

DECLARATION OF COVENANTS AND RESTRICTIONS

Lots 1 through 16, Ballpark Drive Subdivision

Portland, Maine

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made as of the 28th day of January, 2005 by BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine, and a mailing address of 67 Havertys Way, Portland, Maine 04103 (the "Declarant") with respect certain Lots, as hereinafter described, located in Ballpark Drive Subdivision (the "Subdivision") in Portland, Cumberland County, Maine.

WITNESSETH:

WHEREAS, the Declarant is the owner of Lots 1 through 16 (collectively, "Lots", and individually, "Lot") shown on a plan entitled "Plan of Division of Land, The Haverty Estate Property, Ballpark Drive Subdivision" by URS Corporation, Portland, Maine, dated November 22, 2004, recorded in the Cumberland County Registry of Deeds in Plan Book 204, Page 855 (the "Plan"), and on a related plan recorded with the Plan entitled "Residential Lot Subdivision Plat Ballpark Drive Subdivision" dated November 22, 2004, and recorded in said Registry of Deeds in Plan Book 204, Page 856 (the "Subdivision Plan") (the Plan and the Subdivision Plan being hereinafter collectively referred to as the "Project Plans"), being a portion of the premises described in a deed from Mary Margaret I. Haverty to the Declarant dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73; and

WHEREAS, the Declarant desires to establish a common scheme and plan upon the Lots in favor of each present or future Lot owner and to create reciprocal rights and privity of contract and estate between all persons acquiring or owning an interest in any portion thereof; and

WHEREAS, it is desired that certain covenants, conditions and restrictions be imposed upon the Lots for the protection of the Declarant, and its grantees, successors and assigns.

NOW THEREFORE, in consideration of thereof, the Declarant hereby declares that the Lots are and shall be held and conveyed subject to the covenants, conditions and restrictions hereinafter set forth which shall inure to the benefit of and be binding upon the Declarant, and persons purchasing Lots in the Subdivision and their successors and assigns, but which the Declarant shall be under no obligation to enforce. Said covenants, conditions and restrictions shall run with the land and shall be binding upon and enforceable by all parties having any right, title and interest in and to the Lots, or any portion thereof, and their heirs, personal representatives, successors and assigns.

1. Residential Use: No structure or building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single-family residential dwelling with a minimum habitable floor area of fifteen ~~thousand~~ ^{thousand} (1,500) square feet, if constructed entirely on one level, otherwise it shall have a minimum habitable floor area of two thousand one hundred

(2,100) square feet, as measured by the area above the foundation, not including porches, screened rooms, garages, carports or other outside living terraces, unless otherwise approved by the Declarant. Mobile or modular homes are not allowed.

2. Garages: Each Lot shall have no less than a two-car garage attached to the residential structure. Such attached (2) two-car garage need not be built at the time of construction of the improvements upon a Lot but the foundation for such garage must be installed at the time of the construction of improvements upon the Lot.

3. Design of Dwellings: The initial design of the residential dwelling and any other associated buildings to be constructed on any Lot, including but not limited to materials, colors, textures, building shapes, roof lines, window-treatments, site orientation and foundation top of wall grade, shall be of a character harmonious with the natural beauty of the Subdivision and shall be approved by the Declarant prior to the start of construction. Such approval shall be in writing and, subject to the terms and conditions herein, shall not be unreasonably withheld. This approval requirement shall, however, be without force or effect once the Declarant no longer own any of the Lots.

4. Construction Materials: No dwelling or other building or improvement erected on any Lot shall be covered with tar paper, asphalt siding or corrugated metal siding as a finished siding, but shall be covered with clapboards, shingles, high grade panel "shaker" vinyl siding, brick or similar suitable materials. Roofs of all buildings on any Lot shall be pitched. Minimum roof pitches for the main areas of the house and garage shall be six/twelve (6/12), except that porches and dormers may be less so long as there is adequate pitch for drainage. Flat roofs are not permitted. Roof shingles shall, in the sole opinion of the Declarant, be of an architectural style or architectural look. Chimneys shall be constructed out of stone or brick. No metal or cinder block chimneys will be allowed. All driveways shall be paved.

5. Time for Construction: When the construction of the buildings or improvements on a Lot is begun, work thereon must be prosecuted diligently and must be completed within one (1) year from the date that construction (including excavation) begins. All disturbed areas not built upon or landscaped shall be loamed raked and seeded. All basic landscaping shall be completed within eight (8) months of a certificate of occupancy being issued by the City of Portland, Maine.

6. Prohibition of Subdividing Lots: No Lot shall be further subdivided; however, a Lot line may be changed with the approval of the Portland Planning Board to resolve a property dispute, any encroachment issues or set back issues that might arise.

