30131

CABARRUS COUNTY
FILED
09/08/2005 8:52 AM
LINDA F. MCABEE
Register Of Deeds
By. _____ Deputy/Asst.
EXCISE TAX $0.00

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

EASEMENT

City of Concord

THIS EASEMENT, made and entered into this the 22nd day of August, 2005, by and between the STATE OF NORTH CAROLINA, a body politic and corporate, hereinafter referred to as GRANTOR, and the CITY OF CONCORD, hereinafter referred to as GRANTEE;

WITNESSETH:

THAT, WHEREAS, the North Carolina Department of Environment and Natural Resources, Ecosystem Enhancement Program ("EEP"), has authorized and approved the execution of this instrument for the purposes herein expressed; and,

WHEREAS, the execution of this instrument for and on behalf of the State of North Carolina has been duly approved by the Council of State by resolution adopted at a meeting held in the City of Raleigh, North Carolina, on the 2nd day of November, 2004.

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant unto grantee, its successors and assigns, the right,

privilege and easement to construct, operate and maintain an underground sewer line across lands of Grantor, situated on the east side of Rocky River Road in Cabarrus County, North Carolina, as more particularly described below:

> All of that tract or parcel of land comprising approximately 1.106 acres being a 30 foot wide by approximately 1,475 foot long sanitary sewer easement for the City of Concord located on the east side of Rocky River Road, Concord, Cabarrus County, North Carolina, as described on Exhibit 1 attached hereto and incorporated herein, and as shown on the survey map titled "30' Sanitary Sewer R/W To Serve Hearthwood Subdivision Across the Property Of The State Of North Carolina" by Edward L Killough dated May 31, 2005, attached hereto as Exhibit 2 and incorporated herein.

IT IS UNDERSTOOD AND AGREED BETWEEN THE GRANTOR AND GRANTEE:

1. That Grantee's underground sewer line shall be entirely located on the west side of the approximate 7.9 acre parcel of Grantor's property recorded at Deed Book 5770 at Page 253 in Cabarrus County Public Registry and within the easement area herein granted.

2. That this easement is granted subject to all existing rights of way and easements within the easement area herein described.

3. That Grantor reserves the right to utilize the area within the easement area for all purposes not inconsistent with the easement rights herein conveyed.

4. That Grantee shall not in any way disturb or interfere with EEP's stream restoration project on the approximate 7.9 acre parcel of Grantor's property recorded in Deed Book 5770 at Page 253 in Cabarrus County Public Registry, while constructing, reconstructing, maintaining, repairing, inspecting or doing any other thing to Grantee's sewer line.

5. That Grantee shall have the right to go in and upon said premises to construct,

reconstruct, repair, maintain, inspect and operate said underground sewer line for the purpose aforesaid, **provided** that Grantee shall access this easement area only from the west side along Rocky River Road. If it becomes necessary for Grantee to access the easement area from east side, Grantee shall obtain written permission from Grantee prior to entering from the east side.

6. That Grantee shall be solely responsible for the maintenance and repair of said underground sewer line.

7. That Grantee shall restore the easement area after installation of said underground sewer line to approximately the same condition as before said installation.

8. That Grantee shall repair damage to Grantor's property, real and personal, caused in the process of the construction, reconstruction, repair, inspection, or maintenance of Grantee's underground sewer line, or in the exercise of its right of ingress and egress.

9. That Grantee shall pay Grantor for unrepaired damage caused by the construction, reconstruction, repair, inspection, or maintenance of Grantee's underground sewer line, or in the exercise of its right of ingress and egress.

10. That Grantee must complete construction of the sanitary sewer line within two (2) years from the date of this easement or this easement will automatically terminate.

11. That by acceptance of this easement, Grantee binds itself and its successors, agents and assigns to the foregoing conditions.

12. That any assignment and/or transfer of this easement made without the same terms and conditions upon which this easement was granted to Grantee is null and void.

13. That if said underground sewer line is not operated at the location described above for a continuous period of twelve (12) months, the easement herein granted shall

be deemed abandoned.

IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE GRANTOR AND GRANTEE that this conveyance is made subject to the condition that Grantee shall properly obtain all necessary permits required by state and federal law. Failure to obtain such permits in a timely manner shall be deemed an abandonment of said easement.

