FILED Krista M Lowe
Register of Deeds, Randolph Co,NC
Recording Fee: $26.00
NC Real Estate Ex Tx:$.00

20140925000132950 S/INS
Bk:RE2408 Pg:1076
09/25/2014 01:06:57 PM 1/7

✓ NCDOT
1598 Mail Service Center
Raleigh, NC 27699

STATE OF NORTH CAROLINA P.I.N. # 8714143409, 8714147366

COUNTY OF RANDOLPH

PREPARED BY & ~~RETURN TO:~~
Thomas D. Henry
Assistant Attorney General
North Carolina Department of Justice
Transportation Section
1505 Mail Service Center
Raleigh, North Carolina 27699-1505

FIRST AMENDMENT TO CONSERVATION EASEMENT AND EASEMENT OF INGRESS AND EGRESS

This First Amendment to Conservation Easement and Easement of Ingress and Egress ("First Amendment") is made on this 18 day of September, 2014 by and between **MICKEY C. BOWMAN** and wife **MICHELE D. BOWMAN** having an address of 5173 Whites Chapel Road, Staley, North Carolina 27355 ("Grantor"), and **THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**, its successors and assigns, having an address of 1598 Mail Service Center, Raleigh, North Carolina 27699-1598 ("NCDOT").

The designation Grantor and NCDOT (collectively, the "Parties") as used herein shall include said Parties, their heirs, successors, assigns, respective agents, executors, administrators, grantees, devisees, licensees, and/or all other successors as their interests may appear, and shall include singular, plural, masculine, feminine or neuter as required by context.

WHEREAS:

Under a Conservation Easement and Easement of Ingress and Egress ("Original Instrument") recorded on June 26, 2006 at Book 1979, Page 313 of the Randolph County Registry, NCDOT possesses a conservation easement and access easement over, upon, and across certain real property owned in fee simple by Grantor (the "Property"). Grantor's Property is more particularly described in the Original Instrument and in Book 2012, Page 1727, Book 1373, Page 1069, and Book 1068, Page 157 of the Randolph County Registry.

By this First Amendment, the Parties mutually desire to amend the Original Instrument with respect to the description of the Permanent Access Easement set forth in Paragraph 4 and Exhibit A of the Original Easement. The original Permanent Access Easement was depicted on a plat recorded at Book 101, Pages 36-37 of the Randolph County Registry, and labeled as "Proposed Future Farm Road."

Given changed circumstances on the property and given changes to the planned Stream Mitigation Project referenced in Paragraph 4 of the Original Instrument, the Parties mutually desire to establish access to the Conservation Easement Area by means of an existing soil road and mutually desire to abandon the "Proposed Future Farm Road" depicted at Book 101, Pages 36-37 of the Randolph County Registry.

The Parties acknowledge that substituting new access for the original access will reduce the acreage of the Conservation Easement Area by 0.087 acres and will alter the boundaries of the Conservation Easement Area, as depicted on the plat recorded at Book 141, Page 84 of the Randolph County Registry.

The Parties agree that the establishment of a new Permanent Access Easement is mutually beneficial, is consistent with the Original Instrument, and will effectuate the purposes of the Original Instrument, including the purpose of conducting and monitoring the Stream Mitigation Project.

The Parties agree that the mutual obligations, promises and duties herein imposed constitute adequate mutual consideration.

The Parties mutually desire to resolve any and all claims concerning, or in any way associated with, the substitution of the new access, described on the plat recorded at Book 141, Page 84 of the Randolph County Registry, for the original access described in the Original Instrument.

The Parties agree that, except as amended hereby, and in all other respects, the Original Instrument shall remain in full force and effect and shall be interpreted to give meaning to its provisions and to those contained herein.

NOW, THEREFORE, in consideration of good and valuable consideration acknowledged by both Grantor and NCDOT, the benefits of which flow to NCDOT and Grantor from each other, the receipt of which is hereby acknowledged, and in further consideration of the mutual covenants, terms, conditions and restrictions contained herein, Grantor and NCDOT hereby amend the Original Instrument and establish this First Amendment thereto.

The terms and conditions of this First Amendment are as hereinafter set forth:

1. Grantor hereby grants and conveys unto NCDOT and its successors or assigns, in perpetuity, a Permanent Access Easement as more particularly described in **Exhibit A,** which is attached hereto and incorporated herein by reference. Any improvements to or maintenance decisions regarding the Permanent Access Easement shall be at the

discretion of NCDOT or the North Carolina Department of Environment and Natural Resources, Ecosystem Enhancement Program ("EEP").

2. NCDOT and its authorized representatives, including the U.S. Army Corps of Engineers and EEP, at all reasonable times and continuing in perpetuity, shall have the right to access the Conservation Easement Area through the Property over this Permanent Access Easement (1) in order to conduct and monitor the Stream Mitigation Project; and (2) for the purpose of inspecting the Conservation Easement Area to determine if Grantor is complying with the terms, conditions, restrictions, and purposes of the Original Instrument and this First Amendment.

3. The Conservation Easement Area encompasses perennial streams, wetlands and surrounding land located on the Property, as more particularly described in **Exhibit A,** comprising approximately **9.61** total acres.