7. Clothes Lines: No clothes line shall be built or erected on any Lot.

8. Large and Recreational Vehicles: No large vehicle such as tractor trailers, RVs, buses, boats or any similar vehicle shall be parked on any Lot in view of the street at any time.

9. Detached Structures: Only one detached structure, such as shed, greenhouses etc will be permitted on each Lot.

10. Solid Waste Collection: No rubbish or debris shall be permitted to accumulate on any Lot beyond a reasonable accumulation between pickup or collection time.

11. Compliance with Ordinances: All construction activities, including the site location of buildings, improvements, septic systems, if any, and water supply shall be in accordance with all local, state, and federal laws, codes, ordinances, and regulations.

12. Nuisances: No Lot owner shall do or permit to be done any act upon the Lot which may be or is, or may become a nuisance as defined by state or local law, ordinance, or regulation.

13. Temporary Structures: No building of a temporary character, whether trailer, tent, shack, garage, barn or other out-building, shall be maintained or used on any Lot at any time as a residence, either temporarily or permanently.

14. Television Antennae: No radio or television aerial wires or towers, or satellite dish-type antennae shall be placed or maintained on any portion of any Lot forward of the front of the building line on said Lot, nor shall any freestanding antennae of any style be permitted to extend more than twenty (20) feet above the roof of the principal building on such Lot. No owner shall install or maintain radio or television aerial wires or antennae in airspace over any portion of any Lot adjoining such owner's Lot.

15. Maintenance: All Lots shall be maintained in a neat, attractive manner and kept in good repair.

16. Signs: No sign of any nature or description shall be displayed or placed upon any Lot except for a "For Sale" sign referring only to a Lot, a sign erected by the Declarant to identify the subdivision, or a sign erected by a Lot owner to identify their name or home occupation which does not exceed one square foot in size. Political signs not more than five (5) square feet may be displayed for not more than thirty (30) days prior to any national, state or local election.

17. Animals: No livestock, animals or poultry other than household pets shall be kept, maintained or owned on any of the Lots. No boarding or breeding kennels may be kept or maintained on any of the Lots.

18. Amendments: The preceding provisions hereof may from time to time be amended by a vote or by written approval of the Declarant or of not fewer than twelve (12) Lot owners.

19. Lots Retained by Mary Margaret I. Haverty and the Declarant: Notwithstanding the provisions of this Declaration, Lot 17, currently owned by Mary Margaret I. Haverty, and Lot 18, currently owned by the Declarant, shown on the Project Plans, shall not be subject to the covenants, conditions and restrictions set forth herein.

20. Lot 17. Access to Lot 17 shall be over Ballpark Drive. Both vehicular and foot traffic due to recreational activity should be expected. Present use of Lot 17 is open to private and organized recreational activity and shall be by permission from the owner only. As indicated on the Project Plans, Lot 17 is subject to potential future development.

21. Stream Buffer. No development activities, lawn mowing, yard waste disposal, clearing, etc. will be allowed within the seventy-five (75) foot undisturbed buffer on the southern side of the intermittent brook to the northern property boundaries of Lots 1 through 9. This buffer is subject to the regulation under the City of Portland Shoreland Regulations and the State of Maine Natural Resources Protection Act.

22. Governing Law: This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

23. Enforcement: The owners of the Lots, as well as the owners of Lots 17 and 18 or any portion thereof, may, but shall have no obligation to, enforce the covenants, conditions and restrictions contained herein.

