

Prepared by:
Williams Mullen
P.O. Box 1320
Richmond, VA 23218-1320

Return To:
City Attorney's Office
22 Lincoln Street
Hampton, VA 23669
(757) 727-6127

Tax Parcel ID: 07R001-00-00000PC3A

NOTICE TO CLERK: This deed of easement is exempted from recordation taxes and fees under Section 58.1-811

DEED OF EASEMENT

THIS DEED OF EASEMENT is entered into as of this 21st day of December, 2006, by CAREPLEX WEST, LLC, a Virginia limited liability company, to be indexed as GRANTOR, (the "Grantor") ("Careplex"), and THE CITY OF HAMPTON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, (the "City"), whose address is 22 Lincoln Street, Hampton, Virginia, 23669, to be indexed as GRANTEE, (the "Grantee"), BANKERS LIFE AND CASUALTY COMPANY, an Illinois corporation; CONSECO LIFE INSURANCE COMPANY, an Indiana corporation; COLONIAL PENN LIFE INSURANCE COMPANY, a Pennsylvania corporation; CONSECO SENIOR HEALTH INSURANCE COMPANY, a Pennsylvania corporation; CONSECO HEALTH INSURANCE COMPANY, an Arizona corporation; and WASHINGTON NATIONAL INSURANCE COMPANY, an Illinois corporation (the "Lender"), each with principal offices at 11825 North Pennsylvania Avenue, Carmel, IN 46032; and JOSEPH H. LATCHUM, JR., Trustee, whose mailing address is 721 Lakefront Commons, Suite 200, Newport News, Virginia 23606.

A. Careplex is the owner of that certain real property located in the City of Hampton as shown as Parcel 3A ("Parcel 3A") on the that certain plat entitled "Plat Showing Variable Width Access Easement & 15' Temporary Construction Easement To Be Dedicated to the City of Hampton Over the Property of OPACC I LLC, City of Hampton, Virginia", prepared by TLS, Surveying-GPS-Mapping, Inc., dated November 29, 2006, (the "Plat"), which is attached hereto and incorporated herein by reference, having acquired Parcel 3A by deed recorded as Instrument Number 060031665 in the Clerk's Office, Circuit Court, City of Hampton, Virginia land records (the "Land Records").

B. Careplex has agreed to grant a variable width, non-exclusive access easement over and across those portions of Parcel 3A for the benefit of the owner of Parcel 07W004-00-00000 and the City for use by the general public as shown on Plat (the "Access Road").

C. Careplex has agreed to grant a fifteen foot (15') temporary construction easement (the "Construction Easement") over and across those portions of Parcel 3A for the benefit of

Careplex and the United States of America or its successors and assigns in constructing the Access Road.

D. Careplex has agreed to maintain the Access Road in good condition and repair, reasonably clear of waste, debris, dirt, ice and snow and with a suitable asphalt surface.

E. This Access Road and Construction Easement (collectively, the "Easement") shall be subject to all agreements and encumbrances of record relating to Parcel 3A.

F. Parcel 3A is subject to a lien of that certain Deed of Trust in favor of 40/86 Mortgage Capital, Inc. recorded as Instrument Number 060031666 among the Land Records (the "Deed of Trust"), which conveyed Parcel 3A to the Trustee to hold in trust for the benefit of Lender. The Deed of Trust was assigned to Bankers Life and Casualty Company, an Illinois corporation, Conseco Life Insurance Company, an Indiana corporation, Colonial Penn Life Insurance Company, a Pennsylvania corporation, Conseco Senior Health Insurance Company, an Arizona corporation, and Washington National Insurance Company, an Illinois corporation.

G. The Trustee and Lender desire and intend to subordinate the lien of the Deed of Trust to the Easement created herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Careplex West hereby grants and conveys to the City of Hampton a non-exclusive access easement and temporary construction easement in the locations shown on the Plat and labeled thereon as "VARIABLE WIDTH ACCESS EASEMENT TO BE DEDICATED TO THE CITY OF HAMPTON", for purposes of ingress and egress and access from Coliseum Drive (Variable Width R/W) over and across those portions of Parcel 3A to Parcel ID: 07W004-00-00000 as more particularly shown on the Plat and for a more specific description for the Variable Width R/W see the attached Exhibit "A".

