

LAND ACQUISITION AGREEMENT

THIS LAND ACQUISITION AGREEMENT (the “**Agreement**”) is made and entered into by and between **WOODROW W. MARLOWE, JR.**, an unmarried man and resident of the State of North Carolina (“**Owner**”); and the **TOWN OF ROLESVILLE**, a North Carolina municipal corporation (“**Town**”; Owner and Town collectively, the “**Parties**”).

W I T N E S S E T H :

WHEREAS, Owner is the owner of those certain lot, tract, or parcel of real property located in the State of North Carolina, County of Wake, and Town of Rolesville having a Wake County PIN of 1759-71-4313 (the “**Land**”); and

WHEREAS, Town desires to acquire from Owner a portion of the Land for the purpose of development of a new public right-of-way and appurtenant infrastructure as part of a public construction project commonly known as the Granite Falls Boulevard Extension (the “**Project**”); and

WHEREAS, Owner has agreed to convey to Town certain interests in the Land for purposes of right-of-way, drainage easements, and temporary construction easements upon the terms and conditions hereinafter set forth; all as more particularly described on that map and survey titled “Granite Falls Boulevard Roadway Extension Acquisition Map” prepared by John A. Edwards & Company dated October 17, 2017 and attached hereto as Exhibit A (the “**Acquisition Map**”);

WHEREAS, on May 16, 2018, at a regular meeting of the Town Commissioners, the Town Commission did authorize the Project; and

WHEREAS, on September 4, 2018, at a regular meeting of the Town’s commissioners, the Town Commission did authorize the Town manager and Town attorney to negotiate and enter into an agreement for the acquisition of interests in the Land consistent with the Acquisition Map and the further terms of this Agreement.

NOW, THEREFORE, in consideration of the premises, mutual covenants, and agreements herein contained, and other good and valid consideration, the receipt of which is hereby acknowledged, the Parties agree and covenant as follows:

1. Agreement to Acquire. Owner agrees to convey to Town, and Town agrees to accept from Owner, upon the terms and conditions hereinafter set forth, varying interests in portions of the Land; the nature of such interests as further described below:
 - A. Right-of-Way. In fee simple, that tract of the Land identified as “Granite Falls Boulevard Right-of-Way Dedication” on the Acquisition Map consisting of 14,219 square feet (0.33 acres), together with all right, title, and interest of Owner in and to any current or former streams, alleys, roads, streets, ways, strips, gores, or railroad rights-of-way abutting or adjoining the Property, and together with all the improvements and fixtures thereon and all privileges, rights, or easements

appurtenant to the Land, including all mineral, oil, or gas rights, development rights, air rights, water rights, or timber rights of or relating to the same (“ROW”);

- B. Permanent Drainage Easement. As a perpetual public easement, that tract of the Land identified as “Public Drainage Easement” on the Acquisition Map consisting of 17,987 square feet, to construct, install, improve, remove, replace, inspect, repair, maintain, use, and operate the easement areas for drainage facility improvements (collectively, the “**Drainage Easement**”); and
 - C. Temporary Construction Easement. As a temporary public easement, that tract of the Land identified as “Temporary Construction Easement” on the Acquisition Map consisting of 8,281 square feet, to construct the Project improvements (collectively, the “**TCE**”; the Drainage Easement and TCE collectively, the “**Easements**”; the ROW and Easements collectively, the “**Property**”).
- 2. Owner’s Consideration. Consideration for this Agreement shall include all benefits accruing to Owner hereunder including all anticipated benefits to the Land from development of the Project, including the following:
 - A. Construction by the Town of new public road right-of-way for vehicular traffic connecting the existing segments Granite Falls Boulevard, which will provide new frontage for the Land.
 - B. Construction and temporary maintenance of the Drainage Easement by the Town with construction of the same at a size and capacity to allow for the future development of the Land for commercial or multi-family residential uses at an impervious surface percentage of at least seventy percent (70%).
 - 3. Date of This Agreement. The “**Date of this Agreement**” shall be the latest date of execution of this Agreement as between the Owner and Town as conclusively indicated beneath the respective signature blocks of the Parties.
 - 4. Closing. **Closing**” shall be defined as the execution and delivery of the documents required to be delivered hereunder, and the recording of the deeds required to be delivered hereunder. Closing shall be held at the offices of Town’s attorney in Raleigh, North Carolina on a date and time agreed upon by the Parties but no later than ninety (90) days after the Date of this Agreement (the “**Closing Deadline**”).
 - 5. Delivery of Information. Within seven (7) days after the Date of this Agreement, Owner shall deliver to Town at the address set forth below for Notice, or make available for Town’s convenient examination and copying, copies of all the following materials relating to the Property in Owner’s actual possession or reasonable control (collectively, the “**Owner’s Documents**”):
 - A. Any policies of title insurance issued in favor of Owner or Owner’s predecessors in title for any portion of the Property;

- B. Any land surveys of any portion of the Property;
- C. Any archaeological, biological (including, without limitation, threatened/endangered species), soil, environmental, geological, grading, drainage, and hydrology reports, surveys, or assessments and any other engineering reports for any portion of the Property.

While Owner represents that all such deliveries of Owner's Documents are being made in good faith, Owner makes no further representation or warranty, expressed or implied, as to the accuracy or completeness of the Owner's Documents.