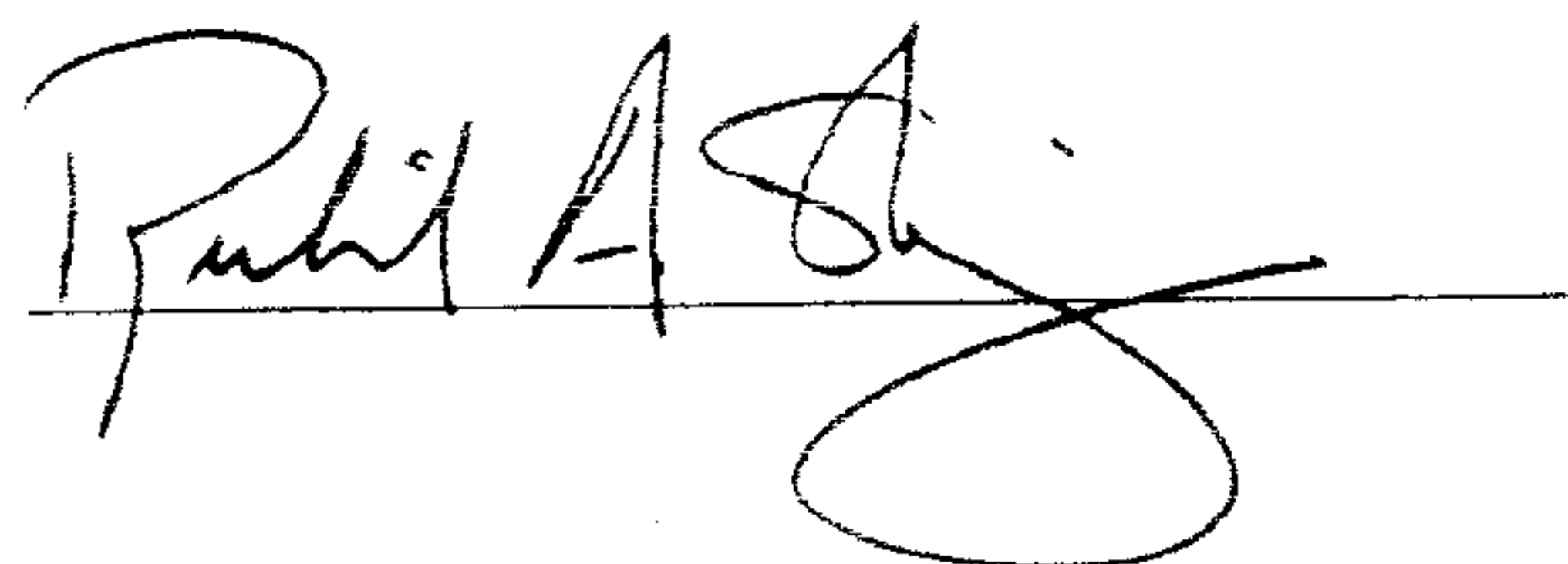
These covenants, conditions and restrictions shall run with the land and shall be binding on the grantor, the grantee, and their successors, heirs and assigns.

A determination that any one of these covenants, conditions and restrictions is invalid by judgment or decree of court shall not invalidate any other covenants, conditions and restrictions that shall remain in full force and effect. The Declarant, its successors and assigns, and every person having any right, title or interest in any Lot, as well as the owners of Lots 17 and 18 or any portion thereof, shall have the right to prevent and stop any violation of any of the covenants, conditions and restrictions contained herein or to enforce compliance herewith by means of injunction or by any other means of lawful procedure and to recover any damages resulting from such violation.


If a final judgment is rendered against a Lot owner, that owner shall pay all reasonable costs including attorney's fees incurred in the prosecution of the claim, and proceedings may be maintained regardless of the waiver of any prior violation or attempt to violate by the same owner. The failure to enforce one violation shall not be deemed to be a waiver of the right to do so thereafter, whether the violation is committed by the same or by a subsequent owner.

IN WITNESS WHEREOF, BALLPARK DRIVE DEVELOPMENT, LLC has caused this Declaration to be executed by Mary Margaret I. Haverty, its Chief Executive Officer and Manager, thereunto duly authorized, as of the date first set forth above.

WITNESS:



BALLPARK DRIVE DEVELOPMENT,
LLC

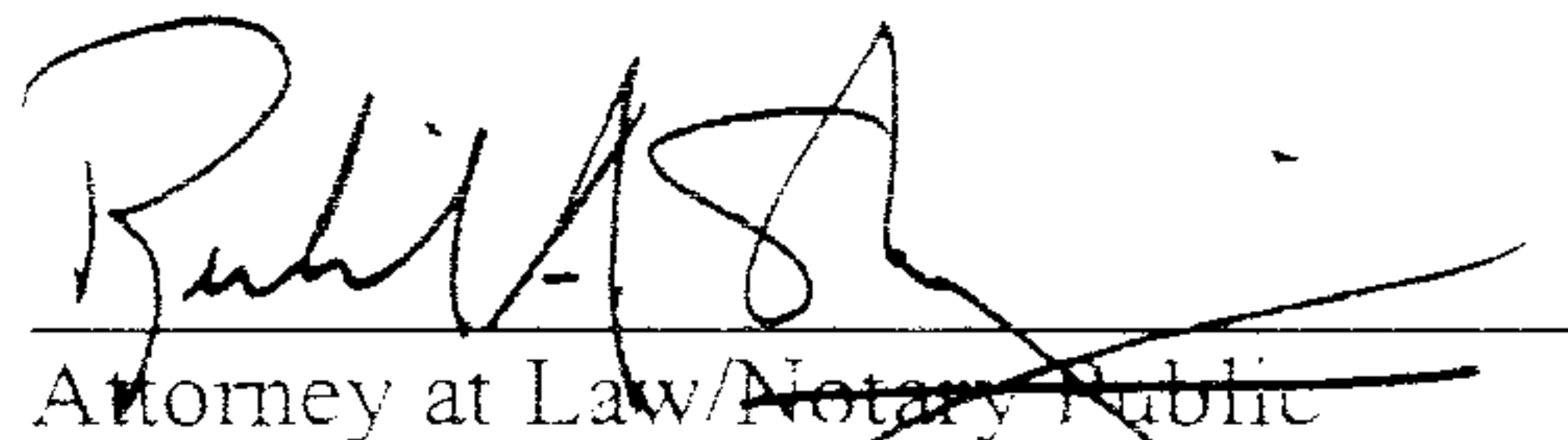
By: 
Mary Margaret I. Haverty, its Chief
Executive Officer and Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

