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Heller, Heller & McCoy  
736 Norwich-New London Turnpike  
Uncasville, CT 06382

**DECLARATION OF JOINT DRIVEWAY EASEMENT AND MAINTENANCE  
AGREEMENT**

**LOTS 11, 12 AND 13 BLACK ASH ESTATES RESUBDIVISION**

This Declaration, made this \_\_\_\_ day of \_\_\_\_\_, 2024 by **PACHAUG CAPITAL LLC**, a Connecticut limited liability company, with an office and place of business at 7 Kelci Circle, in the Town of Griswold, County of New London and State of Connecticut (hereinafter the “Declarant”).

**WITNESSETH**

**WHEREAS**, Declarant is the owner of three (3) certain tracts or parcels of land, which tracts or parcels of land are more particularly designated as Lots 11, 12 and 13 on a certain map or plan entitled “Title: Record Resubdivision Map Land Now Or Formerly Of Pachaug Capital LLC Black Ash Road & Old Colchester Road Montville, Connecticut Date: August 22, 2023 Rev. No. 1 05/28/24 Town Review Comments By KJR Scale: 1” = 100’ Sheet: 3 of 12 Dwg. No.: 3 Bennett & Smilas Associates, Inc. 415 Killingworth Road, P.O. Box 241 Higganum, Connecticut 06441 Phone (860) 345-4553 Fax (860) 345-3858” (hereinafter referred to as the “Plan”); and

**WHEREAS**, said Lots 11, 12 and 13 (hereinafter referred to as the “Lots”) are situated on the southerly side of Old Colchester Road in the Town of Montville, County of New London and State of Connecticut; and

**WHEREAS**, the resubdivision of the Black Ash Estates Resubdivision contemplates that the Lots will obtain access and utilities from Old Colchester Road by virtue of easements over and across portions of Lots 11 and 12 as shown on the Plan; and

**WHEREAS**, the Declarant desires to establish a joint driveway for access to the Lots and for the provision for the extension of utilities from Old Colchester Road for the benefit of the Lots over a portions of Lots 11 and 12 as shown on the Plan; and

**WHEREAS**, the Declarant desires to allocate the responsibility by and between the Owners of the Lots for the improvement and maintenance of the joint driveway, the utilities installed within the limits of the joint driveway and the rain garden to be installed on Lot 13 to manage driveway stormwater runoff;

**NOW, THEREFORE**, in consideration of the recitals hereinbefore set forth, and the mutual covenants contained herein, the said Declarant does hereby declare as follows:

1. A non-exclusive right of way for all purposes is hereby granted, bargained, sold and conveyed to the owner of Lot 11, as delineated on the Plan, their heirs and assigns, over and across a portion of Lot 12 as shown on the Plan, which right of way is more particularly bounded and described as follows:

Beginning at an iron pin to be set in the southerly line of Old Colchester Road at the northeasterly corner of Lot 12 as shown on the Plan and on the dividing line between Lots 12 and 13 as shown on the Plan; thence running South 26°34'54" West for a distance of 272.47 feet bounded southeasterly by Lot 13 as shown on the Plan to an iron pin to be set; thence continuing South 26°34'54" West for a distance of 111.90 feet to a point; thence running North 63°25'06" West for a distance of 25.00 feet to a point on the division line between Lots 11 and 12 as shown on the Plan; thence running North 26°34'54" East for a distance of 111.90 feet along the division line between Lots 11 and 12 as shown on the Plan to a point; thence continuing North 26°34'54" East for a distance of 263.21 feet along the division line between Lots 11 and 12 as shown on the Plan to an iron pin to be set in the southerly line of Old Colchester Road; thence running South 83°44'28" East for a distance of 26.66 feet bounded northerly by Old Colchester Road to the iron pin to be set at the point and place of beginning of said easement area.