6. Diligence.

- A. Entry. Town and its agents, employees, or other representatives shall have the right at any time during the term of this Agreement to go upon the Property for the purpose of making such surveys, engineering, structural, mechanical, topographical, geological, environmental, and other inspections, tests, and measurements, including surveys, soil tests, test borings, percolation tests, and subsoil tests, as Town deems necessary or advisable without cost to Owner (collectively "**Due Diligence Investigations**"). Following any such Due Diligence Investigations, Town shall restore the Property to a nondisturbed state, except only (i) ordinary remaining disturbance from such tests, (ii) any hazardous materials, substances, or wastes already existing on the Property, (iii) any already existing latent defects in the Property, and (iv) any matters arising solely from the acts or omissions of Owner. Town, as a condition precedent to its exercise of such right of entry, specifically agrees to defend, indemnify, and save and hold Owner harmless from and against any loss, damage, liability, suit, claim, cost, or expense (including reasonable attorneys' fees) arising from the exercise by the Town or its planners, engineers, surveyors, architects, or other agents or consultants of such right of entry and inspection, other than for matters arising from (a) any preexisting environmental contamination or latent defects on the Property that are discovered as a result of the entry upon the Property (as well as any disclosure of such matters by Town or related parties to a governmental agency as may be required by applicable laws); and (b) any matters arising directly or indirectly from the acts or omissions of Property Owner.
- B. Title Diligence. Town at its sole cost and expense may cause title to be examined by a licensed North Carolina attorney and shall seek a title commitment to be issued for an extended-coverage ALTA form of Owner's Policy in the amount of the Purchase Price (the "**Title Commitment**"), with the title policy to be subject only to the Permitted Exceptions (as defined below) or as may be approved by Town in writing. Town shall give Owner Notice on or before the thirtieth (30th) day following the Date of this Agreement (the "**Objection Deadline**") of any objections to matters of title or Survey (as defined below). Town shall not be required to give notice of objection to any property taxes for the current year or for deeds of trust, or municipal assessments that can be fully paid at Closing out of the Purchase Price and removed from the Property (collectively "**Owner**

Liens”). Owner shall have ten (10) Business Days from such Notice from Town to notify Town in writing of which objections or defects so specified that Owner is willing to cure, if any. If Owner does not respond within such period, Owner shall be deemed to have elected not to cure the noticed defects or objections, save and except the Owner Liens. As to any objection or defect Owner expressly elects to cure, Owner shall use reasonable diligence to cure such defects. If, after the exercise of such reasonable diligence, Owner is unable or unwilling to correct such objections or defects to the Town’s satisfaction in Town’s sole discretion, prior to the Closing Deadline, then Town shall have the right to (i) terminate this Agreement and this Agreement shall be null and void for all purposes and neither party shall then have any further obligations in connection with this Agreement, other than any indemnities contained herein; or (ii) waive such objections or defects whereupon any such defect or objection waived shall become a “Permitted Exception” to title. If Town completes Closing, Town shall be deemed to have waived all such objections or defects. As used in this Agreement, “**Permitted Exceptions**” means: (i) any matters shown on the Title Commitment to which Town does not timely object pursuant to this paragraph; (ii) any matters to which Town objects, but which Owner elects not to cure; (iii) all laws, statutes, ordinances, permits, and other requirements or orders of any governmental agency, and (iv) taxes not yet due and payable. Permitted Exceptions shall not include any Owner Liens.

C. Hazardous Materials Diligence. On or before the Objection Deadline, Town shall provide Notice to Owner of any objections to the condition of the Property on the basis of the identification of a recognized environmental condition (“**REC**”) as part of a Phase I Environmental Site Assessment performed on the Property. Owner shall have ten (10) Business Days from such Notice from Town to notify Town in writing whether Owner is willing to cure the identified REC objections at Owner’s sole cost and expense. If Owner does not respond within such period, Owner shall be deemed to have refused to cure such REC objections. Owner shall have no obligation to cure any REC. Owner shall use reasonable diligence to cure any REC objection only if Owner agrees in writing to so cure a specific REC. If Owner elects not to attempt to cure a noticed REC or if, after the exercise of reasonable diligence, Owner is unable to remediate the REC to the Town’s satisfaction in Town’s reasonable discretion, prior to the Closing Deadline, then Town shall have the right to (i) terminate this Agreement and this Agreement shall be null and void for all purposes and neither party shall then have any further obligations in connection with this Agreement, other than any indemnities contained herein; or (ii) waive such objections in writing and proceed to Closing.

7. Conditions of Closing. Owner agrees that the conditions set out hereinafter in this Section shall be true or satisfied, as reasonably determined by Town, on or before Closing. If any of said conditions are not true or satisfied, or cannot be satisfied, as reasonably determined by Town on or before Closing, Town may elect either to waive any of such conditions or to terminate this Agreement by giving Notice thereof to Owner and Escrow Agent. Notwithstanding the foregoing, nothing herein shall extend the term

of this Agreement or Town's right to a Closing beyond the Closing Deadline (collectively the "**Conditions Precedent**"):

- A. The Property must be in substantially the same condition at Closing as on the date of Town's execution of this Agreement, reasonable wear and tear excepted, and the Property must be substantially in the same condition as on the date of any surveys, site reports, engineering reports, or environmental reports obtained by Town after the date of or in anticipation of this Agreement.
- B. All deeds of trust, judgments, UCC financing statements, special assessments, or other liens or charges against the Property must be paid and cancelled (or otherwise released) by Owner at or prior to Closing.
- C. Title to the ROW must be delivered at Closing by general warranty deed and must be fee simple, marketable and insurable title, free and clear of all encumbrances except only the Permitted Exceptions.
- D. Title to the Easements must be delivered at Closing by deeds of easement and must be insurable title free and clear of all encumbrances except only Permitted Exceptions.
- E. All of the representations by Owner set forth in this Agreement shall be true and correct in all material respects. With respect to any representation made to the best of Owner's knowledge, the condition to Closing shall be not only that such representation still be true to the best of Owner's knowledge, but also that the specific fact or condition that was the subject of the representation also be true.
- F. At Closing, Owner must deliver to Town exclusive possession of the Property, free and clear of the occupancy of all persons, firms, companies, or corporations, whether or not under claim of right or color of title except for (i) public rights of way and easements of record to the extent constituting Permitted Exceptions; and (ii) Owner's retained non-exclusive rights in the TCE.
- G. There shall not be pending or threatened any litigation (i) alleging that the Property may not be used for the Project, (ii) that would impair Owner's right to sell the Property in accordance with the terms of this Agreement; or (iii) that seeks to impose a lien or other encumbrance against all or any part of the Property.
- H. There shall be no outstanding notices of violation from any governmental authority with respect to the Property or Owner's use thereof, and the Property must be in compliance with all applicable laws, ordinances, regulations, restrictive covenants, easements, or other encumbrances.
- I. As of the date of Closing, Owner must be in full compliance with, and must have complied fully with, all of Owner's covenants and obligations to be performed under this Agreement at or prior to Closing.