January 28, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,



Attorney at Law/Notary Public

RICHARD A. SHINAY
Print name

Received
Recorded Register of Deeds
Jan 31, 2005 01:52:28P
Cumberland County
John B O'Brien

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS

Lots 1 through 16, Ballpark Drive Subdivision

Portland, Maine

THIS AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS is made this ____ day of March, 2005 by BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine, and a mailing address of 67 Havertys Way, Portland, Maine 04103 (the "Declarant").

WITNESSETH:

WHEREAS, the Declarant executed a certain Declaration of Covenants and Restrictions on January 28, 2005 and recorded said Declaration in the Cumberland County Registry of Deeds in Book 22278, Page 204 (the "Declaration") with respect Lots 1 through 16 located in Ballpark Drive Subdivision in Portland, Cumberland County, Maine; and

WHEREAS, the Declaration contains a typographical error in numbered paragraph 1 that Declarant wishes to correct.

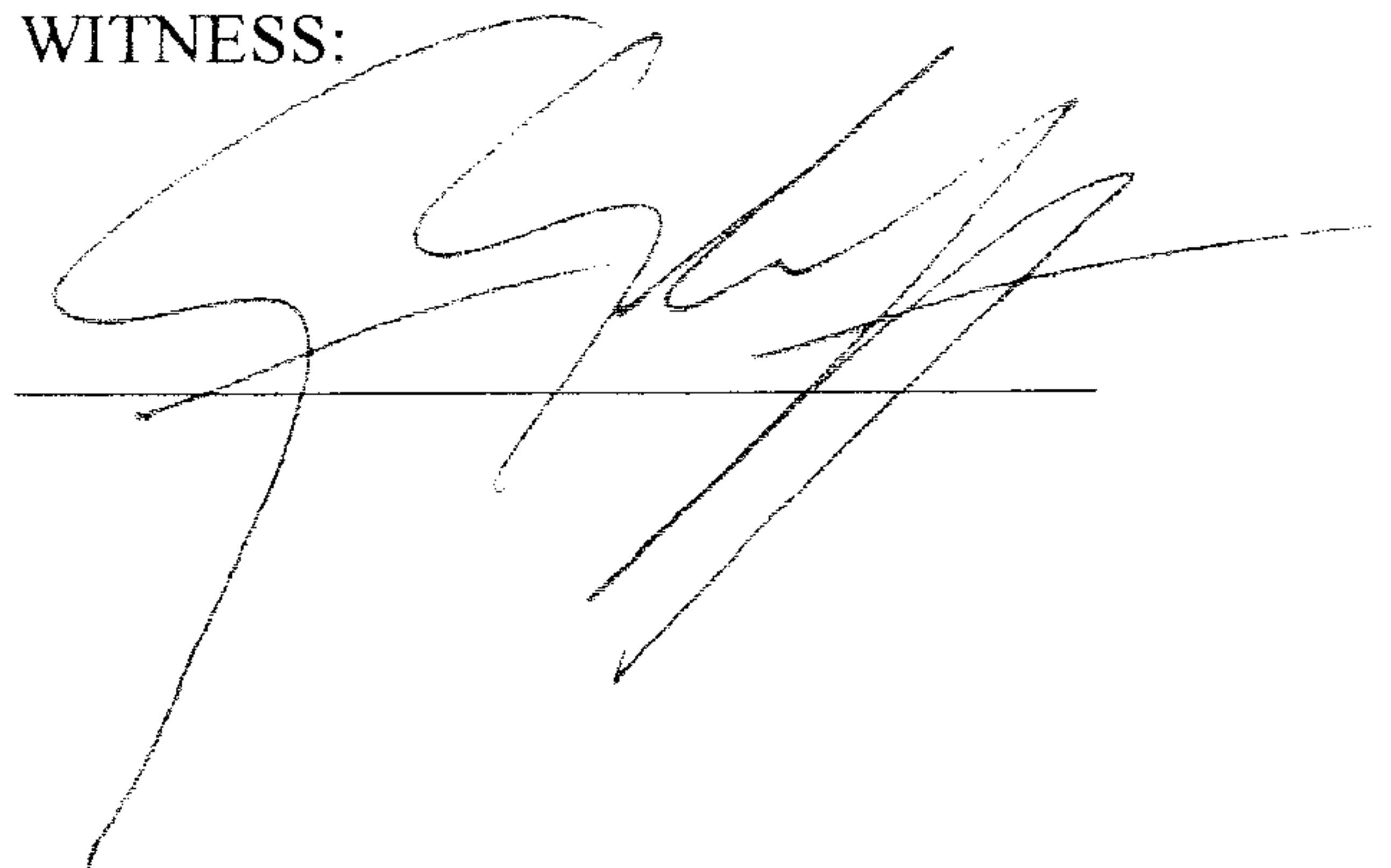
NOW THEREFORE, the Declarant hereby executes and records this Amendment to Declaration of Covenants and Restrictions for the purpose of amending the Declaration as follows:

The phrase "fifteen thousand" in the third line of numbered paragraph 1 of the Declaration is hereby amended to read "fifteen hundred".

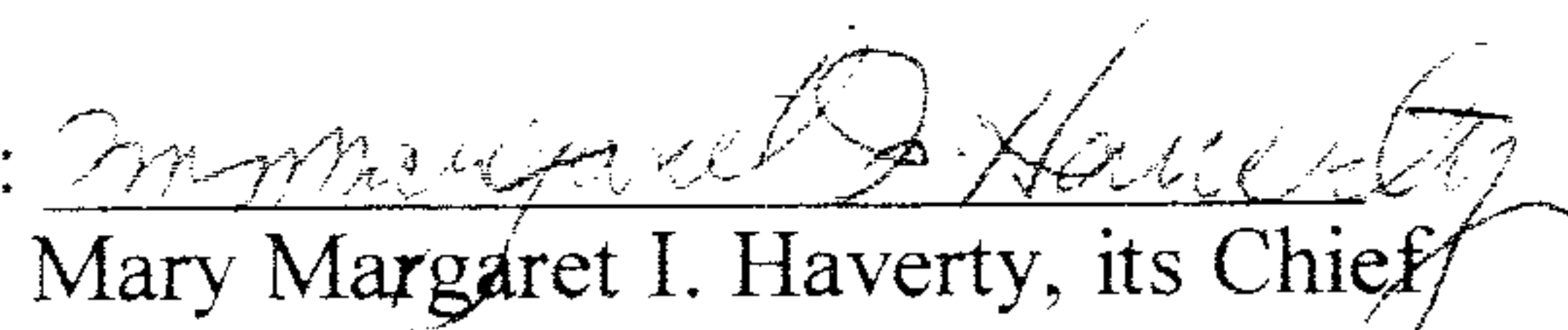
Except as specifically amended herein, all covenants, conditions and restrictions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, BALLPARK DRIVE DEVELOPMENT, LLC has caused this Amendment to Declaration of Covenants and Restrictions to be executed by Mary Margaret I. Haverty, its Chief Executive Officer and Manager, thereunto duly authorized, as of the date first set forth above.

WITNESS:



BALLPARK DRIVE DEVELOPMENT,
LLC

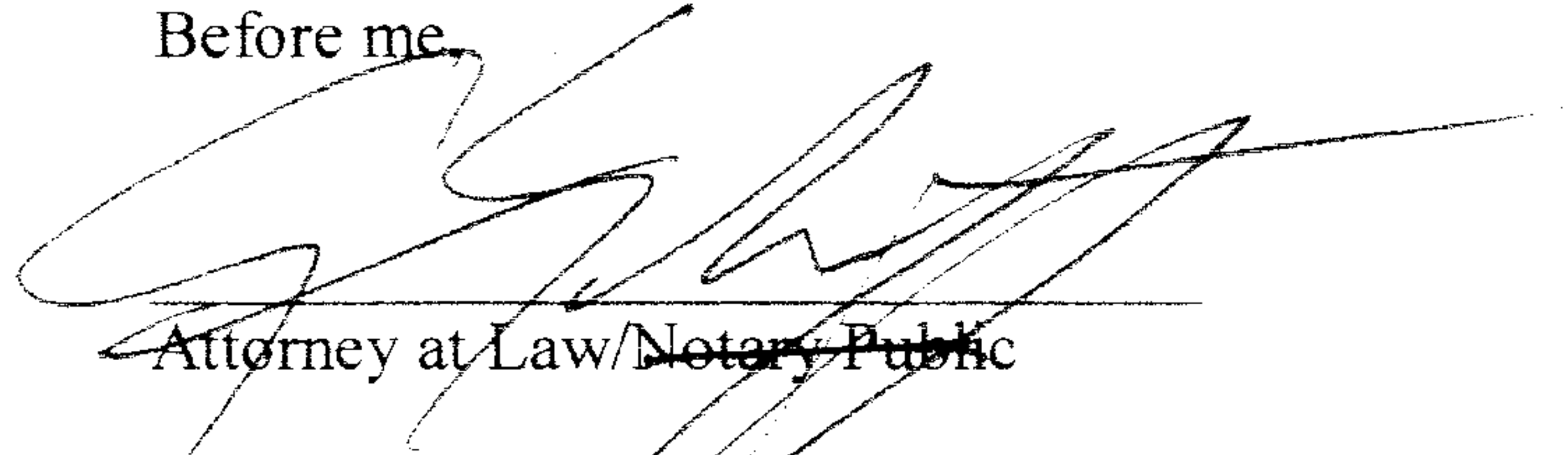
By: 
Mary Margaret I. Haverty, its Chief
Executive Officer and Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