**TO HAVE AND TO HOLD** the same to the owner of Lot 11 as shown on the Plan, their heirs and assigns forever.

2. A non-exclusive right of way for all purposes is hereby granted, bargained, sold and conveyed to the owner of Lot 12, as delineated on the Plan, their heirs and assigns, over and across a portion of Lot 11 as shown on the Plan, which right of way is more particularly bounded and described as follows:

Beginning at a monument found in the southerly line of Old Colchester Road at the northwesterly corner of Lot 11 as shown on the Plan and on the dividing line between Lot 11 as shown on the Plan and land now or formerly of Richard J. George and Katherine A. George; thence running South 83°44'28" East for a distance of 26.66 feet bounded northerly by Old Colchester Road to an iron pin to be set; thence running South 26°34'54" West for a distance of 263.21 feet along the division line between Lots 11 and 12 as shown on the Plan to a point; thence continuing South 26°34'54" West for a distance of 111.90 feet along the division line between Lots 11 and 12 as shown on the Plan to a point; thence running North 63°25'06" West for a distance of 25.00 feet to a point at the southeasterly corner of land now or formerly of Richard J. George and Katherine A. George as shown on the Plan; thence running North 26°34'54" East for a distance of 365.85 feet bounded northwesterly by said George land to the monument found at the point and place of beginning of said easement area.

**TO HAVE AND TO HOLD** the same to the owner of Lot 12 as shown on the Plan, their heirs and assigns forever.

3. A non-exclusive right of way for all purposes is hereby granted, bargained, sold and conveyed to the owner of Lot 13, as delineated on the Plan, their heirs and assigns, over and across portions of Lots 11 and 12 as shown on the Plan, which right of way is more particularly bounded and described as follows:

Beginning at an iron pin to be set in the southerly line of Old Colchester Road at the northeasterly corner of Lot 12 as shown on the Plan and on the dividing line between Lots 12 and 13 as shown on the Plan; thence running South 26°34'54" West for a distance of 272.47 feet bounded southeasterly by Lot 13 as shown to the Plan to an iron pin to be set; thence continuing South 26°34'54" West for a distance of 111.90 feet to a point; thence running North

63°25'06" West for a distance of 50.00 feet to a point at the southeasterly corner of land now or formerly of Richard J. George and Katherine A. George as shown on the Plan; thence running North 26°34'54" East for a distance of 365.85 feet bounded northwesterly by said George land as shown on the Plan to a monument found in the southerly line of Old Colchester Road; thence running South 83°44'28" East for a distance of 53.32 feet bounded northerly by Old Colchester Road to the iron pin to be set at the point and place of beginning of said easement area.