8. Survey. Town shall cause the Property to be surveyed and a survey prepared by a North Carolina professional land surveyor or North Carolina professional engineer of Town's selection (the "**Survey**"). The Survey shall be used to prepare the descriptions of the Property used in the documents called for in Section 11.
9. Owner's Representations and Warranties.
 - A. As an inducement to Town to enter into this Agreement and consummate the acquisition of the Property, Owner hereby represents and warrants to Town as of the Date of this Agreement and as of the date of Closing as follows:
 1. Owner holds fee simple title to the Property, free and clear of any and all easements, covenants, conditions, or other encumbrances except Owner's Liens and other matters of record.
 2. No options, rights of first refusal, or other agreements are in effect to purchase or to lease any interest in the Property or any part thereof.
 3. No leases encumber the Property and there are no tenants or other occupants in possession of the same.
 4. All property taxes assessed against the Property through the year 2017 have been paid in full.
 5. Owner has no actual knowledge that the Property has been used for manufacturing, chemical production, a sanitary landfill, a solid waste disposal site, a hazardous waste treatment site, or any other use that would generate hazardous or toxic materials or substances as the same are defined in any applicable laws or regulations. Owner further warrants that to the best of Owner's knowledge, (i) no environmental laws or regulations applicable to the Property have been violated; (ii) Owner has not contributed to or released, or has any knowledge of any asbestos, lead paint, PCBs, ureaformaldehyde, radon or other radioactive substances or materials, nor any other hazardous or toxic materials or substances on the Property, as the same are defined in any applicable laws or regulations.
 - B. Owner shall promptly notify Town of any matter that affects the accuracy of any representation and warranty under this Section, including any change in conditions or any receipt of any notice, action, or other information Owner receives relating to any representation or warranty under this Section.
10. Owner's Documents at Closing. At Closing, Owner shall properly execute, acknowledge, and deliver to Town the following materials:
 - A. A properly executed and recordable general warranty deed substantially consistent with that form of "General Warranty Deed" attached hereto as Exhibit B conveying to Town fee simple title to the ROW as described by the Survey, free

and clear of all liens and encumbrances, except only the Permitted Exceptions and other covenants, easements, restrictions, and public rights-of-way of record.

- B. A properly executed and recordable warranty deed of easement substantially consistent with that form of "Drainage and Temporary Construction Easement Agreement" attached hereto as Exhibit C conveying to Town an exclusive, permanent public easement in the Drainage Easements and temporary public easement in the TCE, both free and clear of all liens and encumbrances, except only the Permitted Exceptions and other covenants, easements, restrictions, and public rights-of-way of record (the "**Easement Agreement**").
 - C. Lien affidavits acceptable to Town's title insurer, executed and acknowledged on the date of Closing, warranting and holding the said title insurer harmless against unpaid laborers' and materialmen's liens.
 - D. Owner's affidavit, executed and acknowledged on the date of Closing, to the effect that there are no tenants, occupants, or other third parties in possession of the Property or having any right to possession of the Property under any unrecorded leases or otherwise.
 - E. A certificate of non-foreign status in accordance with § 1445 of the Internal Revenue Code of 1986 and the regulations thereunder, containing such information as may be required by the closing attorney to comply with the reporting requirements of § 1099 of the Internal Revenue Code of 1986.
 - F. A settlement statement setting forth the Purchase Price and the closing adjustments and prorations in form reasonably satisfactory to Town & Owner.
11. Post-Closing Obligations. After Closing, Owner and Town shall cooperate with one another at reasonable times and on reasonable conditions, and shall execute and deliver such instruments and documents as may be necessary in order to fully carry out the intent and purposes of the transactions contemplated hereby. Except for such instruments as the Parties were originally obligated to deliver by the terms of this Agreement, such cooperation shall be without additional cost or liability.
12. Closing Costs. Town shall pay for the preparation of the documents required to be delivered to Town at Closing under Section 11, for all other documents necessary to perform Owner's obligations under this Agreement, and for excise tax (revenue stamps) required by law. Town shall also pay for title insurance and recording the deeds. Each party is responsible for its own attorney's fees.
13. Taxes and Assessments. Property taxes on the Land for the year in which Closing occurs shall be paid by Owner pursuant to N.C. Gen. Stat § 105-385(c). Owner shall further be responsible for the full payment at or prior to Closing of any deferred taxes assessed against the Property. Town will pay at Closing all assessments for municipal or other public improvements that are pending or confirmed on the date of Closing.

14. Notices. All notices required under this Agreement (each, a “**Notice**”) shall be void and of no effect unless given in accordance with the provisions hereof. A Notice shall be in writing and shall be deemed to have been given: (a) upon receipt by the addressee (with written confirmation of receipt) or upon refusal of delivery when delivered by hand; (b) upon receipt by the addressee if sent by a nationally recognized overnight courier (with written confirmation of receipt) or upon refusal of delivery; (c) on the date sent by email or fax (with confirmation of transmission) if sent during the hours of 9:00 a.m. to 5:00 p.m. local time to the Property, and on the next Business Day (as hereinafter defined) if sent after 5:00 p.m. local time to the Property; or (d) on the third (3rd) day after the date mailed, by certified or registered mail (in each case, return receipt requested, postage pre-paid).