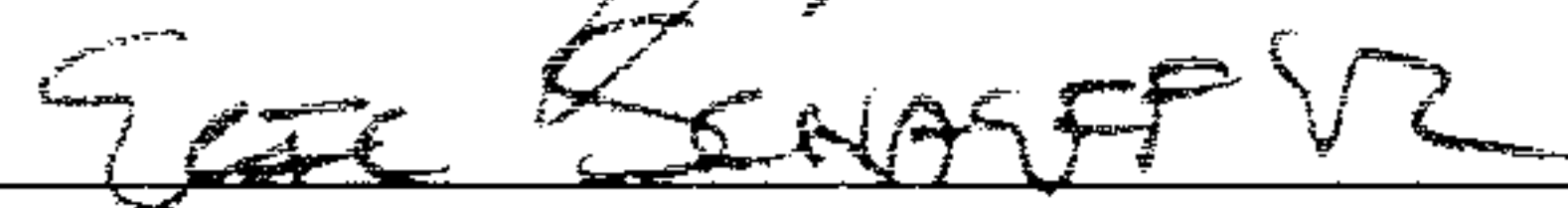
March 2, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,



~~Attorney at Law/Notary Public~~



Print name

Received
Recorded Register of Deeds
Mar 04, 2005 12:23:05P
Cumberland County
John E OBrien

EASEMENT DEED

EASEMENT DEED made as of the 13th day of January, 2005, by and between BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine and a mailing address of 67 Havertys Way, Portland, Maine 04103 (hereinafter referred to as "Grantor"), and the CITY OF PORTLAND, a body politic and corporate located in the County of Cumberland and State of Maine, with a mailing address of 389 Congress Street, Portland, Maine 04101 (hereinafter referred to as "Grantee").

WHEREAS, Grantor is the owner of land situated on Washington Avenue in the City of Portland, County of Cumberland and State of Maine described in a deed to Grantor from Mary Margaret I. Haverty dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73 (hereinafter referred to as the "Property"), and being shown on a plan entitled "Plan of Division of Land, The Haverty Estate Property, Ballpark Drive Subdivision" by URS Corporation, Portland, Maine, dated November 22, 2004, recorded in the Cumberland County Registry of Deeds in Plan Book 204, Page 855 (hereinafter referred to as the "Plan"), further reference being made to a related plan recorded with the Plan entitled "Residential Lot Subdivision Plat Ballpark Drive Subdivision" dated November 22, 2004, and recorded in said Registry of Deeds in Plan Book 204, Page 856; and

WHEREAS, Grantee desires drainage and culvert easements on the Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants to Grantee easements described as follows:

(1) DRAINAGE EASEMENT: A thirty (30) foot wide easement over and through the area labeled "C" extending through Lots 1 through 9 as shown on the Plan for the purpose of surface water drainage and, to the extent of the Grantor's ownership thereof, over and through the areas located fifteen (15) feet on either side of the thread of the stream running through said area labeled "C" on the Plan, as said thread may change from time to time, notwithstanding that said fifteen (15) foot wide areas may extend outside the bounds of said area labeled "C" on the Plan.

(2) CULVERT AND DRAINAGE EASEMENTS: Thirty (30) foot wide easements over and through the areas labeled "D" extending through Lots 1 and 2 as shown on the Plan, "E" extending through Lots 6 and 7 as shown on the Plan, and "F" extending through Lots 10 and 11 as shown on the Plan, and ten (10) foot wide easements over and through the areas extending through the common boundary lines between Lots 2 and 3, Lots 3 and 4, Lots 4 and 5, Lots 5 and 6, Lots 7 and 8, Lots 8 and 9, Lots 11 and 12, Lots 12 and 13, Lots 13 and 14, Lots 14 and 15 and Lots 15 and 16 as shown on the Plan, reference being made to one of said ten (10) foot wide easement areas labeled as "10' Wide Drainage Easement (TYP)" between Lots 12 and 13 and being the correspondingly depicted areas running through the common boundary lines of said other Lots described above, for the purpose of surface water drainage by means of drainage ways and for constructing and maintaining through, under and across said easements conduits or

pipelines therein, with all necessary fixtures and appurtenances, for conveying surface water and for laying, relaying, repairing, maintaining and removing said conduits or pipelines upon or under said easements, with all necessary fixtures and appurtenances, together with the right at all times to make connections with said conduits or pipelines to land adjoining said easements by means of conduits or pipelines.

