Doc ID: 001372530006 Type: CRP
Recorded: 10/15/2010 at 10:39:01 AM
Fee Amt: $27.00 Page 1 of 6
Lenoir County, NC
Margaret Seymour Register of Deeds
BK 1614 PG 698-703

Prepared By/Return to: Gaines M. Weaver, Assistant Attorney General, Attorney General's Office, North Carolina Department of Transportation, 1505 Mail Service Center, Raleigh, N.C. 27699-1505

STATE OF NORTH CAROLINA

COUNTY OF LENOIR

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08-CVS-1927

DEPARTMENT OF TRANSPORTATION,
Plaintiff,

vs.

FALLING CREEK FARMS, INC.
Defendant.

CONSENT JUDGMENT
(CNDM-CJ)

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THIS CAUSE coming on to be heard and being heard before the undersigned Judge of the Superior Court and it appearing to the Court and the Court finding as fact:

That this action was duly instituted on the 13TH day of November, 2008, by the issuance of a Summons, filing of Complaint and Declaration of Taking and Notice of Deposit and by the deposit of **TWO HUNDRED FIFTY TWO THOUSAND NINE HUNDRED DOLLARS ($252,900.00)** as estimated just compensation; that Summons was duly served on the defendant together with a copy of the Complaint and Declaration of Taking and Notice of Deposit; that the defendant, Falls Creek Farms, Inc., is the only defendant of record who has or claims to have an interest in the property described in the Complaint and Declaration of Taking and the title to the property was not in dispute; that the defendant is under no legal disability and that the property was subject only to such liens and encumbrances as are set forth in Exhibit "A" of the Complaint and Declaration of Taking;

That all parties who are necessary to the determination of this action are properly before the Court; and that the defendant are under no legal disability;

That now, the defendant and the plaintiff have reached an agreement and the plaintiff agreed to pay and the defendant has agreed to accept, the additional sum of **NINETY SEVEN THOUSAND ONE HUNDRED DOLLARS ($97,100.00)** which includes any claim for interest and all costs, as full and just compensation for the appropriation of the interests and areas as set forth in the Complaint and Declaration of Taking and as hereinafter more particularly described; for any and all damages caused by the construction of Department of Transportation Project 34501.2.4, I.D.# R-2719A, Lenoir County; and for the past and future use thereof by the Department of Transportation, its successors and assigns, for all purposes for which the Department is authorized by law to subject the same.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That the Department of Transportation, plaintiff herein, was entitled to acquire and did acquire on the 13TH day of November, 2008, by the filing of a Complaint and Declaration of Taking and Notice of Deposit, together with the deposit of **TWO HUNDRED FIFTY TWO THOUSAND NINE HUNDRED DOLLARS ($252,900.00)** those certain interests or estates and areas, hereinafter more particularly described, in, over, upon and across the property of defendant; and that said property of defendant is described as follows:

> Being all of that tract of land more particularly described in that certain MEMORANDUM OF ACTION captioned "DEPARTMENT OF TRANSPORTATION, Plaintiff, V. FALLING CREEK FARMS, INC., recorded in the Office of the Register of Deeds for Lenoir County in Book 1560, Page 750, reference to which MEMORANDUM OF ACTION is made for a more particular description of said property of the defendant.

2. That the interest or estate acquired in, over, upon, and across the hereinabove described property of the defendant is described as follows:

INTEREST OR ESTATE TAKEN:

> Fee simple title to right of way, and a temporary construction easement to continue until the completion of the project, at which time said temporary construction easement area will revert to the owner. Also, a temporary drainage easement to continue until the completion of the project, at which time said temporary drainage easement area will revert to the owner. Access is controlled by the Department of Transportation as is indicated by control-of access (C/A) lines on the plan sheets for Project R-2719A, on file in the office of the Right of Way Branch, Department of Transportation, Raleigh, North Carolina, and which are or will be recorded in the office of the Register of Deeds of Lenoir County, and there will be no

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access to, from or across the areas within the control-of-access (C/A) lines to the main traffic lanes, ramps, or approaches from the property abutting said highway right of way.