Notices must be sent to the respective parties at the following addresses, addressed as follow (or at such other address for a party as shall be specified in a Notice given in accordance with this Section):

If to Town:

Town of Rolesville
502 Southtown Circle
Rolesville, NC 27570
Attn: Town Manager
(919) 556-3506
Email: kelly.arnold@rolesville.nc.gov

with copy to

David L. York, Town Attorney
Smith Moore Leatherwood LLP
434 Fayetteville Street, Suite 2800
Raleigh, North Carolina 27601
(919) 755-8766
david.york@smithmoorelaw.com

If to Owner:

Woodrow W. Marlowe, Jr.
Woodrow W. Marlowe
PO Box 30, Clarkston, NC 28433
(919) 910-642-5521
Email: *Woody@ClarkstonCotton.com*

Each party may designate by notice a new address to which any Notice thereafter may be given, served or sent. Each Notice that is delivered in the manner described above will be deemed given and received for all purposes at the earlier of such time as it is delivered to the addressee (with the return-receipt or courier delivery receipt or being deemed conclusive evidence of such delivery) or such time as delivery is refused by the addressee upon presentation.

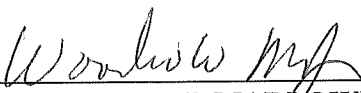
15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

16. Business Days. If the date for the performance of any obligation or the expiration of any time period hereunder falls on a Saturday, Sunday, a day identified on the holiday schedule of the North Carolina Office of State Human Resources, or on any other day when the Register of Deeds of Wake County is closed (each a “**Holiday**” and any other day, a “**Business Day**”), such date shall be extended until the next day Business Day.
17. Drainage Easement Maintenance. The Parties agree that upon the issuance of a building permit for development of the Land, the maintenance obligations for the Drainage Easement, as set forth in the Easement Agreement, shall be assumed by Owner and Owner’s heirs, successors, or assigns in perpetuity. The provisions of this Section shall be memorialized within the Easement Agreement or by a separate recordable instrument.
18. Driveway Access. The Town agrees that upon Owner’s submission of an application for a site plan or subdivision plan for development of all or substantially all of the Land, the Town shall permit the following:
 - A. One (1) vehicular access drive, thirty-six (36) feet in width, upon Granite Falls Boulevard to be situated east of the Drainage Easement but in no event farther east than a distance of one hundred sixty-one (161) feet from the western corner of the Land with Granite Falls Boulevard, such line to be measured along the Land’s newly established road frontage. Final approval of such drive conditioned upon the application of the Town’s land development ordinances and regulations; and
 - B. One (1) vehicular access drive upon Rogers Road situated at the southeast corner of the Land and being the existing drive shared with the Pope property (1759-71-5088) as previously approved and permitted by the North Carolina Department of Transportation. Final approval of such drive conditioned upon (i) the application of the Town’s land development ordinances and regulations; and (ii) the NC Department of Transportation’s driveway permitting regulations and policies.

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SIGNATURE PAGE FOLLOWS***

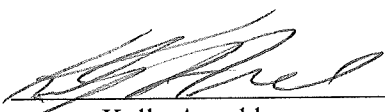
IN WITNESS WHEREOF, each party has caused this Land Acquisition Agreement to be executed under seal as of the dates indicated hereinbelow.

"Owner"

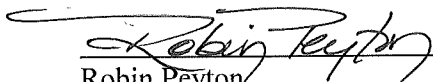
 (SEAL)
WOODROW W. MARLOWE, JR.
Date: 10/19/18

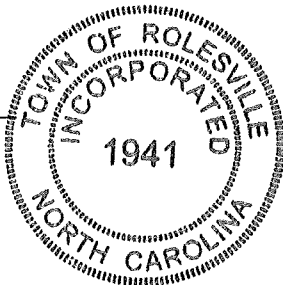
"Town"

TOWN OF ROLESVILLE (SEAL)

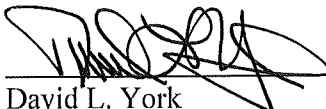
By: 
Name: Kelly Arnold
Title: Town Manager
Date: 10-30-18

Attest:


Robin Peyton
Town Clerk



Approved as to Form:


David L. York
Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.


