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NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

NC FEE \$26.00

Prepared by and Return to: John F. Oates, Jr., Assistant Attorney General,  
N.C. DOT, Attorney General's Office, 1505 Mail Service Center, Raleigh, N.C. 27699

NORTH CAROLINA

GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
13-CVS-03017

NEW HANOVER COUNTY

DEPARTMENT OF TRANSPORTATION,  
Plaintiff,

v.

GREENWAY VILLAGE HOMEOWNERS  
ASSOCIATION, INC.; BRENDA BURLIN; S & D )  
FOSTER FAMILY, LLC; RANDY ETHERIDGE )  
and wife, MELISSA ETHERIDGE; LAURA )  
WILLIAMS; WILLIAM STOCKS and wife, )  
BARBARA STOCKS; and CAROL MCDANIEL )  
and husband, PATRICK MCDANIEL, )  
Defendants. )

CONSENT JUDGMENT

(Defendants Randy Etheridge  
and wife, Melissa Etheridge)

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 7<sup>th</sup> day of August, 2013, by the issuance of a  
Summons, by the filing of a Complaint and Declaration of Taking and Notice of Deposit and by the

**A TRUE COPY**  
CLERK OF SUPERIOR COURT  
NEW HANOVER COUNTY  
BY: *Teresa F. Cason*  
Asst. Clerk of Superior Court

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deposit of ONE HUNDRED THIRTY-SIX THOUSAND DOLLARS (\$136,000.00) as estimated just compensation, for the taking of "common area" belonging to the Greenway Village Homeowners' Association, Inc., for which said Greenway Village Homeowners' Association, Inc. was the only defendant; that Summons was duly served on said defendant, together with copies of the Complaint and Declaration of Taking and Notice of Deposit; that except as noted below, the defendant Greenway Village Homeowners' Association, Inc., is the only party 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 is not in dispute; that the property described in the Complaint and Declaration of Taking is subject only to such liens and encumbrances as are set forth in Exhibit "A" of the Complaint and Declaration of Taking; that the defendant, Greenway Village Homeowners' Association, Inc., filed an Answer to the Complaint and Declaration of Taking and Notice of Deposit on July 14, 2014; that on May 29, 2014, Brenda Burlin; S& D Foster Family, LLC; Randy Etheridge and wife, Melissa Etheridge; Laura Williams; William Stocks and wife, Barbara Stocks; and Carol McDaniel and husband, Patrick McDaniel; as individual owners of residential units within the property which is the subject of this condemnation, filed a motion to intervene as a defendants herein, and by consent of the parties, said motion was allowed by the Court on July 10, 2014; that all parties who are necessary to the determination of this action are properly before the Court; and that the defendants are not under any legal disability;

That now, the intervening defendants, Randy Etheridge and wife, Melissa Etheridge, and the plaintiff have reached an agreement whereby the plaintiff has agreed to pay and the intervening defendants have agreed to accept the additional sum of FORTY-NINE THOUSAND DOLLARS (\$49,000.00), in full settlement of all claims of the intervening defendants with respect to the real property owned by them and identified in their previous pleadings as 321 South Kerr Avenue, Unit 104, but without prejudice to their rights, if any, as members of the original defendant Greenway Village Homeowners Association, Inc., to participate in any future disposition or resolution of the original action; and that said additional sum 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 proposed Complaint for Inverse Condemnation previously filed by the intervening defendants; for any and all damages caused by the acquisition for construction of Department of Transportation Project WBS 34932.2.2, ID# U-3338B, New Hanover County, compensable under NCGS Chapter 136; 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 7<sup>th</sup> day of August, 2013, by the filing of a Complaint and Declaration of Taking and Notice of Deposit, together with the deposit of ONE HUNDRED THIRTY-SIX THOUSAND DOLLARS (\$136,000.00), those certain interests or estates and areas, hereinafter more particularly described, in, over, upon and across the property of the original defendant, and that said property of the original defendant is described as follows:

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Being all of that tract of land more particularly described in that certain MEMORANDUM OF ACTION captioned "DEPARTMENT OF TRANSPORTATION, Plaintiff, v. GREENWAY VILLAGE HOMEOWNERS ASSOCIATION, INC., Defendant" recorded in the Office of the Register of Deeds for New Hanover County in Book 5760, Page 2109, reference to which MEMORANDUM OF ACTION is made for a more particular description of said property of the original defendant.