**TO HAVE AND TO HOLD** the same to the owner of Lot 13 as shown on the Plan, their heirs and assigns forever.

4. The Declarant shall be responsible for the cost of construction of the joint driveway from the southerly streetline of Old Colchester Road to the southerly terminus of the joint driveway as delineated on the Plan and the construction of the rain garden on Lot 13 installed to manage driveway stormwater runoff. The common driveway shall be constructed to a minimum width of fifteen (15') feet and shall be constructed in accordance with the "15' Common Driveway Detail" as depicted on a plan entitled "Notes & Details Black Ash Estates Resubdivision Prepared For Pachaug Capital, LLC Black Ash Road & Old Colchester Road Montville, Connecticut Date: 8-22-23 Rev. 5/28/24 Town Comments Scale: None Sheet 10 of 12 Map No. 23-024-1N Wentworth Civil Engineers LLC 177 West Town St. Lebanon, CT 06249 Tel. (860) 642-7255 Fax (860) 642-4794 Web: wentworthcivil.com" (hereinafter the "Detail Plan") and shall further construct the proposed rain garden in accordance with the "Rain Garden Section" detail as depicted on the Detail Plan.
5. The deed of conveyance of each of the Lots shall be made together with and subject to the rights of way herein set forth by reference to this Declaration, and such reference shall be deemed to incorporate the rights and obligations set forth herein into each such deed of conveyance.
6. All grants of right of way in favor of the Lots shall be deemed to include the non-exclusive right and privilege to pass and re-pass, by foot or by vehicle, and for any lawful purpose, over, upon and across the right of way areas herein described; and the right to install and connect to utility lines located under or within the joint driveway; and the right to install a private driveway serving a Lot connecting to the joint driveway.
7. Each owner of the Lots shall cooperate fully in granting any easements required by public utility companies and/or the Town of Montville Water Pollution Control Authority to effect the installation of telephone, electric, cable television, water and/or sewer service lines to provide utility service to the Lots. The obligations contained in this paragraph shall include, but shall not be limited to, the obligation to execute an "Electric Distribution Easement" in standard Connecticut Light and Power Company d/b/a Eversource Energy form in favor of The Connecticut Light and Power Company d/b/a Eversource Energy in order to effect the installation of such utilities.
8. Each owner of the Lots shall be responsible for the maintenance and upkeep of the joint driveway, including the utilities installed within the same, in accordance with his "Pro Rata Share" as hereinafter set forth. Upkeep and maintenance shall include, but is not limited to, snow removal, removal of all trees or other obstructions, pothole repair, resurfacing and the removal of debris and detritus from the rain garden in accordance with the operations and

maintenance narrative on the Detail Sheet. Decisions as to the necessity of maintenance and upkeep, and the cost to be incurred with respect thereto, shall be made in accordance with Paragraph 10 of this Declaration.

9. Any damage to the joint driveway caused by construction on any of the Lots, including damage caused by construction of a private driveway serving a Lot from the joint driveway, or by reason of the installation of, or connection to utility lines, shall be repaired by and the sole expense of the owner of the Lot causing such damage.
10. "Pro Rata Share", as defined herein, shall mean:
  - (a) With respect to Lot 11 – 41%
  - (b) With respect to Lot 12 – 33%
  - (c) With respect to Lot 13 – 26%
11. Notwithstanding anything herein contained to the contrary, no lot owner shall have an obligation to contribute to the cost of maintenance and upkeep of the common driveway until such time as said lot owner constructs a single family dwelling house on such lot. Decisions as to the necessity and maintenance of upkeep, and the cost to be incurred with respect thereto, shall be made by a majority vote of the pro-rata shares attributable to the Lots.
12. This Declaration creates real, but private, covenants which are intended to run with the title to the Lots. The resubdivision of Black Ash Estates was approved by the Town of Montville Planning and Zoning Commission with the intent and understanding that all rights in and to the common driveway shall remain private at all times; and that the Town of Montville shall not be required to plow, maintain, assume ownership of, or provide school bus service or other services, other than emergency services, along the common driveway.
13. This Declaration may be modified or changed by an agreement in writing between the owners of the Lots, duly executed and recorded in the Montville Land Records; provided, however, that no such amendment shall be filed to modify or amend the covenants and agreements of the Declarant memorialized in Paragraph 12 of this Declaration.

**IN WITNESS WHEREOF**, Pachaug Capital LLC, acting herein by Zachary Wood, its Member, has hereunto set its hand and seal effective as of the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

**PACHAUG CAPITAL LLC**, a Connecticut  
limited liability company

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_ (L.S.)  
Zachary Wood, its Member, duly authorized

STATE OF CONNECTICUT            )  
  ) ss. Montville  
COUNTY OF NEW LONDON        )

On this, the \_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned officer, personally appeared Zachary Wood, who acknowledged himself to be the Member of Pachaug Capital LLC, a limited liability company, hereunto duly authorized, signer and sealer of the foregoing instrument and acknowledged the execution of the same to be his free act and deed as Member aforesaid, and the free act and deed of Pachaug Capital LLC.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.

\_\_\_\_\_  
Harry B. Heller  
Commissioner of the Superior Court