Amy Stevens - Town Finance Officer

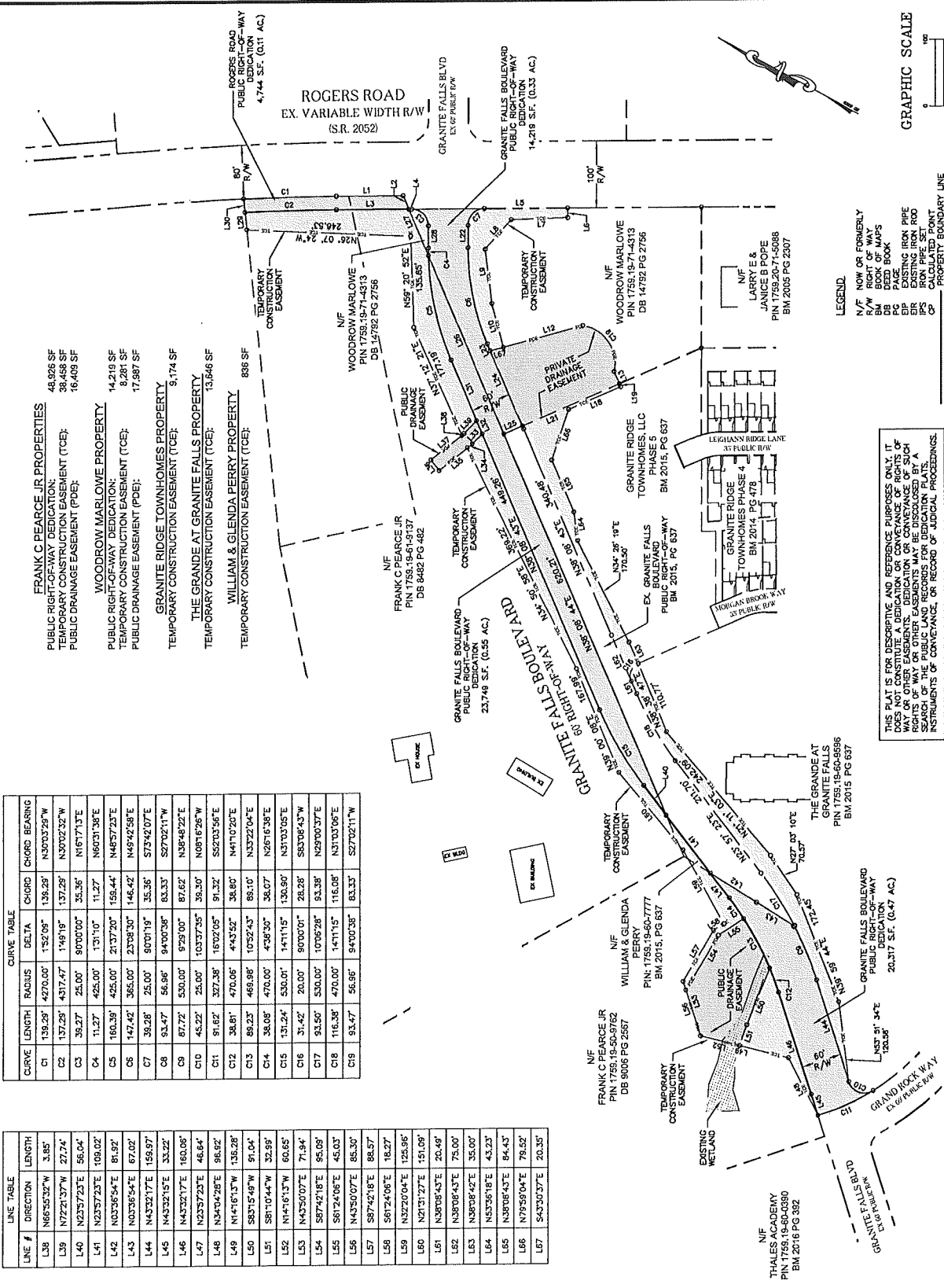
EXHIBIT A
The “Acquisition Map”

(to be attached)

LINE #	DIRECTION	LENGTH
L1	N28°42'47"W	100.54'
L2	N38°08'44"E	21.75'
L3	N28°42'47"W	108.02'
L4	N28°42'47"W	4.51'
L5	S28°41'28"E	125.03'
L6	N61°16'32"E	14.21'
L7	S30°22'21"E	84.44'
L8	S76°53'08"E	58.67'
L9	N54°28'57"E	81.61'
L10	N46°29'22"E	67.40'
L11	S43°30'37"E	20.35'
L12	S43°30'37"E	123.48'
L13	S38°08'44"W	20.00'
L14	N38°08'44"E	340.48'
L15	N51°51'16"W	30.10'
L16	N38°08'44"E	290.51'
L17	N38°08'44"E	75.48'
L18	N61°17'13"E	33.14'
L19	N55°17'06"E	26.24'
L20	N52°10'06"E	20.02'
L21	N38°08'44"E	21.35'
L22	S72°13'37"E	21.21'
L23	S68°55'32"E	9.61'
L24	S27°04'28"W	20.00'
L25	N65°55'32"W	58.02'

LINE #	DIRECTION	LENGTH
L26	N65°55'32"W	3.85'
L27	N27°21'37"W	27.74'
L28	N23°57'23"E	56.04'
L29	N23°57'23"E	108.02'
L30	N23°57'23"E	81.92'
L31	N23°57'23"E	108.02'
L32	N23°57'23"E	81.92'
L33	N23°57'23"E	108.02'
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L96	N23°57'23"E	81.92'
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L99	N23°57'23"E	108.02'
L100	N23°57'23"E	81.92'

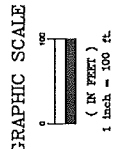
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING
C1	138.28'	4270.00'	1°52'08"	N30°33'29"W
C2	137.29'	4317.47'	1°49'19"	N30°02'32"W
C3	35.27'	25.00'	90°00'00"	S5.36'
C4	11.27'	425.00'	1°31'10"	N60°31'38"E
C5	160.39'	425.00'	21°37'20"	N68°57'23"E
C6	142.42'	365.00'	2°30'30"	N49°42'58"E
C7	39.28'	25.00'	90°01'19"	S73°42'07"E
C8	45.22'	25.00'	103°37'35"	N81°6'26"W
C9	87.72'	530.00'	9°29'00"	N38°43'22"E
C10	45.22'	25.00'	103°37'35"	N81°6'26"W
C11	91.62'	327.38'	15°02'05"	S52°33'56"E
C12	38.81'	470.06'	4°43'52"	N41°07'20"E
C13	88.23'	468.98'	10°52'43"	N32°22'04"E
C14	38.08'	470.00'	4°38'30"	N26°16'38"E
C15	131.24'	530.00'	1°41'15"	N30°33'05"E
C16	31.42'	20.00'	90°00'01"	S83°08'43"W
C17	91.50'	530.00'	10°06'28"	N29°00'37"E
C18	116.38'	470.00'	1°41'15"	N16°08'
C19	93.47'	56.96'	94°00'38"	S27°02'11"W