2. That the interests or estates acquired in, over, upon and across the herein above described property of the original defendant are described as follows:

Fee simple title to right of way, and, in addition, a temporary construction easement to continue until the completion of the project, at which time said temporary construction easement will terminate.

Permanent utility easements, for all purposes for which plaintiff is authorized by law to subject the same. Said utility easements in perpetuity are for the installation and maintenance of utilities, and for all purposes for which the Department of Transportation is authorized by law to subject the same. The Department of Transportation, and its agents or assigns shall have the right to construct in a proper manner in, upon and through said premises utility lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said permanent utility easement areas 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 Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent utility easement areas. The permanent utility easements shall be used by the Department of Transportation for additional working areas during the above described project.

Aerial utility easements for all purposes for which plaintiff is authorized by law to subject the same. Said aerial utility easements in perpetuity are for the installation and maintenance of an aerial utility facility, and for all purposes for which the Department of Transportation is authorized by law to subject the same. The Department of Transportation, and its agents or assigns shall have the right to construct in a proper manner in, upon and through said premises aerial utility facilities with all necessary poles and appurtenances, together with the right at all times to enter said aerial utility easement areas 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 Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described aerial utility easements. The said aerial utility easements shall be used by the Department of Transportation for additional working areas during the above described project.

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A permanent drainage/utility easement, for all purposes for which plaintiff is authorized by law to subject the same. Said drainage/utility easement in perpetuity is for the installation and maintenance of drainage facilities and/or utilities, and for all purposes for which the Department of Transportation is authorized by law to subject the same. The Department of Transportation, and its agents or assigns shall have the right to construct in a proper manner in, upon and through said premises a drainage facility and/or utility line with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said drainage facility and/or utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said drainage facility and/or 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 Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent drainage/utility easement areas. The permanent drainage/utility easements shall be used by the Department of Transportation for additional working areas during the above described project.

3. That the areas acquired in, over, upon and across the hereinabove described property of the original defendant are accurately shown upon a map, entitled "PROPERTY DESCRIBED IN CIVIL ACTION ENTITLED STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION VS. GREENWAY VILLAGE HOMEOWNERS ASSOCIATION, INC., NEW HANOVER COUNTY 2013-CVS-3017" as Parcel 018, filed by the plaintiff in this action on the 11<sup>th</sup> day of February, 2015, to include survey lines and station numbers as are delineated on the Project Plans for Department of Transportation Project I.D. #U-3338B, (WBS 34932.2.2) as Parcel 018, on file in the Right of Way Branch of the Department of Transportation, Transportation Building, in Raleigh, North Carolina, and also on a copy of said plans, which are or will be recorded, as required by law, in the office of the Register of Deeds of New Hanover County, to which plans reference is made for a greater certainty of the areas and interests herein conveyed, and said areas and interests are described by metes and bounds as follows:

**NEW RIGHT OF WAY IN FEE SIMPLE:**

Beginning at Point "1" being N. 83°01'12" E. 30.06 ft. from -L-, Sta. 19+84.00, thence N. 09°12'52" W. 148.99 ft. to point "2"; thence N. 12°17'32" W. 95.18 ft. to point "3"; thence N. 12°06'08" W. 158.23 ft. to point "4"; thence N. 82°33'43" E. 30.77 ft. to point "12"; thence S. 07°48'33" E. 150.34 ft. to point "11"; thence S. 12°12'28" E. 252.22 ft. to point "5"; thence S. 83°01'12" W. 27.18 ft. to point "1"; returning to the place of beginning. Having an area of 9,229 square feet (0.212 acres), more or less.

**PERMANENT UTILITY EASEMENT #1:**

Beginning at Point "6" being N. 77°47'32" E. 57.00 ft. from -L-, Sta. 20+00.00, thence N. 12°12'28" W. 28.00 ft. to point "7"; thence N. 77°47'32" E. 5.00 ft. to point "15"; thence S. 12°12'28" E. 28.00 ft. to point "14"; thence S. 77°47'32" W. 5.00 ft. to point "6"; returning to the place of beginning. Having an area 140 square feet (0.003 acres), more or less.

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**PERMANENT UTILITY EASEMENT #2:**

Beginning at Point "8" being N. 77°47'32" E. and perpendicular to -L-, Sta. 20+48.00, 57.00 ft. Rt., thence N. 12°12'28" W. 142.00 ft. to point "9"; thence N. 77°47'32" E. 5.00 ft. to point "17"; thence S. 12°12'28" E. 142.00 ft. to point "16"; thence S. 77°47'32" W. 5.00 ft. to point "8"; returning to the place of beginning. Having an area of 710 square feet (0.016 acres), more or less.

