

After Recording Return To:

North Carolina Department of Administration
c/o State Property Office
1321 Mail Service Center
Raleigh, North Carolina 27699-1321
SPO File No. 92-235.25

STATE OF NORTH CAROLINA

COUNTY OF WAKE

**AMENDMENT TO CONSERVATION EASEMENT
RUTH HOLLEMAN PROPERTY**

THIS AMENDMENT TO CONSERVATION EASEMENT (herein this “Amendment”) is made and executed on this the ____ day of _____, 2020, by and between the TOWN OF APEX, a municipal corporation, organized and doing business as authorized in Chapter 160A of the North Carolina General Statutes, with its principal office located at PO Box 250, Apex, North Carolina 27502 (herein “Grantor”) and THE STATE OF NORTH CAROLINA, with its address: c/o State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321 (herein “State” or “Grantee”), acting through the NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND, with its address at 51 Mail Service Center, Raleigh, NC 27699-1651 (herein the “Fund”). The Grantor, State, and Fund are collectively referred to herein as the “Parties.”

RECITALS

Pursuant to a Deed recorded in Book 009874, Pages 02377-02379, Wake County Registry, the Grantor is the current owner of the portion of the Property subject to the Easement Agreement.

Grantor granted the State of North Carolina a conservation easement dated July 17, 2003, entitled “CONSERVATION EASEMENT RUTH HOLLEMAN PROPERTY” which is recorded at Deed Book 010583, Page 01989, Wake County Register of Deeds (herein Conservation Easement”). The Parties hereto desire to amend the Conservation Easement to release territory of 0.3311 acre, more or less, from a portion of the Easement Area to allow for the widening of the

existing 30-foot sanitary sewer to 40 feet, to accommodate a second sewer line that will provide additional capacity to the Town. In exchange, the Grantor releases and conveys new territory to the Conservation Easement of 1.0202 acres, more or less.

The execution of this Amendment for and on behalf of Grantee has been duly approved by the Governor and Council of State at a meeting held in the City of Raleigh, North Carolina, on the 6th day of August 2019.

The Grantor requested and received approval by the Clean Water Management Trust Fund Board for the amendment to the Easement Agreement set forth herein

NOW THEREFORE, in consideration of the agreements contained herein together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The areas designated as "AREA TO BE REMOVED FROM CONSERVATION & GREENWAY EASEMENT," 11,205 sq. ft. (0.2572 ac.), and 3,216 sq. ft. (0.0738 ac.), for a total of 14,421 (0.3311 ac.), on the survey identified below, is hereby released from the Conservation Easement. The released area shall not be, and no longer is, subject to the terms and conditions of the Conservation Easement. The survey referred to above is entitled "CONSERVATION & GREENWAY EASEMENT PLAT", by Bass, Nixon & Kennedy, Inc. (herein the "Survey"). The areas to be removed are more particularly described as:

Commencing at an existing railroad iron being the southwest corner of the property of Susan T. Clark as referenced in Book of Maps 1986, Page 1557, said pipe having N.C. GRID NAD '83/2011 coordinates of N = 715760.3323' and E = 2028988.8906'; Thence with the common line of the said Clark property, N02°04'34"E a distance of 152.88 feet to a point; Thence leaving the common line of the said Clark property, N34°41'25"W a distance of 196.71 feet to a point; Thence N28°26'35"W a distance of 356.78 feet to a point; Thence N33°03'25"W a distance of 79.36 feet to a point in the southeastern Right-of-Way of Evans Road, a 60 FT. Public Right-of-Way; Thence N83°38'35"W a distance of 76.82 feet to a point of beginning and being in the northwestern Right-of-Way of said Evans Road; Thence leaving the said Right-of-Way, N43°42'37"W a distance of 34.39 feet to a point; Thence N04°49'42"E a distance of 33.72 feet to a point; Thence N33°03'25"W a distance of 109.32 feet to a point; Thence S77°00'54"E a distance of 21.61 feet to a point; Thence S33°03'25"E a distance of 148.62 feet to a point in the said northwestern Right-of-Way of Evans Road; Thence with the said Right-of-Way S46°12'54"W a distance of 29.87 feet to the point and place of beginning and containing 3,216 square feet.

and

Commencing at an existing railroad iron being the southwest corner of the property of Susan T. Clark as referenced in Book of Maps 1986, Page 1557, said pipe having N.C. GRID NAD '83/2011 coordinates of N = 715760.3323' and E =