LEGEND

N/F NOW OR FORMERLY
R/W RIGHT OF WAY
B/M BOOK OF MAPS
P/B PLAT BOOK
EIP EXISTING IRON PIPE
EIR EXISTING IRON ROD
EIR EXISTING IRON ROD
C/C CALCULATED POINT
P/B PROPERTY BOUNDARY LINE
A/D ADJOINING PROPERTY LINE
P/E PUBLIC EASEMENT LINE
C/E CONVEYANCE LINE
R/W RIGHT OF WAY DEDICATION

THIS PLAN IS FOR DESCRIPTIVE AND REFERENCE PURPOSES ONLY. IT DOES NOT CONSTITUTE A WARRANTY OF ANY KIND. THE RIGHTS OF WAY OR OTHER EASEMENTS MAY BE DISCLOSED BY A RECORD SEARCH OF THE PUBLIC RECORDS OF THE COUNTY OF WAKE, NORTH CAROLINA, AND THE INSTRUMENTS OF CONVEYANCE, OR RECORD OF JUDICIAL PROCEEDINGS.



RECORDED IN BOOK OF MAPS 2017 PAGE 2 WAKE COUNTY REGISTRY

JOHN A. EDWARDS & COMPANY
Consulting Engineers
NC License F-0289
333 Wade Ave., Raleigh, N.C. 27605
Phone: (919) 828-4428
Fax: (919) 828-4711
Email: info@aeco.com

DATE	10-17-2017
DRAWN BY	RT
CHECKED BY	LEH
FILE NO.	
SHEET	2
OF	2

**GRANITE FALLS BLVD.
ROADWAY EXTENSION**

WAKE COUNTY
NORTH CAROLINA

ACQUISITION MAP

EXHIBIT B
Form of General Warranty Deed

Instrument prepared by: David J. Neill, Smith Moore Leatherwood LLP, PO Box 27525, Raleigh, NC 27611
Mail after recording: David L York, Smith Moore Leatherwood LLP, PO Box 27525, Raleigh, NC 27611
Excise Tax: \$0.00 (NCGS § 105-228.29(6))
Brief Description for Index: Granite Falls Blvd ROW
Parcel Identifier: Portion of #0314111

Grantor certifies that no portion of the property herein conveyed includes the primary residence of Grantor.

GENERAL WARRANTY DEED OF RIGHT OF WAY

THIS GENERAL WARRANTY DEED OF RIGHT OF WAY is made this ____ day of _____ 2018, by and between **WOODROW W. MARLOWE, JR.** having a mailing address of P.O. Box 36, Clarkton, NC 28433 (“**Grantor**”); and **TOWN OF ROLESVILLE**, a North Carolina municipal corporation having an address of 502 Southtown Circle, Rolesville, NC 27571 (the “**Grantee**”).

WITNESSETH:

WHEREAS, Grantor is the fee owner of that certain parcel of land located in the Town of Rolesville; Township of Wake Forest, County of Wake, and State of North Carolina commonly known as 6000 Rogers Road, Rolesville, North Carolina and having a Wake County PIN of 1759-71-4313 (the “**Grantor’s Land**”); and

WHEREAS, Grantor has agreed to convey a certain portion of Grantor’s Land to Grantee, such portion being particularly described in **Exhibit A** attached hereto and incorporated herein (the “**Property**”).

NOW, THEREFORE, in consideration of certain promises and covenants between Grantor and Grantee, Grantor has and by these presents does grant, bargain, sell, and convey unto the Grantee the Property in fee simple absolute.

Together with all right, title, and interest of Grantor in any improvements thereon and all privileges, easements, and appurtenances thereto belonging not elsewhere herein excepted.

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple absolute.

And the Grantor covenants with the Grantee, that Grantor is seized of the Property in fee simple absolute, has the right to convey the same in fee simple absolute, that title is marketable and free and clear of all encumbrances except those that may be stated below, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. Taxes for the year 2019 and subsequent years, not yet due and payable.
2. Such matters of boundary, acreage, encroachment, and other matters appearing on the land that would be revealed by a current, accurate survey of the Property.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter, as required by the context.

***REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURE, ACKNOWLEDGMENT, & EXHIBIT PAGES FOLLOW***

IN WITNESS WHEREOF, the Grantor has caused this General Warranty Deed of Right of Way to be executed under seal the day and year first above written.

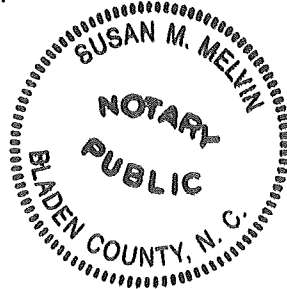
“Grantor”:

Woodrow W. Marlowe (SEAL)
WOODROW W. MARLOWE, JR.

Bladen COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Woodrow W. Marlowe, Jr.

Date: 10/19, 2018



Susan M. Melvin
[Notary's signature as name appears on seal]

Susan M. Melvin Notary Public
[Notary's printed name as name appears on seal]

My commission expires: June 19, 2023

[Affix Official Seal in Space Above]

EXHIBIT A
The “Property”

BEING all that parcel, lot, or tract identified as “Granite Falls Boulevard Public Right of Way Dedication” on that map and plat titled “Granite Falls Blvd. Roadway Extension Acquisition Map” prepared by John A. Edwards & Company dated _____, 2018 and recorded in the offices of the Wake County Register of Deeds in Book of Maps 2018, Page _____ and consisting of approximately 14,219 square feet (0.33 acres).

