharl Graham	Pachley	3/5/2014	1936/879
10	Thomas Wooten *	Higginbotham Albert	3/5/2008	1558/873
11	Albert Higginbotham & Sharl Graham	Hunter	4/23/2015	1976/227
12	Albert Higginbotham & Sharl Graham	Wilder	3/7/2013	1845/539
13	Albert Higginbotham & Sharl Graham	Cook	12/9/2013	1893/518
14	Albert Higginbotham & Sharl Graham	Johnson	1/21/2014	1899/375
15	Thomas Wooten *	Higginbotham Albert	3/31/2008	1558/873
16	Thomas Wooten *	Higginbotham Albert	3/31/2008	1558/873
17	Albert Higginbotham & Sharl Graham	Motter	7/17/2014	1899/375
18	Thomas Wooten *	Higginbotham Albert	3/31/2008	1558/873
19	Albert Higginbotham & Sharl Graham	Carpenter	5/21/2014	1918/332
20	Albert Higginbotham & Sharl Graham	Seuder	5/21/2014	1918/356

\*Remnant parcels from Higginbotham/Graham's 740 acre purchase still under ownership of Higginbotham/Graham.

— Easements  
 [Shaded Box] CounTree Life Land Records



**Exhibit "B"**

**Private Roads**



**Exhibit "C"**

**Specification for Roadbeds**

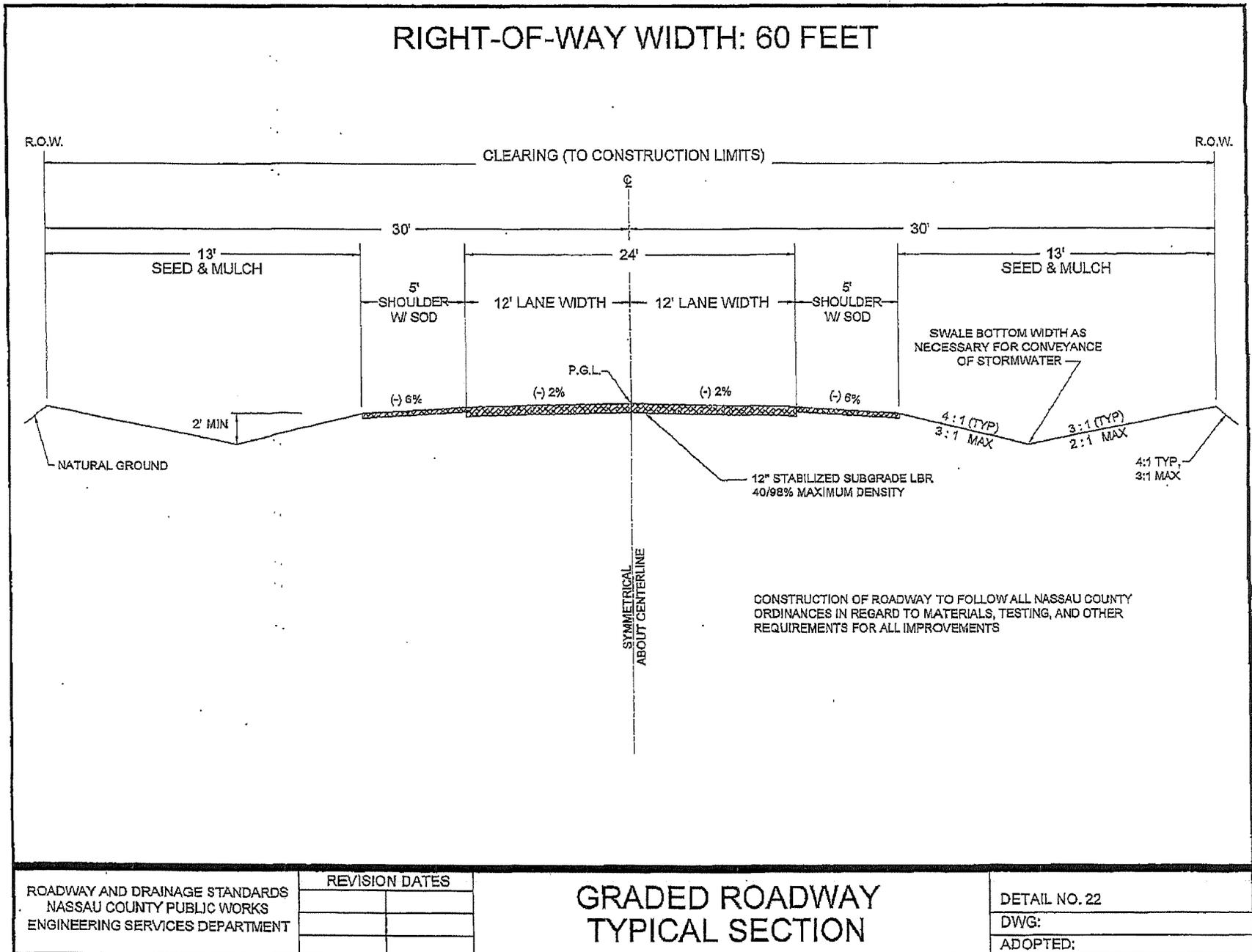
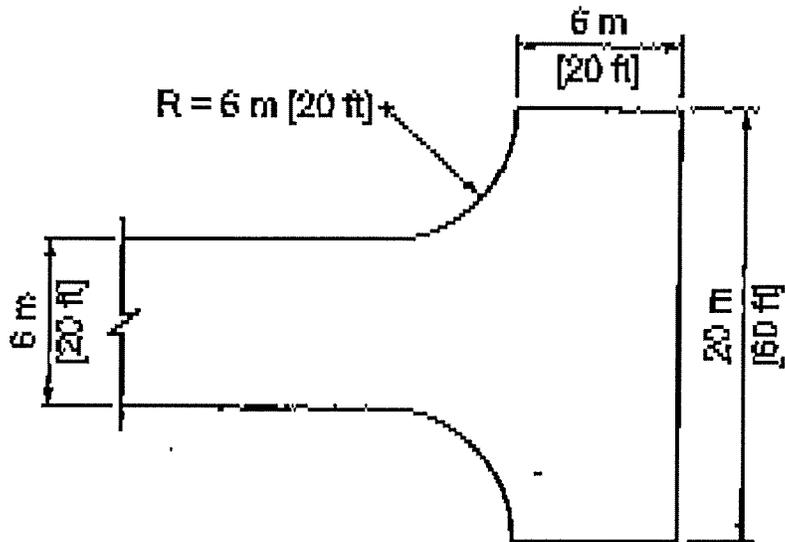


