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SECRETARY OF STATE

BOOK 1818 PAGE 539

STATE OF NORTH CAROLINA

WILSON COUNTY

EASEMENT AGREEMENT

THIS AGREEMENT, made this 30th day of May, 2001, by and between the City of Wilson, a municipal corporation, Grantor, and the State of North Carolina, whose mailing address is State of North Carolina State Property Office, 116 West Jones Street, Raleigh, NC 27603-8003, Grantee. The designations 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 context.

WITNESSETH:

WHEREAS, pursuant to the provisions of N.C.G.S. §143-214.8 et. seq. the State of North Carolina has established the Wetlands Restoration Program (as defined in N.C.G.S. §143-214.8) within the Department of Environment, Health and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, and creating wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities; and

WHEREAS, pursuant to the provisions of N.C.G.S. §143-214.8 two of the components of the Wetlands Restoration Program are (1) restoration and perpetual maintenance of wetlands, riparian areas, and surface waters and (2) land ownership and management; and

WHEREAS, Grantor owns in fee simple certain real property situate, lying, and being in Wilson County, North Carlina (the "Protected Property"), hereinafter more particularly described;

WHEREAS, Grantor is willing to grant a Conservation Easement on the Protected Property, thereby restricting and limiting the use of the Protected Property on the terms and conditions and for the purposes hereinafter set forth, and Grantee is willing to accept such easement;

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement of the nature and character and to the extent hereinafter set forth, over the Protected Property for the benefit of the people of North Carolina, said Protected Property lying and being in the City of Wilson, Wilson County, North Carolina, and being more particularly described as set forth on Exhibit A attached hereto.

The purposes of this Conservation Easement are to maintain, restore, enhance, and create a wetland and/or riparian resource on the Protected Property that contributes to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Protected Property in its natural condition, consistent with these purposes; and to prevent any use of the Protected Property that will significantly

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impair or interfere with these purposes. To achieve these purposes, the following conditions and restrictions are set forth:

I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, its personal representatives, successors and assigns, lessees, agents and licensees.

II. RESERVED USES AND RESTRICTED ACTIVITIES

The Protected Property shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. Unless expressly reserved as a compatible use herein, any activity on, or use of, the Protected Property by the Grantor is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantor have been acquired by the Grantee. The following specific uses are prohibited, restricted, or reserved as indicated:

A. Recreational Uses. Grantor expressly reserves the right to undeveloped recreational uses, including hunting and fishing, and access to the Protected Property for the purposes thereof. Usage of motorized vehicles on the Protected Property is prohibited.

B. Educational Uses. The Grantor reserves the right to undeveloped educational uses and the right of access to the Protected Property for such purposes including organized educational activities such as site visits, studies, and observations.

C. Vegetative Cutting. The Grantor reserves the right to selectively harvest sapling and juvenile red maple, pine, and sweet gun tress of less than ten feet in overall height. All other cutting, removal, mowing, harming or destruction of any vegetation on the Protected Property is prohibited.

D. Industrial Use. Industrial activities are prohibited on the Protected Property.

E. Residential Use. Residential use of the Protected Property is prohibited.

F. Commercial Use. Commercial activities are prohibited on the Protected Property.

G. Agricultural Use. Agricultural use of the Protected Property including use for crop land, waste lagoons, or pastureland is prohibited.

H. New Construction. There shall be no building, facility, mobile home, or other structure constructed or placed on the Protected Property, except that the Grantor may construct, maintain, repair, reconstruct or replace pedestrian footbridges. The Grantor may also construct, maintain, repair, reconstruct or replace any utilities located within existing easements or rights of way on the Protected Property.

I. Signs. No signs shall be permitted on the Protected except interpretive signs describing restoration activities and the conservation values of the Protected Property, signs identifying the owner of the Protected Property and the holder of the Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Protected Property.

J. Dumping. Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliance or machinery, or other material on the Protected Property is prohibited.

K. Grading, Mineral Use, Excavation, Dredging. There shall be no grading, filling, excavation, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.