THIS DEED FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lender hereby directs the Trustee, as evidenced by their signatures hereto, to execute this Agreement and thereby consent to and subordinate the liens of the Deeds of Trust to the easement created herein.

It is expressly understood that these subordinations shall not affect any liens of the Deed of Trust upon the other land conveyed by the Deed of Trust and not subject to such easement, and the Deed of Trust shall remain in full force and effect as to that land conveyed, subject to said subordination.

The covenants, rights and obligations set forth in or arising out of this instrument are not personal to the parties hereto, but shall be binding on and inure to the benefit of the

parties hereto, their heirs, legal representatives, successors and assigns and shall run with the land.

It is expressly agreed that the benefited parcel shown on the aforesaid Plat, as Parcel ID: 07W004-00-00000 shall be solely responsible for all of the costs associated with the design and construction of the access road that may be relocated in the future; however, the expense to install the new access buffer shall be the sole obligation of Careplex, or its successors and assigns. The temporary construction easement shall expire and shall cease to exist three (3) months after the new access road has been completed and inspected by the City.

[SIGNATURE PAGES FOLLOW]

The City acknowledges and accepts the dedication of the said Deed of Easement:

THE CITY OF HAMPTON, VIRGINIA,

a municipal corporation of the Commonwealth of Virginia

By: _____ (SEAL)

Name: _____

Its: _____

COMMONWEALTH OF VIRGINIA,

CITY OF HAMPTON, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 200__ by _____, as _____, of The City of Hampton, Virginia, a municipal corporation of the Commonwealth of Virginia.

Notary Public

My commission expires: _____

Approved as to Content: _____

Fred Whitley, City Engineer

FROM :

FAX NO. :

Dec. 27 2006 04:26PM P3

WITNESS, the following signatures and seals:

FOR: CAREPLEX WEST, LLC
A Virginia limited liability company

By: Michael Bottge (SEAL)
Name: Michael Bottge
Title: Senior Project Executive

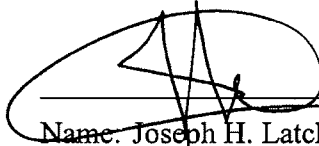
STATE OF MARYLAND
COUNTY/CITY OF Anne Arundel, to wit:

The foregoing instrument was acknowledged before me this 27 day of December, 2006, by Michael Bottge, known to me or proven on the basis of satisfactory evidence, who is Senior Project Executive of Careplex West, LLC, a Virginia limited liability company, who executed the foregoing on behalf of the limited liability company.

Marcia Guilione
NOTARY PUBLIC

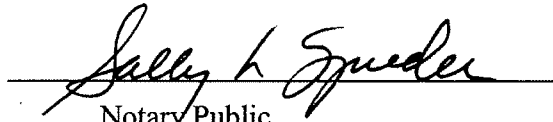
My commission expires:

09/01/2010

 (SEAL)
Name: Joseph H. Latchum, Jr.
Title: Trustee

COMMONWEALTH OF VIRGINIA,
CITY OF NEWPORT NEWS, to-wit:

The foregoing instrument was acknowledged before me this 27th day of
December, 2006 by Joseph H. Latchum, Jr., as Trustee.


Notary Public

My commission expires: 4/30/2009

BANKERS LIFE AND CASUALTY COMPANY

an Illinois corporation

By: Wayne R. Nelis (SEAL)

Name: WAYNE R. NELIS

Its: Vice President

STATE OF INDIANA

COUNTY/CITY OF HAMILTON to wit:

The foregoing instrument was acknowledged before me this 27 day of
DECEMBER 2006 by WAYNE R. NELIS, the Vice President of Bankers Life
and Casualty Company, an Illinois corporation on behalf of the corporation.