TO HAVE AND TO HOLD the aforesaid rights, privileges and easements unto said Grantee, its successors and assigns, for so long as Grantee maintains said underground sewer line and no longer.

IN TESTIMONY WHEREOF, the STATE OF NORTH CAROLINA has caused this instrument to be executed in its name by MICHAEL F. EASLEY, Governor, attested by ELAINE F. MARSHALL, Secretary of State, and the Great Seal of the State of North Carolina to be hereto affixed by virtue of the power and authority aforesaid.

STATE OF NORTH CAROLINA

By _____

Governor

ATTEST:

By _____

Secretary of State

APPROVED AS TO FORM:

ROY COOPER
ATTORNEY GENERAL

BY Susan R. Lundberg
Susan R. Lundberg
Assistant Attorney General

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Linda J. Duckworth, a Notary Public for Johnston County, North Carolina, do hereby certify that ELAINE F. MARSHALL, Secretary of State of North Carolina, personally came before me this day and acknowledged that she is Secretary of State of North Carolina, and that by authority duly given and as the act of the State, the foregoing instrument was signed in its name by MICHAEL F. EASLEY, Governor of the State of North Carolina, sealed with the Great Seal of the State of North Carolina, and attested by herself as Secretary of State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the 22nd day of August, 2005

"OFFICIAL SEAL"
Notary Public, North Carolina
County of Johnston
Linda J. Duckworth

Linda J. Duckworth
Notary Public

My Commission Expires:

6-22-2008

NORTH CAROLINA - CABARRUS COUNTY

The foregoing (or annexed) certificate(s) of Linda J. Duckworth, a notary public, is (are) certified to be correct. This the 8th day of Sept, 2005.

LINDA E. McABEE, REGISTER OF DEEDS

by: Peggy J. Hamore Asst./Deputy

LEGAL DESCRIPTION

Bearings Based on North American Datum of 1983.

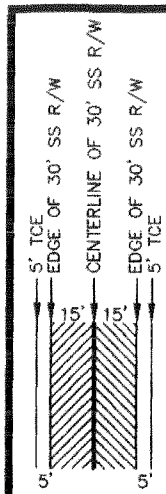
COMMENCE from North Carolina Geodetic Survey Monument Jackson which has N.C. State Plane Coordinates on the North American Datum of 1983 of North 591,218.663 feet and East 1,524,060.574 feet; thence S 06 degrees 04 minutes 58 seconds E 7,370.78 feet to an iron pin found at the common property corner of Roy D. Mills as recorded in Deed Book 2362 at Page 21(now Dan Moser Company Inc. recorded in Deed Book 5263 at Page 149 , Deed Book 5731 at Page 269 and Deed Book 5072 at Page 275) and Chaonn K. Hoyle as recorded in Deed Book 578 at Page 274 all in the Cabarrus County Public Registry, said iron pin having N.C. State Plane Coordinates on the North American Datum of 1983 of North 583,890.49 feet and East 1,524,841.50 feet; thence with the line of Roy D. Mills (now Dan Moser Company Inc.) and Chaonn K. Hoyle S 06 degrees 57 minutes 44 seconds E 227.64 feet to a point marking the common corner of the afore metioned property of Chaonn K. Hoyle and the State of North Carolina as recorded in Deed Book 5770 at Page 253 in the aforesaid public registry; thence with the common line of the State of North Carolina property and the Roy D. Mills (now Dan Moser Company Inc.) property S 06 degrees 57 minutes 44 seconds E 78.19 feet to an iron pin found , a common corner of the above Roy D. Mills (now Dan Moser Company Inc) and the State of North Carolina property; thence with said line S 77 degrees 24 minutes 36 seconds E 23.47 feet to the center of a new 30 (thirty feet) wide Sanitary Sewer right-of-way, the **POINT OF BEGINNING**; thence with the center of the 30 wide Sanitary Sewer right-of-way the following seven (7) calls: (1) S 30 degrees 13 minutes 28 seconds W 76.42 feet to a proposed sanitary sewer manhole; (2) S 30 degrees 28 minutes 11 seconds W 272.00 feet to a proposed sanitary sewer manhole; (3) S 56 degrees 26 minutes 58 seconds W 236.00 feet to a proposed sanitary sewer manhole; (4) S 38 degrees 13 minutes 14 seconds W 150.00 feet to a proposed sanitary sewer manhole; (5) S 35 degrees 17 minutes 55 seconds W 450.00 feet to a proposed sanitary sewer manhole; (6) S 00 degrees 57 minutes 46 seconds E 345.55 feet to a proposed sanitary sewer manhole; (7) S 80 degrees 37 minutes 44 seconds W 62.28 feet to the terminus of the 30 wide Sanitary Sewer right-of-way, said terminus being a point in Rocky River Road (state road #1139) , said 30 (thirty feet) wide Sanitary Sewer right-of-way being shown on a survey prepared by Edward L. Killough , N.C.P.L.S. L-1519 dated May, 31 2005 entitled 30 SANITARY SEWER R/W TO SERVE HEARTHWOOD SUBDIVISION.