Exclusive use of the above described drainage, culvert and drainage easements is not hereby granted. The right to use said easement areas is expressly reserved by Grantor. Grantor reserves the right to use any surface or subsurface portions of the easement areas that does not unreasonably interfere with the use of such easements by Grantee for the purposes set forth herein.

Grantor reserves the right in common with Grantee to enforce all restrictions relating to the easements granted herein as are contained in this Easement Deed. Grantee agrees to use its best efforts to enforce the restrictions contained herein.

With regard to the easements granted herein, Grantor grants to Grantee the right to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind and to alter and regrade the contours of said drainage, culvert and drainage easements to such extent as in the reasonable judgment of Grantee is reasonably necessary or appropriate for any of the above purposes, and to enter upon said drainage, culvert and drainage easements at any and all times for any of the foregoing purposes.

Grantee agrees for itself and its successors and assigns to properly and professionally undertake all work permitted hereunder within the easement areas at its sole cost and expense and, following the completion of any work within the easement areas and the disturbance of the easement areas or any land adjacent thereto, to restore the easement areas and land adjacent thereto to its condition prior to the undertaking of such work.

Reserving to Grantor, its successors and assigns, the use and enjoyment of said drainage, drainage and culvert easement areas for such purposes only as will not unreasonably interfere with the use thereof by Grantee, its successors and assigns, for the purpose above-mentioned, provided that no building or any kind of permanent structure, including, but not limited to, walls and fences, shall be erected within said easement areas by Grantor, its successors or assigns; that no hedges, bushes or trees shall be planted within said easement areas by Grantor, its successors and assigns; and that Grantor, its successors and assigns, shall not remove earth from said easement areas, without the written permission of Grantee, its successors and assigns.

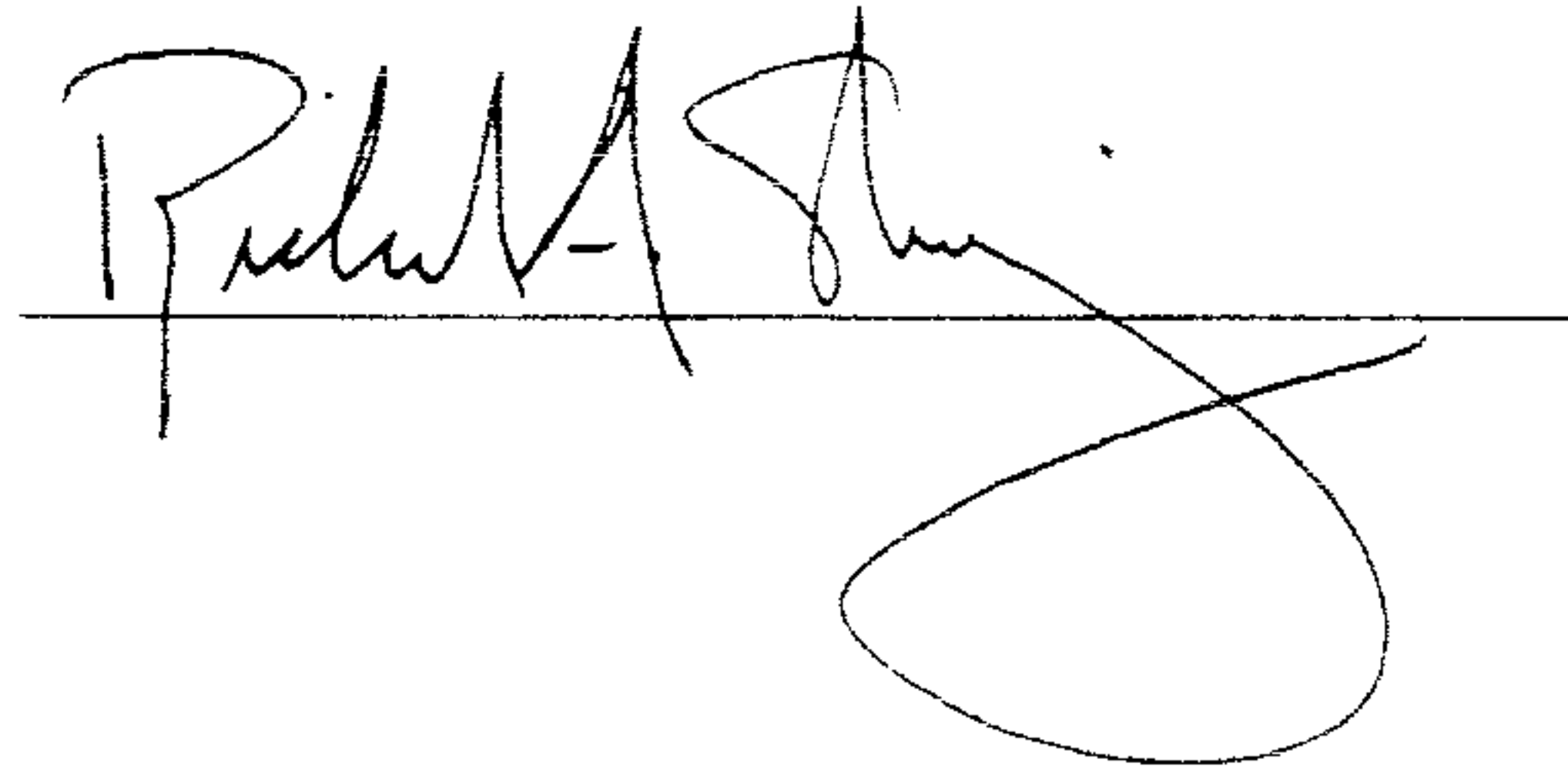
For Grantor's source of title to the easement areas described above, reference is made to a deed from Mary Margaret I. Haverty dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73.