Marcia L. Moses

Notary Public

MARCIA L. MOSES
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. APR. 7, 2008

My commission expires: April 7, 2008

CONSECO LIFE INSURANCE COMPANY,
an Indiana corporation

By: Wayne R. Nelis (SEAL)
Name: WAYNE R. NELIS
Its: Vice President

STATE OF INDIANA
COUNTY/CITY OF HAMILTON to wit:

The foregoing instrument was acknowledged before me this 27 day of
DECEMBER 2006 by Wayne R. Nelis, the Vice President of Conseco Life
Insurance Company, an Indiana corporation on behalf of the corporation.

Marcia L. Moses

Notary Public

MARCIA L. MOSES
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. APR. 7, 2008

My commission expires: April 7, 2008

COLONIAL PENN LIFE INSURANCE COMPANY

a Pennsylvania corporation

By: Wayne R. Nelis (SEAL)

Name: WAYNE R. NELIS

Its: Vice President

STATE OF INDIANA

COUNTY/CITY OF HAMILTON to wit:

The foregoing instrument was acknowledged before me this 27 day of
December 2006 by Wayne R. Nelis, the Vice President of Colonial
Penn Life Insurance Company, a Pennsylvania corporation on behalf of the corporation.

Marcia L. Moses

Notary Public

MARCIA L. MOSES
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. APR. 7, 2008

My commission expires: April 7, 2008

CONSECO SENIOR HEALTH INSURANCE COMPANY

a Pennsylvania corporation

By: Wayne R. Nelis (SEAL)

Name: WAYNE R. NELIS

Its: Vice President

STATE OF INDIANA

COUNTY/CITY OF HAMILTON to wit:

The foregoing instrument was acknowledged before me this 27 day of
DECEMBER 2006 by WAYNE R. NELIS, the Vice President of Consecro
Senior Health Insurance Company, a Pennsylvania corporation on behalf of the corporation.

Marcia L. Moses

Notary Public

MARCIA L. MOSES
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. APR. 7, 2008

My commission expires: April 7, 2008

CONSECO HEALTH INSURANCE COMPANY

an Arizona corporation

By: Wayne R. Nelis (SEAL)

Name: WAYNE R. NELIS

Its: Vice President

STATE OF INDIANA

COUNTY/CITY OF HAMILTON to wit:

The foregoing instrument was acknowledged before me this 27 day of
DECEMBER 2006 by WAYNE R. NELIS, the Vice President of Consec
Health Insurance Company, an Arizona corporation on behalf of the corporation.

Marcia L. Moses

Notary Public

MARCIA L. MOSES
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. APR. 7, 2008

My commission expires: April 7, 2008

WASHINGTON NATIONAL INSURANCE COMPANY

an Illinois corporation

By: Wayne R. Nelis (SEAL)

Name: Wayne R. Nelis

Its: Vice President

STATE OF INDIANA

COUNTY/CITY OF HAMILTON to wit:

The foregoing instrument was acknowledged before me this 27 day of
DECEMBER 2006 by Wayne R. Nelis, the Vice President of Washington
National Insurance Company, an Illinois corporation on behalf of the corporation.

Marcia L. Moses

Notary Public

MARCIA L. MOSES
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. APR. 7, 2008

My commission expires: April 7, 2008

EXHIBIT A

The variable width access easement shown on the "Plat Showing Variable Width Access Easement & 15' Temporary Construction Easement To Be Dedicated to the City of Hampton Over the Property of OPACC I LLC, City of Hampton, Virginia", prepared by TLS, Surveying-GPS-Mapping, Inc., dated November 29, 2006 is thirty feet in width running from Coliseum Drive N 85°51'04" W, a distance of 264.02', thence the variable width easement becomes 20' in width and runs N 01°29'37" E a distance of 200.07'; thence N 88°54'48" W a distance of 144.34' to the intersection with the parcel of land shown on the aforesaid plat as Parcel ID: 07W004 00 00000.

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