**PERMANENT UTILITY EASEMENT #3:**

Beginning at Point "10" being N. 77°47'32" E. and perpendicular to -L-, Sta. 22+10.00, 57.00 ft. Rt., thence N. 12°12'28" W. 21.00 ft. to point "11"; thence N. 07°48'33" W. 150.34 ft. to point "12"; thence N. 82°33'43" E. 11.51 ft. to point "34"; thence S. 12°12'28" E. 0.44 ft. to point "33"; thence S. 77°47'32" W. 6.50 ft. to point "20"; thence S. 07°47'08" E. 149.14 ft. to point "19"; thence S. 12°12'28" E. 20.80 ft. to point "18"; thence S. 77°47'32" W. 5.00 ft. to point "10"; returning to the place of beginning. Having an area of 865 square feet (0.02 acres), more or less.

Said utility easements in perpetuity are for the installation and maintenance of utilities, and for all purposes for which the Department of Transportation is authorized by law to subject the same. The Department of Transportation, and its agents or assigns shall have the right to construct in a proper manner in, upon and through said premises a utility line with all necessary pipes, poles and appurtenances, together with the right at all times to enter said permanent utility easement areas 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 Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent utility easement areas. The permanent utility easements shall be used by the Department of Transportation for additional working area during the above described project.

**AERIAL UTILITY EASEMENT #1:**

Beginning at Point "13" being N. 83°01'12" E. 62.26 ft. from -L-, Sta. 19+84.00, thence N. 12°12'28" W. 252.48 ft. to point "19"; thence N. 07°47'08" W. 149.14 ft. to point "20"; thence N. 77°47'32" E. 6.50 ft. to point "33"; thence S. 11°21'33" E. 67.51 ft. to point "32"; thence S. 09°24'15" E. 53.06 ft. to point "31"; thence N. 77°47'32" E. 5.60 ft. to point "30"; thence N. 48°02'50" E. 8.06 ft. to point "29"; thence S. 41°15'45" E. 10.30 ft. to point "28"; thence S. 34°46'02" W. 20.52 ft. to point "27"; thence S. 77°47'32" W. 6.00 ft. to point "26"; thence S. 12°12'28" E. 101.00 ft. to point "25"; thence N. 77°47'32" E. 15.00 ft. to point "24"; thence S. 09°35'37" W. 16.16 ft. to point "23"; thence N. 89°40'44" W. 9.22 ft. to point "22"; thence S. 11°25'40" E. 148.51 ft. to point "21"; thence S. 83°01'12" W. 9.02 ft. to point "13"; returning to the place of beginning. Having an area of 4,578 square feet (0.105 acres), more or less.

**AERIAL UTILITY EASEMENT #2:**

Beginning at Point "36" being S. 07°20'02" E. 30.20 ft. from -Y2-, Sta. 11+97.57, thence N. 82°38'50" E. 18.41 ft. to point "37"; thence S. 02°13'17" E. 33.95 ft. to point "38"; thence S. 88°25'11" W. 15.46 ft. to point "39"; thence N. 07°20'02" W. 32.26 ft. to point "36"; returning to

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the place of beginning. Having an area of 559 square feet (0.013 acres), more or less.

Said aerial utility easements in perpetuity are for the installation and maintenance of an aerial utility facility, and for all purposes for which the Department of Transportation is authorized by law to subject the same. The Department of Transportation, and its agents or assigns shall have the right to construct in a proper manner in, upon and through said premises an aerial utility facility with all necessary poles and appurtenances, together with the right at all times to enter said aerial utility easement areas 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 Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described aerial utility easements. The said aerial utility easements shall be used by the Department of Transportation for additional working areas during the above described project.

**PERMANENT DRAINAGE / UTILITY EASEMENT #1:**

Beginning at Point "5" being N. 83°01'12" E. 57.24 ft. from -L-, Sta. 19+84.00, thence N. 12°12'28" W. 21.22 ft. to point "6"; thence N. 77°47'32" E. 5.00 ft. to point "14"; thence S. 12°12'28" E. 21.68 ft. to point "13"; thence S. 83°01'12" W. 5.02 ft. to point "5"; returning to the place of beginning. Having an area of 107 square feet (0.002 acres), more or less.

