

AGREEMENT FOR ENTRY

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STATE OF NORTH CAROLINA

TIP/PARCEL NO.: A-0009CB 101

Graham COUNTY

WBS ELEMENT 32572.2.14

THIS AGREEMENT made this the 22nd day of June, 2023, by and between the North Carolina Department of Transportation (hereinafter called the Department) and Eastern Band of Cherokee Indians

(hereinafter called the owners);

WITNESSETH

THAT WHEREAS, the Department desires to enter certain lands of the owners located in Cheoah Township, Graham County, described as follows:

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Point of beginning being S 3°22'14.3" E, 1348.315 feet from -L- Sta 340+00 thence along a curve 35.184 feet and having a radius of 618.000 feet. The chord of said curve being on a bearing of N 18°48'34.0" E, a distance of 35.179 feet thence to a point on a bearing of N 20°26'25.5" E 213.937 feet thence to a point on a bearing of N 69°33'34.5" W 41.000 feet thence to a point on a bearing of N 69°33'34.5" W 25.000 feet thence to a point on a bearing of N 6°24'15.0" E 86.585 feet thence to a point on a bearing of N 20°26'25.5" E 465.826 feet thence to a point on a bearing of S 69°33'34.5" E 5.500 feet thence along a curve 214.285 feet and having a radius of 496.500 feet. The chord of said curve being on a bearing of N 8°4'34.5" E, a distance of 212.626 feet thence to a point on a bearing of S 85°42'43.4" W 20.500 feet thence along a curve 205.437 feet and having a radius of 476.000 feet. The chord of said curve being on a bearing of S 8°4'34.5" W, a distance of 203.847 feet thence to a point on a bearing of S 20°26'25.5" W 499.826 feet thence to a point on a bearing of S 69°33'34.5" E 21.000 feet thence to a point on a bearing of S 20°26'25.5" W 236.291 feet thence to a point on a bearing of S 20°26'25.5" W 3.989 feet thence to a point on a bearing of S 4°45'0.3" W 75.721 feet thence to a point on a bearing of S 82°15'41.4" E 53.408 feet thence to a point on a bearing of S 83°28'23.7" E 9.707 feet returning to the point and place of beginning. Having an area of 32550.924 Sqr feet being 0.747 acres.

for the construction of State Highway Project A-0009CB

WHEREAS, the Department is authorized by G.S. 136-118 to enter into this agreement without filing the pleadings as set forth in G.S. 136-103.

NOW THEREFORE, in consideration of the mutual benefits inuring to all parties to this agreement and in further consideration of the mutual covenants contained herein, the parties to this agreement do hereby agree and consent that the Department, its employees, officials, contractors, or agents, or assigns, as well as utility companies and all others deemed necessary by the Department, may enter upon the above described lands for carrying on the work, construction, and utility relocations or utility encroachments for Project A-0009CB in accordance with the plans and specifications on file in its office in Raleigh, North Carolina, and that the Department, its employees, officials, agents, contractors, or assigns, as well as utility companies and all others deemed necessary by the Department, shall have the same rights for carrying on the work, construction, and utility relocations or utility encroachments for the project as would have been accorded by filing the pleadings required in North Carolina General Statute 136-103. It is understood and agreed that this Agreement includes the right to use the Permanent Utility Easement shown on the DEPARTMENT'S plans for the installation and maintenance of utilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents, assigns, and licensees (including, without limitation, public utility companies) shall have the right to construct and maintain in a proper manner in, upon and through said premises utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said utility lines, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress.

The right of entry described herein shall be presumed to begin as of the day and year of the entry of this agreement as first above written. The parties hereto agree that the right of entry granted shall not be deemed a trespass on the owners' property. The OWNERS DO HEREBY EXPRESSLY WAIVE any and all claims arising from any entry made pursuant to this agreement and being in the nature of a trespass, taking, or an inverse condemnation. This waiver applies to the Department, its employees, officials, contractors, agents, assigns, and/or licensees, as well as to utility companies and all others deemed necessary by the Department to enter the property for the purposes set forth herein.

IT IS FURTHER AGREED THAT, the right of entry described herein shall extend for the PERIOD BEGINNING WITH THE DATE OF THIS AGREEMENT AND CONTINUING THEREAFTER UNTIL THE DEPARTMENT'S ACCEPTANCE OF THE COMPLETED HIGHWAY PROJECT.

During the aforesaid period, the parties hereto shall continue to negotiate a resolution of the owners' claim for compensation for the property to be acquired for this highway project. In the event the Department determines that such negotiations have reached an impasse, the Department shall give written notice thereof to the Owners and may file appropriate proceedings in the Superior Court to determine just compensation as provided in Article 9, Chapter 136 of the General Statutes of North Carolina. Likewise, the Owners may give written notice to the Department that such negotiations have reached an impasse and request the Department to file appropriate proceedings in the Superior Court to determine just compensation as provided in Article 9, Chapter 136 of the General Statutes of North Carolina.

In the event that, as of the date of the acceptance by the Department of the completed highway project, the Department has not filed proceedings pursuant to Article 9, Chapter 136 of the General Statutes or the Owners' claim for just compensation for the property acquired for the highway project has not been otherwise resolved a settlement agreement, the Owners shall have two (2) years following the completion of the highway project in which to proceed to a determination of just compensation in the Superior Court pursuant to Article 9, Chapter 136 of the North Carolina General Statutes.

The Owners do hereby agree and consent that no interest shall accrue against the Department during the period of entry set forth herein and do hereby waive any claims for interest except as may be allowed upon any award of just compensation as set forth in Section 136-113 of the North Carolina General Statutes, and in such case, such interest shall accrue only from the date of the filing of proceedings in the Superior Court pursuant to Article 9, Chapter 136 of the North Carolina General Statutes.

TIP/PARCEL NO.: A-0009CB

COUNTY: Graham

IN WITNESS WHEREOF, the parties hereto have set their hands and adopted seals, or if corporate, have caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

Eastern Band of Cherokee Indians
(Name of Corp., LLC, Church, Trust, or Other)

BY: Michael McConnell Attorney General
Michael McConnell, Attorney General, BIA

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION BY: _____

MICHELLE L RUFFMAN
NOTARY PUBLIC
GRAHAM County
North Carolina
My Commission Expires **OCTOBER 25, 2025**

(Official Seal)	North Carolina, <u>Swain</u> County
	I, <u>Michelle L Ruffman</u> , a Notary Public for Graham County, North Carolina, do hereby certify that <u>Michael McConnell, Attorney General, BIA</u>
	personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the <u>22nd</u> day of June, <u>2023</u> .
	My commission expires: <u>10-25-2025</u> <u>Michelle L Ruffman</u> Notary Public
(Official Seal)	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that _____ personally came before me this day and executed the foregoing on behalf of
	Witness my hand and official seal this the _____ day of _____, _____.
	My commission expires _____ _____ Notary Public