**"Curative Affidavit**

**This curative affidavit should be indexed as a "subsequent instrument" pursuant to G.S. 161-14.1.**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, certify as follows:

1. This curative affidavit is recorded pursuant to G.S. 47-36.2 to correct an obvious description error contained in a previously recorded instrument.

2. I am an attorney licensed to practice law in North Carolina. I am an “authorized attorney" as defined in G.S. 47-36.2(a)(1).

3. The instrument or instruments containing an obvious description error requiring correction are identified as follows:

*(Insert here the following information regarding each instrument to be corrected: the title of the instrument, the parties to the instrument, and the recording data for the instrument.)*

4. The obvious description error contained in the instrument(s) to be corrected is identified or described as follows:

*(Insert here the erroneous description that requires correction.)*

5. The erroneous property description is corrected to read as follows:

*(Insert here the correct description of the real property.)*

6. I have served a copy of a notice of my intent to sign and record this curative affidavit and a copy of this curative affidavit, unsigned, on all persons entitled to notice pursuant to G.S. 47-36.2(c). Service on each such person was properly effected in a manner

prescribed for the service of a summons in accordance with Rule 4(j) or Rule 4(j5) of the North Carolina Rules of Civil Procedure, and more than 45 days have elapsed since the last person to be served was served. By signing and recording this affidavit I certify that I did not receive from any person so served any written objection to the recordation of this curative affidavit or any written statement disputing the facts recited in this curative affidavit.

7. My contact information is as follows:

*Insert here the affiant's name, telephone number, email address (if*

*available), facsimile number (if available), and mailing address.*

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of Affiant

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_, STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing curative affidavit was sworn to or affirmed and subscribed before me this day by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Official Seal

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public Print or Type Notary's Name

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_"

(l) The form of the notice of intent to be given as described in subsection (c) of this section shall be substantially as follows (including capitalization and bold typeface as shown):

**"NOTICE OF INTENT TO CORRECT AN OBVIOUS DESCRIPTION ERROR This is an important legal document that requires your immediate attention.**

Your property rights may be affected, and you may need to respond to this notice in writing.

I am an attorney licensed to practice law in North Carolina. My contact information is as follows:

*Insert the name, telephone number, email address (if available), facsimile number (if available), and mailing address of the authorized attorney issuing the notice.*

I have discovered or have been advised of an error in the description of real property contained in one or more instruments recorded as part of a real estate-related transaction. A copy of a proposed Curative Affidavit accompanies this notice. The proposed Curative Affidavit identifies the previously recorded instrument or instruments that contain the description errors that I plan to correct, the description error or errors that require correction, and the correct description of the real property. If I sign and record the proposed Curative Affidavit, it will have the legal effect of correcting the erroneous property description in the listed instrument or instruments that contain the description errors.

Real property you own may be affected if I correct the erroneous description of the real property in the instrument or instruments identified in the proposed Curative Affidavit. You should consult with your attorney and your title insurance company, if known, promptly to determine whether and the extent to which my correction of the legal description in the instrument or instruments that need to be corrected will impact your property or property rights.

**IF YOU WISH TO OBJECT TO MY SIGNING AND RECORDING THE PROPOSED CURATIVE AFFIDAVIT OR DISPUTE THE FACTS RECITED IN THE PROPOSED CURATIVE AFFIDAVIT, YOU MUST DO SO IN A WRITING SENT OR DELIVERED TO ME WITHIN 30 DAYS AFTER THE DATE YOU WERE SERVED WITH THIS NOTICE AND THE PROPOSED CURATIVE AFFIDAVIT.**

Your writing must be sent or delivered to me by one of the following methods:

(1) Delivering a copy by handing it to me or by leaving it at my office with a

partner or employee of mine.

(2) Mailing a copy to me at the mailing address provided in this notice of intent.

(3) Sending a copy by facsimile to my facsimile number, if provided in this

notice of intent, as evidenced by a facsimile receipt confirmation.

(4) Electronic mail sent to my e-mail address, if provided in this notice of intent.

(5) Depositing a copy prepaid with a designated delivery service authorized

pursuant to 26 U.S.C. § 7502(f)(2) addressed to the mailing address provided

in this notice of intent.

I am not permitted to sign or record the Curative Affidavit if, at any time before I actually

sign and record it, I receive a written objection to my signing and recording the Curative Affidavit or a written statement disputing the facts contained in the Curative Affidavit from any person served with this notice and a copy of the unsigned proposed Curative Affidavit. However, assuming I do not receive any such objection or statement disputing the facts, Section 47-36.2 of the North Carolina General Statutes permits me to sign and record the Curative Affidavit at any time after more than 45 days have elapsed since the last person to be served was served with this notice and a copy of the unsigned proposed Curative Affidavit, and I intend to do so.

If you object to my signing and recording the Curative Affidavit or dispute the facts recited in the proposed Curative Affidavit, you need to send or deliver your written objection or written statement disputing the facts recited in the proposed Curative Affidavit to me promptly using one of the methods described above. While I encourage you to call me if you have questions, your telephone call will not be sufficient – you must write to me if you dispute the facts recited in the proposed Curative Affidavit or object to my signing and recording the Curative Affidavit.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of authorized attorney

(m) Nothing in this section requires that a curative affidavit be attached to an original or certified copy of a previously recorded instrument that is unchanged but rerecorded. Nothing in this section requires that a curative affidavit be attached to a copy of a previously recorded instrument that includes identified corrections or an original execution by a party or parties of the corrected instrument after the original recording with proof or acknowledgment of their execution of the correction of the instrument.

(n) The period prescribed for the commencement of an action contesting the validity or efficacy of a curative affidavit recorded under this statute shall be one year from the date of recordation of the curative affidavit. This subsection does not apply to an action for damages sustained by any party as a result of the wrongful or erroneous recordation of a curative affidavit as provided in subsection (i) of this section. (2017-110, s. 2.)