4. Grantor covenants and represents that Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid First Amendment and Permanent Access Easement; that the Property, Conservation Easement Area, and Permanent Access Easement are free and clear of any and all encumbrances, except easements and leases of record or as of the date hereto, which Grantor has made known to NCDOT; Grantor will warrant and defend the title against the lawful claims of all persons whomsoever; that both Grantor and NCDOT have legal access to the Property and the Conservation Easement Area; and Grantor covenants that NCDOT shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid easements conveyed. All easements conveyed herein shall run with the land and shall be made part of any transfer of title by Grantor.

5. This instrument sets forth the entire agreement of the Parties with respect to the First Amendment and Permanent Access Easement and supersedes all prior or contemporaneous discussions, negotiations, understandings or agreements relating to said Easements.

6. The burdens of this First Amendment shall run with the Property and shall be enforceable against Grantor and all future parties who have an interest in the Property in perpetuity.

7. The Original Instrument is amended only to the extent set forth herein. This First Amendment does not affect, alter, or supersede the Original Instrument in any other way. The Original Instrument (Book 1979, Page 313 of the Randolph County Registry) is specifically incorporated herein by reference. Except as amended, the Original Instrument shall remain in full force and effect and shall be interpreted to give meaning to its provisions and to those contained herein.

8. Grantor acknowledges that:

a) NCDOT and authorized representatives shall have access to the Conservation Easement Area by means of an existing soil road, as depicted on the plat recorded at Book 141, Page 84 of the Randolph County Registry;

b) The plan to construct the "Proposed Future Farm Road" depicted at Book 101, Pages 36-37 of the Randolph County Registry is, has been and forever will be abandoned; and

c) These changes will reduce the Conservation Easement Area by 0.087 acres and will alter the boundaries of the Conservation Easement Area, as depicted on the plat recorded at Book 141, Page 84 of the Randolph County Registry.

9. Grantor, their successors and assigns, hereby release and forever discharge the State of North Carolina and any agencies thereof, including its officials, officers, directors, employees, subsidiaries, affiliates, successors, assigns, agents, and representatives, from all claims, demands and causes of action, whether known or unknown, that Grantor has or may have or which may arise as a result of the mutual agreement between the parties not to construct a new access road, depicted as "Proposed Future Farm Road" on the plat recorded at Book 141, Page 84 of the Randolph County Registry, but instead to continue using the existing access road as depicted on the same plat. This release includes but is not limited to any and all claims by Grantor, their successors and assigns, against NCDOT and the State, either directly or indirectly, as well as any claims that have been or could be asserted in any independent civil action relating to the change in terms of the original agreement between the parties. Grantors, their successors and assigns, and all those claiming by, under or through them, shall be forever barred from asserting any claim against NCDOT and the State arising out of the change of circumstances described in this agreement.

10. All Parties have read and understand this First Amendment and have had an opportunity to consult with counsel regarding the same.

TO HAVE AND TO HOLD this First Amendment to Conservation Easement and Easement of Ingress and Egress unto the NCDOT, its successors and assigns, forever, this First Amendment to Conservation Easement and Easement of Ingress and Egress together with all and singular the appurtenances and privileges belonging or in any way pertaining thereto.

IN WITNESS WHEREOF, Grantor and NCDOT, intending to legally bind each other, have set their hands on the date first written above.

GRANTOR:

_____ (Seal)
MICKEY C. BOWMAN

_____ (Seal)
MICHELE D. BOWMAN

NORTH CAROLINA
RANDOLPH COUNTY

I, ALAN ROTHROCK, a Notary Public of GUILFORD County, North Carolina, do hereby certify that MICKEY C. BOWMAN and wife MICHELE D. BOWMAN personally appeared before me this day and executed the foregoing instrument.

Witness my hand and official stamp or seal this 17th day of SEPT., 2014.

SEAL

ALAN ROTHROCK NOTARY PUBLIC GUILFORD COUNTY, N.C.

_____
Notary Public Signature

ALAN ROTHROCK
Printed Name of Notary Public

My commission expires: 5-15-19

INTENTIONALLY LEFT BLANK.

SIGNATURES CONTINUED ON PAGE FOLLOWING.

20140925000132950
RE2408 1081 6/7

GRANTEE:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

_____ (SEAL)
By: Tom Childrey
Manager, Right of Way Branch
North Carolina Department of Transportation

NORTH CAROLINA
Wake COUNTY

I, Lisa J. Perry, a Notary Public of Wake County, North Carolina, do hereby certify that Tom Childrey personally came before me this day and acknowledged that he is the Manager of the Right of Way Branch for the North Carolina Department of Transportation, an agency of the State of North Carolina, and that by authority duly given, he executed the foregoing instrument.

Witness my hand and official stamp or seal this 18th day of September, 2014.

LISA J. PERRY NOTARY PUBLIC SEAL WAKE COUNTY, N.C.

Lisa J. Perry
Notary Public Signature

Lisa J. Perry
Printed Name of Notary Public

My commission expires: 12-18-2018

EXHIBIT A

CONSERVATION EASEMENT AREA AND PERMANENT ACCESS EASEMENT

Being all of that property designated as "BOUNDARY SURVEY AND CONSERVATION EASEMENT DEDICATION MAP OF THE MARTHA LEE BOWMAN PROPERTY FOR THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, COLUMBIA TOWNSHIP, RANDOLPH COUNTY, NORTH CAROLINA," as shown on a survey for North Carolina Department of Transportation revised January 16, 2014 and recorded in Plat Book 141 at Page 84 in the office of the Register of Deeds for Randolph County.