EXHIBIT
1

N.C. GEODETIC MONUMENT "JACKSON"
GRID COORDINATES (NAD 83) (1986)
NORTH = 591,218.663 (FEET)
EAST = 1,524,060.574 (FEET)
ALL DISTANCES SHOWN ARE GROUND DISTANCES UNLESS OTHERWISE NOTED

IRON PIN FOUND
N.C. GRID COORDINATES (NAD 83) (1986)
N = 583,890.49 (FEET)
E = 1,524,841.50 (FEET)
COMB. GRID FACTOR 0.99985

GRID TIE (NOT TO SCALE)
S06°04'58"E 7370.78'
GRID DISTANCE 7369.67'
COMBINED GRID FACTOR 0.99985



30' SS R/W DETAIL (NOT TO SCALE)

NORTH CAROLINA PROFESSIONAL SEAL L-1319 SURVEYOR EDWARD L. KILLOUGH

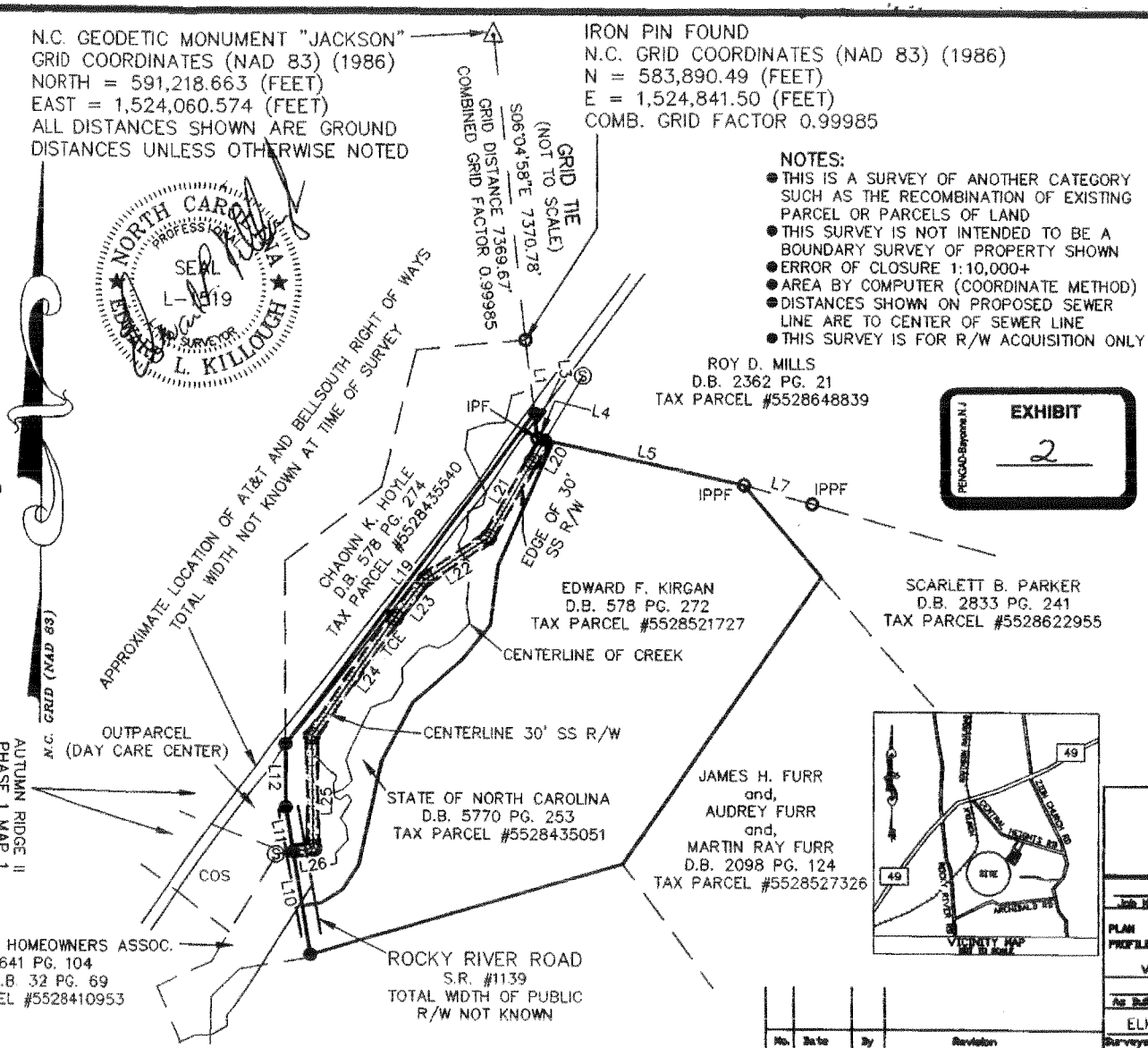
NOTES:
- THIS IS A SURVEY OF ANOTHER CATEGORY SUCH AS THE RECOMBINATION OF EXISTING PARCEL OR PARCELS OF LAND
- THIS SURVEY IS NOT INTENDED TO BE A BOUNDARY SURVEY OF PROPERTY SHOWN
- ERROR OF CLOSURE 1:10,000+
- AREA BY COMPUTER (COORDINATE METHOD)
- DISTANCES SHOWN ON PROPOSED SEWER LINE ARE TO CENTER OF SEWER LINE
- THIS SURVEY IS FOR R/W ACQUISITION ONLY

