

This document presented and filed:

11/10/2015 11:04:39 AM

SEE INSTRUMENT

Fee \$26.00 Excise Tax: \$0.00



20012341

Randolph County North Carolina  
Krista M. Lowe, Register of DeedsPrepared by and return to:

Jeff Bandini

Parker Poe

PO Box 389

Raleigh, NC 27602-0389

✓ Brett Fewlner  
1020 Birch Ridge Dr.  
Raleigh, NC 27610

**AMENDMENT TO CONSERVATION EASEMENT AND**  
**EASEMENT OF INGRESS AND EGRESS**

**THIS AMENDMENT TO CONSERVATION EASEMENT AND EASEMENT OF INGRESS AND EGRESS** (this "Amendment") is made and entered into as of this 10 day of November, 2015 ("Effective Date"), by and between **KENNETH D. BRILES AND WIFE, CYANA H. BRILES** and their heirs, successors and assigns (collectively, "Grantor"), and **THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION** and its successors and assigns ("NCDOT"). Each of Grantor and NCDOT may be referred to individually as a "Party" and collectively as the "Parties."

**BACKGROUND**

Grantor previously granted to NCDOT certain easement and other rights (the "Conservation Easement") over, across, and upon Grantor's property in Randolph County, North Carolina ("Grantor's Property"), in a Conservation Easement and Easement of Ingress and Egress recorded on July 12, 2006 at Deed Book 1981, Page 1346, Randolph County Registry (the "Original Instrument"). The Property and Conservation Easement are more particularly described in the Original Instrument, which is incorporated herein by reference.

The Parties now desire to amend the Original Instrument in accordance with the terms and conditions of this Amendment to modify the description of the area subject to the Conservation Easement (the "Conservation Easement Area") to reflect the new location and alignment of one of the stream crossing adjoining the Conservation Easement Area and to reflect the actual location of the mowing limits around the existing pond within the Conservation Easement Area. The Conservation Easement Area was originally described and shown on that Conservation Easement Plat dated November 10, 2005, in Exhibit A to the Original Instrument.

**AGREEMENT**

Grantor and NCDOT, for themselves and their respective successors and assigns, for Ten Dollars (\$10.00), the mutual promises and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, agree as follows:

1. Conservation Easement Area. The original legal description of the Conservation Easement Area in Exhibit A of the Original Instrument is hereby deleted and replaced in its entirety with the legal description of the Conservation Easement Area in the attached Exhibit A. The Conservation Easement Area described in the attached Exhibit A shall be deemed the "Conservation Easement Area" from and after the effective date of the Original Instrument, and Grantor affirms its grant to NCDOT of all easement and other rights set forth in the Original Instrument as to the Conservation Easement Area in the attached Exhibit A. Grantor further grants and conveys unto NCDOT and its successors and assigns forever and in perpetuity a conservation easement in accordance with, and subject to, all terms and conditions of the Original Instrument over the Conservation Easement Area described in the attached Exhibit A to the extent such Conservation Easement Area covers any portion of the Property not described as part of the Conservation Easement Area in the Original Instrument, and NCDOT quitclaims and releases unto Grantor and its heirs, successors and assigns any portion of the Conservation Easement Area originally described in the Original Instrument that is not described as part of the Conservation Easement Area described in the attached Exhibit A.

2. License for Mowing. Grantor and Grantee agree that Grantor shall have the limited privilege and license to mow the area around the existing pond within the Conservation Easement Area within the limits designated as "GRASS MOWING AREA" on the plat referenced in Exhibit A (the "Grass Mowing Area") and to enter the Conservation Easement Area and Grass Mowing Area for such limited purpose, all subject to the terms of this paragraph (collectively, the "License"). Grantor shall periodically mow the grass within the Grass Mowing Area to a height of no less than six inches, provided, Grantor shall not have the right to mow or remove any woody stemmed plants or species within the Grass Mowing Area. Grantor's mowing shall be accomplished only by mechanical means in a manner that does not alter or damage the natural topography or drainage of the Conservation Easement Area or create erosion issues within the Conservation Easement Area. The License granted to Grantor in this paragraph shall not run with title to the Property, shall be personal to Grantor, and may not be assigned to any other party without Grantee's express written approval. Further, Grantee shall have the right to terminate the License with prior notice to Grantor if Grantee determines, in Grantee's sole discretion, that Grantor's exercise of the privilege granted in this paragraph is detrimental or contrary to the intent and purpose of the Conservation Easement or any term thereof or Grantee's regulatory or other obligations in connection with the Conservation Easement.