EXHIBIT C

Form of Easement Agreement

Instrument prepared by: David J. Neill, Smith Moore Leatherwood LLP, PO Box 27525, Raleigh, NC 27611
Mail after recording: David L. York, Smith Moore Leatherwood LLP, PO Box 27525, Raleigh, NC 27611
Excise Tax: \$0.00 (NCGS § 105-228.29(6))
Brief Description for Index: Granite Falls Blvd
Parcel Identifier: Portion of #0314111

DRAINAGE AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This DRAINAGE AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (hereinafter the “**Agreement**”) is made this ____ day of _____ 2018, by and between **WOODROW W. MARLOWE, JR.**, an unmarried man having a mailing address of P.O. Box 36, Clarkton, NC 28433 (“**Grantor**”); and **TOWN OF ROLESVILLE**, a North Carolina municipal corporation having an address of 502 Southtown Circle, Rolesville, NC 27571 (the “**Town**”; Grantor and Town hereinafter collectively, the “**Parties**”).

WITNESSETH:

WHEREAS, Grantor is the fee owner of that certain parcel of land located in the Town of Rolesville; Township of Wake Forest, County of Wake, and State of North Carolina commonly known as 6000 Rogers Road, Rolesville, North Carolina and having a Wake County PIN of 1759-71-4313 (the “**Grantor’s Land**”); and

WHEREAS, Town is developing a certain public road and sidewalk improvement project commonly known as “Granite Falls Boulevard” (the “**Project**”) together with certain associated stormwater drainage improvements to be situated upon Grantor’s Land (collectively the “**Stormwater Improvements**”); and

WHEREAS, Town desires certain easements across portions of the Grantor’s Land for the successful design, construction, installation, maintenance, and operation of the Project and Stormwater Improvements; and

WHEREAS, Town desires to acquire from Grantor and Grantor desires to grant to Town a drainage easement on, over, and across those portions of the Grantor’s Land described with particularity in Exhibit A attached hereto and incorporated herein (the “**Drainage Easement Area**”); and

WHEREAS, Town desires to acquire from Grantor and Grantor desires to grant to Town a temporary construction easement on, over, and across that portion of the Grantor's Land described with particularity in Exhibit B attached hereto and incorporated herein (the "TCE Areas"; the Drainage Easement Area and TCE Area collectively the "**Easement Areas**").

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Easements.

Drainage Easement. Grantor hereby grants and conveys to Town a permanent, non-exclusive drainage easement on, over, under, through, and across the Drainage Easement Area for (i) receipt of stormwater flowing from the Project; (ii) construction, installation, improvement, replacement, inspection, repair, maintenance, use, and operation of Stormwater Improvements; and (iii) ingress, egress, and regress facilitating those rights set forth by this subsection (the "**Drainage Easement**").

Temporary Construction Easement. Grantor hereby gives and grants unto Town a temporary, non-exclusive easement on, over, under, through, and across the TCE Areas for purposes reasonably necessary and incidental to the construction of the Project, including the temporary stockpiling of materials, the movement and temporary storage of equipment, construction staging, and similar temporary construction purposes (the "TCE"; the Drainage Easement and TCE collectively, the "**Easements**").

Reserved Rights. Grantor shall retain fee simple ownership of the Easement Areas and may make any use of the Easement Areas that does not unreasonably interfere with the exercise by Grantee of Grantee's rights hereunder.

Benefit. The Easements and rights granted herein shall be in the nature of public utility easements and this Agreement shall be binding upon the Town and Town's successors and assigns. Further, the Easements shall be easements running with the Grantor's Land and binding upon Grantor and all owners of fee simple title to the Grantor's Land, their respective heirs, successors, and assigns.

Term.

Drainage Easement. The Drainage Easement shall be a perpetual easement.

Temporary Construction Easement. The TCE shall terminate and its provisions as set forth in this Agreement shall be of no further effect upon the earlier of (i) the completion of construction of the Project; or (ii) five (5) years from the date this instrument is recorded in the offices of the Wake County Register of Deeds.

Maintenance & Costs.

Unless there occurs the Development Event (as defined below), Grantor shall have no obligations for the payment for or performance of any construction, operation,

maintenance, replacement, or repair of Town-installed improvements within the Easement Areas.

In the event of development of Grantor's Land evidenced by any application for and issuance of any building permit for the construction of improvements upon Grantor's Land (the "**Development Event**"), all obligations and costs for maintenance, replacement, or repair of the Drainage Easement shall immediately be deemed assigned by Town and assumed by Grantor and Grantor's successors and assigns, such obligations running with Grantor's Land in perpetuity. In furtherance of this assignment and assumption, Town shall promptly deliver to the fee owner or owners of Grantor's Land (the "**Owners**") all plans, records, and maintenance contracts for the Stormwater Improvements and the Owners shall promptly assume all obligations under such any such contracts.

Restrictions on Use. The TCE is subject to the following terms and provisions:

Grantee shall restore the grade, replace any removed vegetation or structures, and seed with grass those portions of the TCE Areas that Grantee has disturbed in exercising its rights under the TCE.

All work undertaken by Grantee in connection with the Temporary Easement shall be done in a good and workmanlike manner.

Public Dedication. This Agreement shall constitute a public dedication and acceptance of the Drainage Easement and Drainage Easement Area.

Warranty. Grantor covenants that Grantor is seized of the aforesaid Easement Areas in fee and has the right to convey the easements hereby granted; that the same is free from all encumbrances; and that Grantor will warrant and defend said title against the lawful claims of all persons claiming by, under, or through Grantor.