2028988.8906'; Thence with the common line of the said Clark property, N02°04'34"E a distance of 152.88 feet to the point of beginning; Thence leaving the common line of the said Clark property, N34°41'25"W a distance of 196.71 feet to a point; Thence N28°26'35"W a distance of 356.78 feet to a point; Thence N33°03'25"W a distance of 79.36 feet to a point in the southeastern Right-of-Way of Evans Road, a 60 ft. Public Right-of-Way; Thence with the said Right-of-Way, N45°53'10"E a distance of 45.81 feet to a point; Thence leaving the said Right-of-Way, S43°52'38"E a distance of 39.54 feet to a point; Thence S15°08'39"W a distance of 50.15 feet to a point; Thence S32°53'38"E a distance of 17.09 feet to a point; Thence S28°26'35"E a distance of 355.96 feet to a point; Thence S34°41'25"E a distance of 175.82 feet to a point in the said common line of the Clark property; Thence with the said common line, S02°04'34"W a distance of 25.06 FEET to the point and place of beginning and containing 11,205 SQUARE FEET.

2. The area designated as "NEW CONSERVATION & GREENWAY EASEMENT HEREBY DEDICATED TO THE CLEAN WATER MANAGEMENT TRUST FUND," 44,440 sq. ft. (1.0202 ac.), on the Survey, and described with particularity thereon, is hereby added to the Conservation Easement. The added area shall be, and is, part of and subject to the terms and conditions of the Conservation Easement and is described as follows:

BEGINNING at a point in the southern boundary of the property of the Town of Apex (Wake County Tax PIN 0721-77-8068; prior deed references Deed Book 9874, Page 2377 and Deed Book 9874, Page 2380, Wake County Registry), said point being located N 87° 44' 40" W 93.55' from a Control Corner identified by N.C. Grid Coordinates N 715760.3323, E 2028988.8906 (NAD 83/2011), thence, from that point and place of beginning, N 87°44'40" W 9.77 feet to an existing iron pipe in the southern boundary of the Town of Apex, thence N 87°44'40" W 90.31 feet to a calculated point in the southern boundary of the Town of Apex, thence N 87°44'40" W 128.01 feet to a calculated point in the southern boundary of the Town of Apex, thence N 87°44'40" W 142.54 feet to a calculated point in the southern boundary of the Town of Apex cornering, thence N 17°52'43" E 230.34 feet to a point in the existing Conservation and Greenway Easement, cornering, thence the following courses and distances: S 56°51'30" E 26.89 feet; S 58°29'34" E 83.20 feet; S 56°36'47" E 27.32 feet; S 54°03'47" E 59.48 feet; S 47°12'46" E 185.05 feet to the point and place of BEGINNING, containing 44,440 square feet or 1.0202 acres, more or less.

3. This Amendment incorporates the Easement Agreement by reference. All capitalized terms appearing in this Amendment and not otherwise defined herein shall have the meanings ascribed to such terms in the Easement Agreement. Other than as amended hereby, the Conservation Easement continues in full force and effect.

4. Grantor covenants that Grantor is seized of the real property that is hereby added to and included in the Easement Area that is to be encumbered by the Easement Agreement and has the right to enter into this Amendment; and that, to Grantor's knowledge, such real property is free

from encumbrances, except for existing utilities that may be in place, that may affect the property, and except for such encumbrances Grantor will warrant and defend title to the same against the claims of all persons whomsoever claiming by, through or under Grantor.

TOWN OF APEX

(Corporate Seal)

Drew Havens, Town Manager

ATTEST:

Donna B. Hosch, Town Clerk, MMC, NCCMC

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of _____ County, North Carolina, certify that DONNA B. HOSCH personally came before this day and acknowledged that she is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Town Manager, sealed with its corporate seal and attested by her as its Town Clerk. Witness my hand and official stamp or seal, this ____ day of _____, 2020.

Notary Public

(Printed Name of Notary)

My Commission expires: _____

STATE OF NORTH CAROLINA

By: *Roy Cooper*
ROY COOPER, Governor

ATTEST:

Elaine F. Marshall
ELAINE F. MARSHALL, Secretary of State

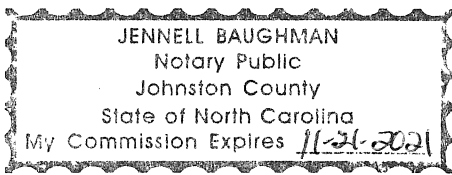
APPROVED AS TO FORM:
JOSH STEIN, Attorney General

By: *J. M. Stein*
Assistant Attorney General
Special Deputy

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, *Jennell Baughman*, a Notary Public for *Johnston* County, North Carolina, do certify that ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, personally came before me this day and acknowledged that she is Secretary of State of the 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 ROY COOPER, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the *24th* day of *August*, 2020.



Jennell Baughman
Notary Public

Jennell Baughman
(Printed Name of Notary)

My Commission expires: *11-21-2021*