FIGURE 4

**Exhibit "D"**

**Hammer-T Drawing**



Standard Turning Area

**Prepared by and return to:**

M. Scott Thomas, Esq.  
Rogers Towers, P.A.  
818 A1A North, Suite 208  
Ponte Vedra Beach, Florida 32082

**MEMORANDUM OF AGREEMENT – COUNTREE LIFE**

THIS MEMORANDUM OF AGREEMENT (“Memorandum”) is made and entered into as of the \_\_\_\_ day of September, 2016, by and among ALBERT L. HIGGINBOTHAM, an individual, and SHARI T. GRAHAM, an individual (collectively, “HIGGINBOTHAM/GRAHAM”) and NASSAU COUNTY, FLORIDA, a political subdivision of the State of Florida (the “COUNTY”).

**WITNESSETH:**

WHEREAS, HIGGINBOTHAM/GRAHAM and the COUNTY have entered into that certain Mediated Settlement Agreement having an Effective Date of July 11, 2016 (the “Countree Life Agreement”) evidencing their agreement as to the rights and obligations relating to certain real property HIGGINBOTHAM/GRAHAM own or previously owned in and around Countree Life Way and Wildlife Way in Callahan, Nassau County, Florida, said real property being more particularly described on Exhibit “A” attached hereto and made a part hereof (the “Countree Life Property”), as more particularly set forth in the Countree Life Agreement;

WHEREAS, the Countree Life Agreement addresses certain obligations of HIGGINBOTHAM/GRAHAM; and

WHEREAS, HIGGINBOTHAM/GRAHAM and the COUNTY desire to enter into this Memorandum to reflect of record the existence of the Countree Life Agreement and certain of its terms and conditions.

NOW, THEREFORE, for the exchange of consideration as set forth in the Countree Life Agreement, the receipt and sufficiency of which are hereby acknowledged, HIGGINBOTHAM/GRAHAM and the COUNTY, intending to be legally bound, hereby set forth the following information with respect to the Countree Life Agreement and acknowledge that the Countree Life Agreement provides, inter alia, as follows:

1. Private Roads. Ingress and egress for the Countree Life Property is provided through Countree Life Way and Wildlife Way (the “Private Roads”) which are each private roads and easements neither created nor approved by the COUNTY.