Subordination. If, at the time this Agreement is recorded in the office of the Register of Deeds of Wake County, if the Grantor's Land is subject to the lien of any mortgage, deed of trust, or other financing instrument (any such instruments shall be referred to hereinafter collectively or individually as a "**Financing Document**"), the owner of such encumbered parcel shall obtain from each creditor secured by any such Financing Document an instrument, in recordable form, subordinating the lien of the Financing Document to the rights and easements created hereunder.

Interpretation. If there arises any issue regarding the intent of the Parties to this Agreement or the interpretation of any provision of this Agreement or any ambiguity arising from this Agreement, no presumption or burden of proof shall arise favoring or disfavoring any party, and this Agreement shall not be strictly construed against any party. When the context in which a word is used in this Agreement indicates that such is the intent, a word in the singular number shall include the plural and vice-versa, and a word in the masculine gender shall include the feminine and neuter and vice-versa. Any use in this Agreement of any form of the verb "to include" means the word stated but not limited to. The paragraph headings or titles used in this Agreement are for convenience only, and shall not define, limit, extend, or interpret the scope of this Agreement or any particular section, paragraph, or provision of this Agreement.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina without giving effect to any conflict of law, rule or provision thereof that would cause the application of the laws of any other jurisdiction.

Relationship. This Agreement does not constitute an agreement of partnership or joint venture, and does not create a relationship of principal and agent. No party shall have the authority to act as agent of the other for any purpose, except as may be expressly provided herein. The Parties are, and shall remain, independent contractors responsible for all their respective obligations and liabilities.

Third-party Beneficiaries. Except as may be otherwise expressly provided herein, this Agreement shall not confer any rights or remedies upon any person or entity other than the Parties hereto, and their respective successors and assigns.

Injunctive Relief. The Parties acknowledge that any breach or violation of this Agreement will cause irreparable harm to the non-breaching party for which there is no adequate remedy at law. Accordingly, in addition to any other remedies available at law or equity, any party hereto that is aggrieved by a breach or threatened breach of any of the provisions of this Agreement shall be entitled to seek from any court of competent jurisdiction an order for specific performance and/or for temporary and/or permanent injunctive relief to enforce the provisions of this Agreement without the necessity of proving actual damages or posting bond or other security.

***REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURE & ACKNOWLEDGMENT PAGES FOLLOW***

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

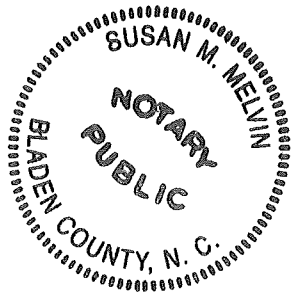
“Grantor”:

Woodrow W. Marlowe, Jr. (SEAL)
WOODROW W. MARLOWE, JR.

Bladen COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Woodrow W. Marlowe, Jr.

Date: 10/19, 2018



Susan M. Melvin
[Notary's signature as name appears on seal]

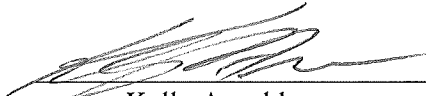
Susan M. Melvin, Notary Public
[Notary's printed name as name appears on seal]

My commission expires: June 19, 2023

[Affix Official Seal in Space Above]

"Town":

TOWN OF ROLESVILLE (SEAL)

By: 

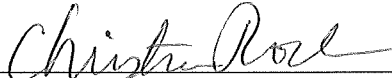
Name: Kelly Arnold

Title: Town Manager

WAKE COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Kelly Arnold as town manager of the Town of Rolesville.

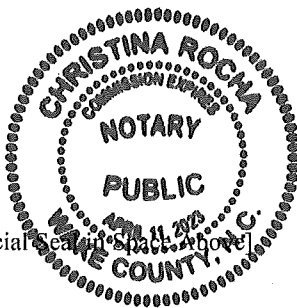
Date: OCT 30, 2018



[Notary's signature as name appears on seal]

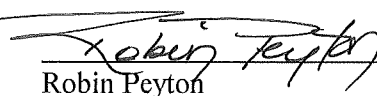
CHRISTINA ROCHA, Notary Public
[Notary's printed name as name appears on seal]

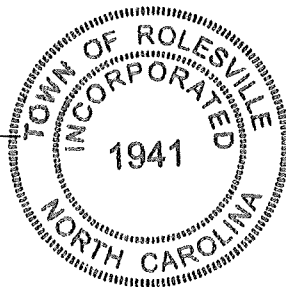
My commission expires: APRIL 11, 2023



[Affix Official Seal in Space Above]

Attest:


Robin Peyton
Town Clerk



Approved as to Form:

David L. York
Town Attorney

EXHIBIT A

The “Drainage Easement Area”

BEING all certain area of land identified as “Public Drainage Easement” and consisting of approximately 17,987 square feet as shown on that map and plat titled “Granite Falls Blvd. Roadway Extension Acquisition Map” prepared by John A. Edwards & Company dated _____, 2018 and recorded in the offices of the Wake County Register of Deeds in Book of Maps 2018, Page _____ to the extent situated on that land conveyed to Woodrow Marlowe pursuant to that North Carolina General Warranty Deed dated June 1, 2012 and recorded in the offices of the Wake County Register of Deeds in Book 14792, Page 2756.

EXHIBIT B

The "TCE Areas"

BEING all of those two areas of a combined 8,281 square feet situated immediately north and south respectively and bounding the newly dedicated Granite Falls Boulevard as shown on that map and plat titled "Granite Falls Blvd. Roadway Extension Acquisition Map" prepared by John A. Edwards & Company dated _____, 2018 and recorded in the offices of the Wake County Register of Deeds in Book of Maps 2018, Page _____ to the extent situated on that land conveyed to Woodrow Marlowe pursuant to that North Carolina General Warranty Deed dated June 1, 2012 and recorded in the offices of the Wake County Register of Deeds in Book 14792, Page 2756.