3. That the areas acquired in, over, upon and across the hereinabove described property are accurately shown upon a map, entitled "PROPERTY DESCRIBED IN CIVIL ACTION ENTITLED STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION VS FALLING CREEK FARMS, INC.", Project No. 34501.2.4, I.D. # R-2719A, Parcel No. 033, dated January 25, 2010 and filed by the plaintiff in this action on the 27th day of July, 2010, and are described by metes and bounds as follows:

AREAS TAKEN:

FEE SIMPLE NEW RIGHT OF WAY 1:

Beginning at Point "1" being N 00°24'58" E 379.97 ft. from -Y1RPCA-16+13.08, thence S 28°03'31" E 146.69 ft. to point "2"; thence S 19°09'34" E 700.04 ft. to point "4"; thence S 87°49'17" W 304.80 ft. to point "5"; thence N 00°24'58" E 802.33 ft. to point "1"; returning to the place of beginning.

FEE SIMPLE NEW RIGHT OF WAY 2:

Beginning at Point "6" being S 08°57'27" W 30.04 ft. from -SVRD5-10+50.06, thence N 83°51'33" W 1143.20 ft. to point "7"; thence N 14°24'43" E 80.84 ft. to point "8"; thence S 83°51'33" E 1135.51 ft. to point "9"; thence S 08°57'27" W 80.10 ft. to point "6"; returning to the place of beginning.

TEMPORARY DRAINAGE EASEMENT:

Beginning at Point "1" being N 00°24'58" E 379.97 ft. from -Y1RPCA-16+13.08, thence N 00°24'58" E 37.86 ft. to point "10"; thence S 89°46'01" E 53.01 ft. to point "11"; thence S 05°22'18" E 167.84 ft. to point "2"; thence N 28°03'31" W 146.69 ft. to point "1"; returning to the place of beginning.

TEMPORARY CONSTRUCTION EASEMENT:

Beginning at Point "7" being S 14°24'43" W 30.32 ft. from -SVRD5-21+90.38, thence S 83°51'33" E 94.74 ft. to point "12"; thence S 06°08'27" W 10.00 ft. to point "13"; thence N 83°51'33" W 96.19 ft. to point "14"; thence N 14°24'43" E 10.11 ft. to point "7"; returning to the

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place of beginning.

Access is controlled by the Department of Transportation as is indicated by control-of access (C/A) lines on the plan sheets for Project R-2719A, on file in the office of the Right of Way Branch, Department of Transportation, Raleigh, North Carolina, and which are or will be recorded in the office of the Register of Deeds of Lenoir County, and there will be no access to, from or across the areas within the control-of-access (C/A) lines to the main traffic lanes, ramps, or approaches from the property abutting said highway right of way.

4. That the, plaintiff herein, pay into Court the additional sum of **NINETY SEVEN THOUSAND ONE HUNDRED DOLLARS ($97,100.00)** and that said sum, together with the original deposit made by the plaintiff in this action, unless heretofore disbursed by order of the Court, be disbursed by the Clerk to John B. McMillan, attorney for the defendant, in trust, for the benefit of the defendant.

5. That the sum of **THREE HUNDRED FIFTY THOUSAND DOLLARS ($350,000.00)**, said sum being the total amount of the original deposit plus said additional amount, and including any claim for interest and all costs, is the full, fair and adequate value of and represents just compensation for the taking of the herein above-described interests and areas by the Department of Transportation; for any and all damages caused by the construction of Department of Transportation Project 34501.2.4, I.D.# R-2719A, Lenoir County; and for the past and future use thereof by the Department of Transportation, its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.

6. That a copy of this Judgment be certified by the Clerk of Superior Court of Lenoir County to the Register of Deeds, who shall record the same among the land records of said County.

This the 15th day of September, 2010.

Paul L. Jones

JUDGE OF SUPERIOR COURT

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APPROVED AND CONSENTED TO:

FALLING CREEK FARMS, INC.

Name of Officer

Treasurer & Secretary / VP

Title of Officer

John B. McMillan
Attorney for defendant

ROY COOPER
Attorney General

W. Richard Moore
Special Deputy Attorney General

Gaines M. Weaver
Assistant Attorney General

[150554]

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Consent Judgment, attached hereto, was served on all parties by placing a copy thereof in the United States mail, first class postage prepaid, addressed as follows:

John B. McMillan
Manning, Fulton & Skinner, PA
P.O. Box 20389
Raleigh, NC 27612-3970

This the 5th of October, 2010.

Gaines M. Weaver (NC Bar #22373)
Assistant Attorney General
North Carolina Department of Justice
1505 Mail Service Center
Raleigh, NC 27699
(919) 733-3316
Attorneys for Plaintiff

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[151805]