LEGEND:
- IPF = IRON PIN FOUND
- BIPF = BENT IRON PIN FOUND
- IPPF = IRON PIPE FOUND
- Ⓢ = PROPOSED SANITARY SEWER MANHOLE
- O = IRON AS NOTED
- ● = COMPUTED POINT
- R/W = RIGHT OF WAY
- SS = SANITARY SEWER
- TCE = TEMPORARY CONSTRUCTION EASEMENT

REVIEW OFFICERS CERTIFICATE
STATE OF NORTH CAROLINA
COUNTY OF CABARRUS
I, [illegible] REVIEW OFFICER OF CABARRUS COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED, MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
DATE 7/19/05 REVIEW OFFICER [illegible]

LINE TABLE		
LINE	BEARING	LENGTH
L1	S06°57'44"E	227.64'
L3	S06°57'44"E	78.19'
L4	S77°24'36"E	23.47'
L5	S77°24'36"E	627.49'
L7	S74°41'59"E	218.74'
L10	N09°29'22"W	319.77'
L11	N09°29'22"W	137.46'
L12	N00°20'44"W	195.34'
L19	N37°03'46"E	1282.59'
L20	S30°13'28"W	76.42'
L21	S30°28'11"W	272.00'
L22	S56°26'58"W	236.00'
L23	S38°13'14"W	150.00'
L24	S35°17'55"W	450.00'
L25	S00°57'46"E	345.55'
L26	S80°37'44"W	62.28'

EXHIBIT 2



CITY OF CONCORD
UTILITY DEPARTMENT
ENGINEERING DIVISION
CONCORD, NORTH CAROLINA

30' SANITARY SEWER R/W
TO SERVE
HEARTHWOOD SUBDIVISION

ACROSS THE PROPERTY OF
STATE OF NORTH CAROLINA

Job No. File No.
Scales
PLAN 1" = 400'
PROFILE
Hor.
Vert.
As Built Date

No.	Date	By	Revision

Surveyed By	Designed By	Drawn By	Project Engr	Date	Appr.	Sheet	Of
ELK		CGS		5/31/05		1	1

6217 0192