3. Warranties and Representations. Grantor covenants and represents to NCDOT that: (a) Grantor is the sole owner, and is seized, of the Property in fee simple and has the right to enter into this Amendment and to affirm the grant of the Conservation Easement in this Amendment; (b) the Property and Conservation Easement Area are free and clear of any and all encumbrances, except matters of public record; and (c) Grantor will warrant and defend the title to the Conservation Easement against the lawful claims of all persons whomsoever.

4. Binding Effect. The terms and conditions of this Amendment and the Easement shall run with title to the Property and shall be binding upon and shall inure to the benefit of the Parties and their heirs, successors, assigns, agents, executors, administrators, grantees, devisees, licensees, occupants in possession, guests, invitees, and/or all other successors as their interests may appear and all employees and contractors of the Parties.

5. Effect of Amendment. Except as specifically amended by this Amendment, the Original Instrument shall remain unaltered and in full force and effect and shall be interpreted to give meaning to its provisions.

6. Entire Agreement. This Amendment contains the entire agreement and understanding between the Parties with respect to the amendment of the Conservation Easement and supersedes all prior or contemporaneous discussions, negotiations, or understandings relating to the subject matter of this Amendment.

7. Principles of Interpretation. In this Amendment, unless the context requires otherwise: (a) pronouns of whatever gender shall include natural persons, corporations, and associations of every kind and character; (b) the singular shall include the plural and vice versa where and as often as may be appropriate; (c) references to statutes or regulations include all statutory and regulatory provisions consolidating, amending, or replacing the statute or regulation; (d) references to contracts and agreements shall be deemed to include all amendments thereto; (e) the words “include”, “includes”, and “including” are to be interpreted as if they were followed by either the phrase “without limitation” or “but not limited to”; (f) references to an “Article”, “Section”, “section”, or “paragraph” shall mean an article or section of this Amendment; (g) headings and titles of sections, paragraphs, and articles are for convenience only and shall not be construed to affect the meaning of this Amendment; (h) the word “shall” is mandatory; (i) all Exhibits, attachments, or documents attached to this Amendment or referred to in this Amendment are incorporated by reference into this Amendment as if fully set forth herein; and (j) whenever the terms “hereof,” “hereby,” “herein,” or words of similar import are used in this Amendment, they shall be construed as referring to this Amendment in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]



IN WITNESS WHEREOF, the Parties have signed this Amendment as of the day and year first above written.

GRANTOR:

Kenneth D Briles (SEAL)  
KENNETH D. BRILES

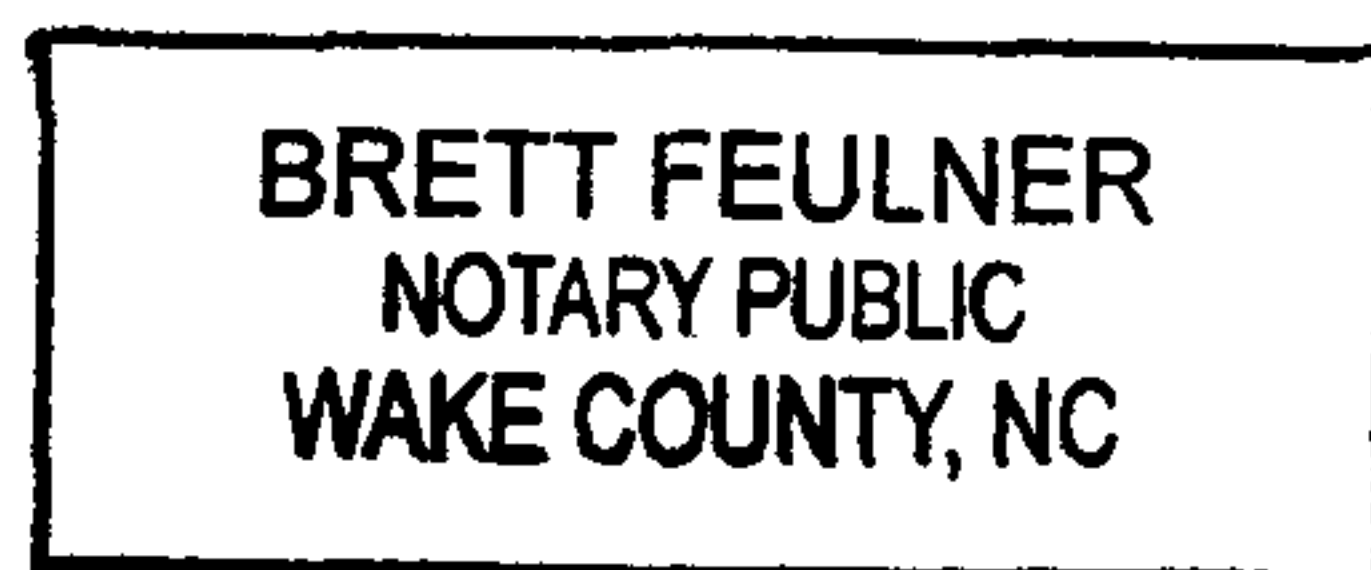
Cyana H. Briles (SEAL)  
CYANA H. BRILES

STATE OF NC

COUNTY OF Wake

I, a Notary Public of the County and State aforesaid, certify that **KENNETH D. BRILES AND WIFE, CYANA H. BRILES** personally appeared before me this day and acknowledged the signing of the foregoing instrument.

Date: 9/29/2015



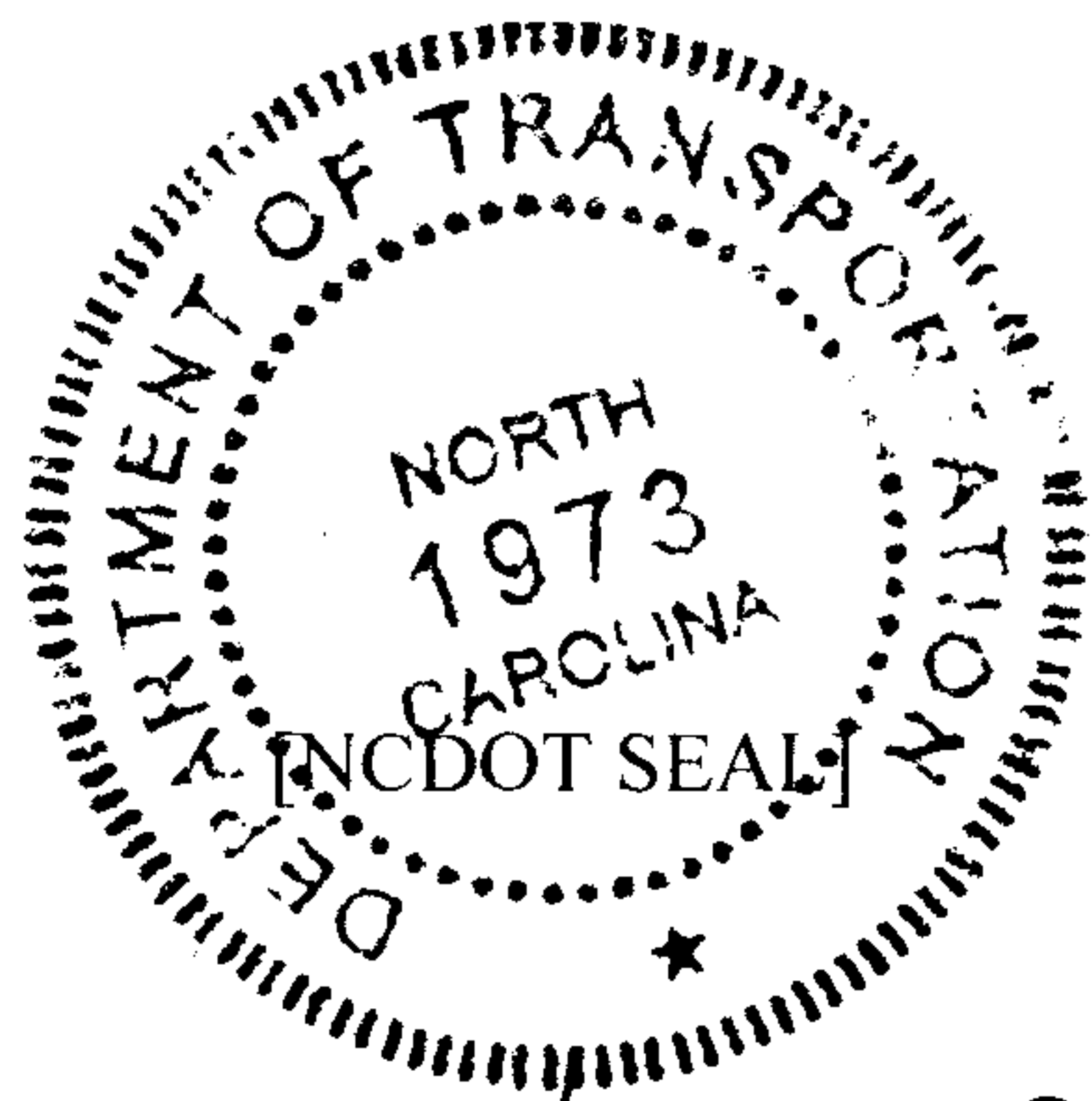
(Official Stamp or Seal)