**PERMANENT DRAINAGE UTILITY EASEMENT #2:**

Beginning at Point "7" being N. 77°47'32" E. and perpendicular to -L-, Sta. 20+28.00, 57.00 ft. Rt., thence N. 12°12'28" W. 20.00 ft. to point "8"; thence N. 77°47'32" E. 5.00 ft. to point "16"; thence S. 12°12'28" E. 20.00 ft. to point "15"; thence S. 77°47'32" W. 5.00 ft. to point "7"; returning to the place of beginning. Having an area of 100 square feet (0.002 acres), more or less.

**PERMANENT DRAINAGE UTILITY EASEMENT #3:**

Beginning at Point "9" being N. 77°47'32" E. and perpendicular to -L-, Sta. 21+90.00 57.00 ft. Rt., thence N. 12°12'28" W. 20.00 ft. to point "10"; thence N. 77°47'32" E. 5.00 ft. to point "18"; thence S. 12°12'28" E. 20.00 ft. to point "17"; thence S. 77°47'32" W. 5.00 ft. to point "9"; returning to the place of beginning. Having an area of 100 square feet (0.002 acres), more or less.

Said drainage/utility easements in perpetuity are for the installation and maintenance of drainage facilities and/or utilities, and for all purposes for which the Department of Transportation is authorized by law to subject the same. The Department of Transportation, and its agents or assigns shall have the right to construct in a proper manner in, upon and through said premises drainage facilities and/or utility 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 drainage facility and/or utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said drainage facilities and/or 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 Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent drainage/utility easement areas. The permanent drainage/utility easements shall be used by the

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Department of Transportation for additional working areas during the above described project.

**TEMPORARY CONSTRUCTION EASEMENT:**

Beginning at Point "31" being N. 77°47'32" E. and perpendicular to -L-, Sta. 22+59.00, 76.40 ft. Rt., thence N. 09°24'15" W. 53.06 ft. to point "32"; thence S. 57°12'28" E. 7.07 ft. to point "35"; thence S. 09°49'19" E. 48.04 ft. to point "30"; thence S. 77°47'32" W. 5.60 ft. to point "31"; returning to the place of beginning. Having an area of 273 square feet (0.006 acres), more or less.

4. That the court retains jurisdiction of this matter for all claims relating to the remaining defendants, Greenway Village Homeowners Association, Inc.; S&D Foster Family, LLC; William Stocks and wife, Barbara Stocks; Laura Williams; Brenda Burlin; and Carol McDaniel and husband, Patrick McDaniel.

5. That the Department of Transportation, plaintiff herein, pay into Court the additional sum of FORTY-NINE THOUSAND DOLLARS (\$49,000.00), and that said sum be disbursed to Jason T. Campbell, N.C. Eminent Domain Law Firm, 280 South Mangum Street, Suite 400, Durham, North Carolina 27701, in trust and for the benefit of the defendants, Randy Etheridge and wife, Melissa Etheridge.

6. That the sum of FORTY-NINE THOUSAND DOLLARS (\$49,000.00), including any claim by the intervening defendant for interest and all costs, is in full settlement of all claims of the intervening defendants with respect to the real property owned by them and identified in their previous pleadings as 321 South Kerr Avenue, Unit 104, but without prejudice to their rights, if any, as members of the original defendant Greenway Village Homeowners Association, Inc., to participate in any future disposition or resolution of the original action; and that said additional sum 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 proposed Complaint for Inverse Condemnation previously filed by the intervening defendant, and represents just compensation for the taking of the herein above-described interests and areas by the Department of Transportation, and for the acquisition by the plaintiff of the hereinabove described subject property; for any and all damages caused by the acquisition for construction of North Carolina Department of Transportation Project WBS 34932.2.2, ID# U-3338B, New Hanover County; 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.

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

8. That the costs of this action incurred to this point be taxed as paid.





TAMMY THEUSCH  
BEASLEY  
Register of Deeds

# New Hanover County

## Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401  
Telephone 910-798-4530 • Fax 910-798-7751



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State of North Carolina, County of NEW HANOVER  
Filed For Registration: 08/09/2016 11:25:53 AM  
Book: RB 5992 Page: 429-437  
9 PGS \$26.00  
Real Property \$26.00  
Recorder: CAROLYN JOHNSON  
Document No: 2016025106

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