2. Private Road Maintenance.

(a) The COUNTY does not nor will not have any obligation to improve or maintain the Private Roads and consistent herewith cannot guarantee the delivery of police, fire and rescue services to the properties that utilize the Private Roads for access. In addition, the County is not responsible for drainage of the Private Roads.

(b) The maintenance and improvement of the private roads is the exclusive obligation of the owners whose properties are accessed by the Private Roads.

3. Purpose. This Memorandum is prepared for the purpose of recordation only, and it in no way modifies the provisions of the Countree Life Agreement. In the event of any inconsistency between the provisions of this Memorandum and the Countree Life Agreement, the provisions of the Countree Life Agreement shall prevail.

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

Witnesses:

Karen A Schoolcraft  
Name: KAREN A SCHOOLCRAFT

ALBERT L. HIGGINBOTHAM  
[Signature]

Alisa K  
Name: Alisa Kilgore

STATE OF FLORIDA

COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 1 day of October, 2016, by ALBERT L. HIGGINBOTHAM. He is  personally known to me or  who has produced a driver's license as identification.



KAREN A. SCHOOLCRAFT  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG030357  
Expires 9/14/2020

Karen A Schoolcraft  
Notary Public, State of Florida  
Name: KAREN A SCHOOLCRAFT  
My Commission Expires 9/14/2020  
My Commission Number is: GG030357

Witnesses:

Karen A Schoolcraft  
Name: KAREN A SCHOOLCRAFT

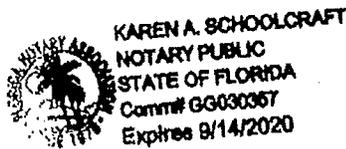
SHARI T. GRAHAM  
[Signature]

Alisa K  
Name: Alisa Kilgore

STATE OF FLORIDA

COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2016, by SHARI T. GRAHAM. She is  personally known to me or  who has produced a driver's license as identification.



Karen A Schoolcraft  
Notary Public, State of Florida  
Name: KAREN A Schoolcraft  
My Commission Expires 9/14/2020  
My Commission Number is: 66030357

Witnesses:

NASSAU COUNTY, FLORIDA

Renee Christensen  
Name: Renee Christensen

By: Ted Selby  
Name: TED SELBY, County Manager

Joyce T. Bradley  
Name: Joyce T. Bradley

STATE OF FLORIDA

COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of December 2016, by Ted Selby, County Manager, NASSAU COUNTY, FLORIDA on behalf of the County. He is (select one)  personally known to me or  who has produced a driver's license as identification.



Joyce T. Bradley  
Notary Public, State of Florida  
Name: Joyce T. Bradley  
My Commission Expires 12-23-2017  
My Commission Number is: FF 75458

**EXHIBIT "A"**

**(Legal description of 740 acres referred to as Countree Life)**

THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 34, TOWNSHIP 3 NORTH, RANGE 25 EAST, THE SOUTHWEST ¼ AND THE SOUTH ½ OF THE NORTHWEST ¼ OF SECTION 27, TOWNSHIP 3 NORTH, RANGE 25 EAST, THE SOUTHEAST ¼ AND THE SOUTHWEST ¼ OF SECTION 28 LYING NORTH OF BOGGY CREEK AND THE NORTHWEST ¼ OF SAID SECTION 28 EXCEPT THE NORTHEAST ¼ THEREOF SECTION 28, TOWNSHIP 3 NORTH, RANGE 25 EAST AND EAST ½ OF THE EAST ½ LYING NORTH OF BOGGY CREEK, SECTION 29, TOWNSHIP 3 NORTH, RANGE 25 EAST, ALL BEING IN NASSAU COUNTY, FLORIDA.

TOGETHER WITH A 60.00 FOOT EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE WESTERLY 60.00 FEET TO THE SOUTHWEST ¼ OF SECTION 28, TOWNSHIP 3 NORTH, RANGE 25 EAST, LYING SOUTH OF BOGGY CREEK AND THE WESTERLY 60.00 FEET OF SECTION 33, TOWNSHIP 3 NORTH, RANGE 25 EAST LYING NORTH OF SAULSROAD.

This being a portion of the same property conveyed in OR Book 1541, Page 1472 Nassau County Records.