The easements granted herein shall run with the land and be binding, upon and shall inure to the benefit of, Grantor and Grantee, and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed as of the date first set forth above.

WITNESS:

BALLPARK DRIVE DEVELOPMENT,
LLC



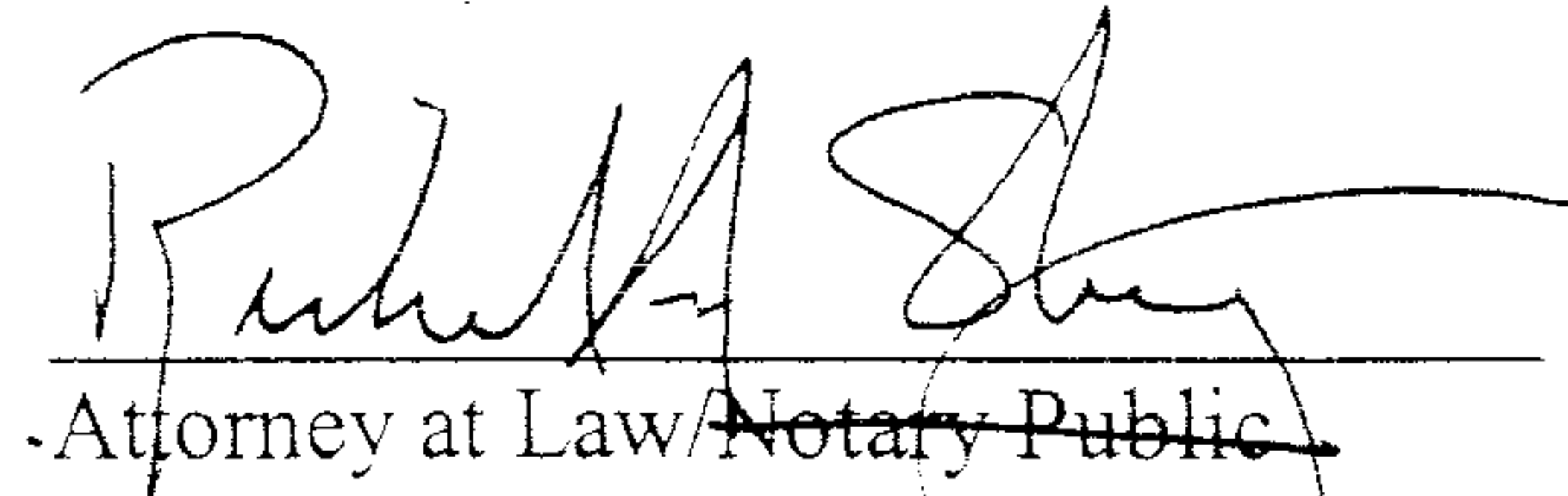
By: 
Mary Margaret I. Haverty
Chief Executive Officer and Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

January 13, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,


~~Attorney at Law/Notary Public~~

RICHARD A. SHINAY
Print name

WITNESS:

CITY OF PORTLAND

[Handwritten Signature]

By: [Handwritten Signature]
Its

Duane G. Kline
Finance Director

Print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

January 26, 2005

Then personally appeared the above-named Duane G. Kline,
Finance Director of the City of Portland, and acknowledged the foregoing instrument to
be his/her free act and deed in his/her said capacity and the free act and deed of said body politic
and corporate.

Before me,

[Handwritten Signature]
Attorney at Law/Notary Public

Jennifer L. Babcock
Print name
Notary Public, Maine

My Commission Expires June 26, 2010

SEAL

Received
Recorded Register of Deeds
Jan 27, 2005 12:35:38P
Cumberland County
John B O'Brien