Brett Feulner  
Official Signature of Notary

Brett Feulner, Notary Public  
Notary Public's printed or typed name

My Commission expires: 11/6/2019

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]



NCDOT:

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

By: Tom Childrey (SEAL)  
Tom Childrey, Manager of Right of Way Branch

ATTEST: Tereca W. Batts  
SECRETARY TO THE BOARD OF  
TRANSPORTATION AND CUSTODIAN  
OF THE SEAL OF THE DEPARTMENT  
OF TRANSPORTATION

STATE OF North CarolinaCOUNTY OF Wake

I, Angela Stahl, a Notary Public of the County and State aforesaid do hereby certify that this day, Tereca Batts, personally appeared before me, who being by me duly sworn, says that she knows the Seal of the Department of Transportation and is acquainted with Tom Childrey, who is Manager of Right of Way of the Division of Highways of said Department, and that she, Sarah Mitchell, is the Secretary to the Board of Transportation and Custodian of the Seal of the Department of Transportation, and saw said Manager of Right of Way sign the foregoing instrument, and that she, the said Secretary to the Board of Transportation and Custodian of the Seal of the Department of Transportation, affixed said seal to said instrument and signed her name in attestation of the execution thereof in the presence of said Manager of Right of Way.

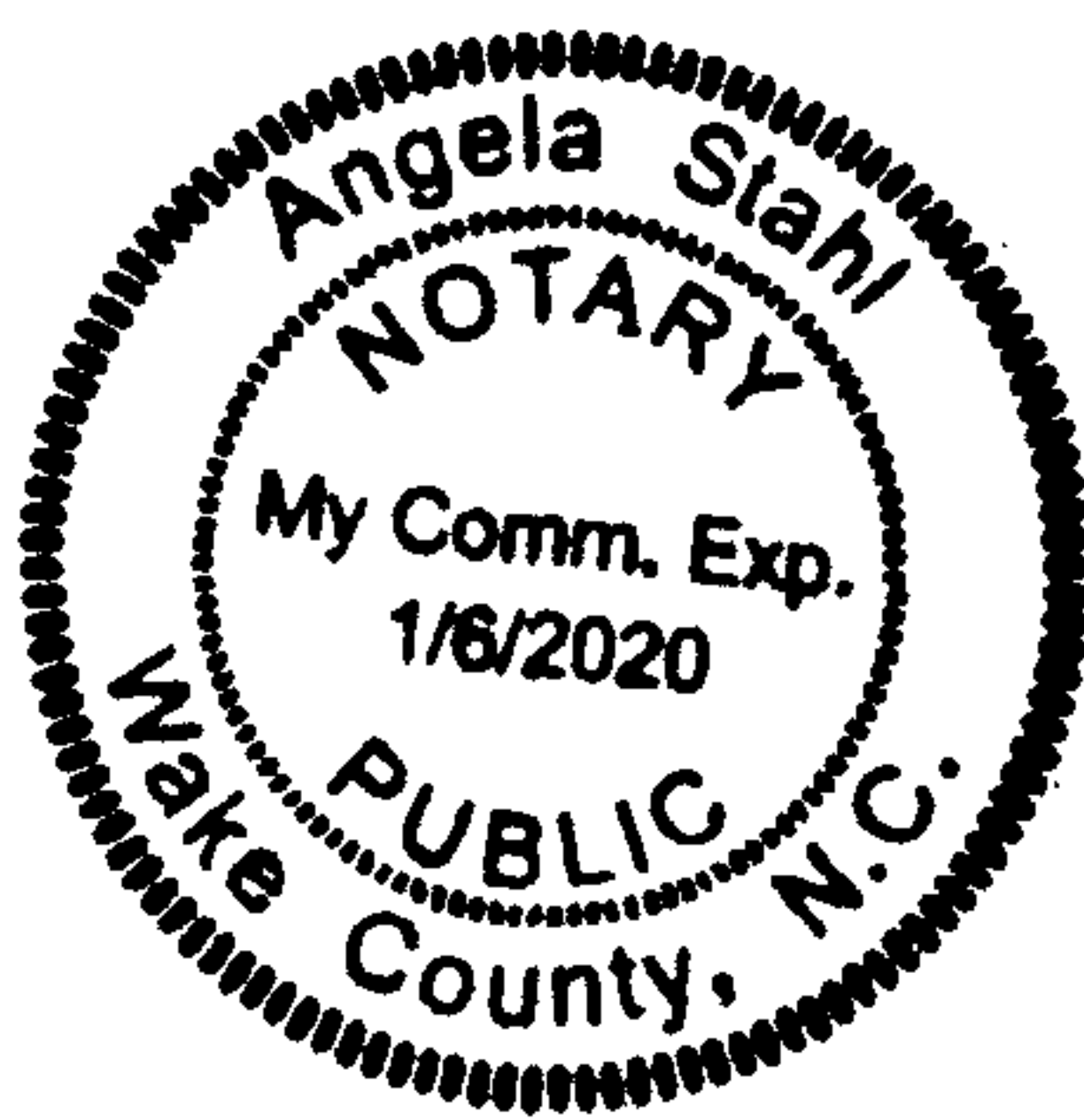
Date: 10/19/15

Angela Stahl  
Official Signature of Notary

Angela Stahl, Notary Public  
Notary Public's printed or typed name

My Commission expires: 1/6/2020

(Official Stamp or Seal)



**EXHIBIT A****CONSERVATION EASEMENT AREA**

BEING collectively all of those areas designated as “CONSERVATION EASEMENT ‘A’,” “CONSERVATION EASEMENT ‘B’,” “CONSERVATION EASEMENT ‘C’,” “POND,” “GRASS MOWING AREA,” PEDESTRIAN EASEMENT 1” and “PEDESTRIAN EASEMENT 2” on that “Conservation Easement Plat of Lands owned by Kenneth D. and Cyana H. Briles” last certified on April 20, 2015 by KCI Associates of N.C. and recorded in Plat Book 146, at Page 1, Randolph County Register of Deeds Office.