L. Water Quality and Drainage Patterns. Diking, draining, filling, or removal of wetlands, polluting, or discharging into waters, springs, seeps, or wetlands, use of pesticide or biocides, and disruption of natural drainage patterns is prohibited.

M. Subdivision. Subdivision, partitioning, or dividing the Protected Property is prohibited.

N. The Grantor reserves the right to maintain by mowing, planting, fertilizing, and/or herbicide usage any portion of Park property outside of the easement area. The Grantor reserves the right to maintain by mowing, no more than twice yearly, to a minimum height of 6 inches, native grasses present underneath the mature forested buffer identified in the Planting Plan. The Grantor reserves the right to remove all diseased vegetation considered beyond treatment in the forested buffer of the Planting Plan. Removal of woody debris (primarily small branches) within 20 feet of the channel of Hominy Swamp Creek is prohibited, unless the debris is large enough to pose a safety risk for park users. For the stream zone, as identified in the Planting Plan (or all areas inside of the top of banks), in the easement area,, all vegetative cutting, pruning, mowing is prohibited. The Grantor reserves the right of removal of all invasive exotic species as defined in : Smith, Cherri L. 1998, Exotic Plant Guidelines, Department of Environment and Natural Resources, Decision of Parks and Recreation, Raleigh, North Carolina.
Guidelines #30.
Any removal of woody debris with the streamchannel is prohibited except that any debris deemed by the Grantor to be causing a major obstruction to stream flow directly resulting in stream channel destabilization. Before repair of any in stream structures or extensive streambank failure(extensive is defined as any streambank area failure greater than 250square feet), the Grantor must notify the North Carolina Wetlands Restoration Program for approval.

The Grantee, and authorized representatives of the Grantee, shall have the right to enter the Protected Property at all reasonable times to undertake any activities (including planting, grading and hydrological modification) to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Protected Property. In addition, the Grantee, and authorized representatives of the Grantee, shall have the right to enter the Protected Property at all reasonable times for the purpose of inspecting said property to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. The easement rights granted herein do not include public access rights.

The Grantor may request permission to vary from the above restrictions for good cause shown, provided that any such request is consistent with the purposes of this Conservation Easement. The Grantor shall not vary from the above restrictions without first obtaining written approval from

the Wetlands Restoration Program, whose mailing address is 512 N. Salisbury Street, P.O. Box 29535, Raleigh, NC 27626-9535.

III. ENFORCEMENT AND REMEDIES

A. In the event that Grantee determines that Grantor has violated or is threatening to violate any of the terms, conditions, or restrictions, the Grantee may institute a suit to enjoin such violation and if necessary, to require the restoration of the Protected Property to its prior condition a the Grantor's expense.

B. No failure on the part of Grantee to enforce any covenant or provision hereof shall discharge or invalidate such covenant or any other covenant, condition, or provision hereof or affect the right to Grantee to enforce the same in the event of a subsequent breach or default.

IV. MISCELLANEOUS

A. This Conservation Easement shall be construed to promote the purposes of N.C.G.S.§143-214.8 et seq. the Wetlands Restorations Program.

B. This instrument sets forth the entire agreement of the parties with respect tot he Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of the Conservation Easement, and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

C. Any notices shall be sent by registered or certified mail, return receipt requested to the parties at their addresses shown above or to other address(es) as either party establishes in writing upon notification to the other.

D. Grantor shall notify Grantee in writing of the name and address and any party to whom the Protected Property or any part thereof is to be transferred at or prior to the time said transfer is made. Grantor further agrees to made any subsequent lease, deed or other legal instrument by which any interest in the Protected Property is conveyed subject to the Conservation Easement herein created.

E. The Grantor, its successors and assigns, shall not be liable to the Grantee or any other person or entity for any damage or injury suffered by, incurred by, or threatened against the Grantee or any other person or entity arising out of, resulting from, or in any way related to any of the activities or purposes intended by this Conservation Easement or the work contemplated herein, whether done or not done.

V. QUIET ENJOYMENT

Grantor reserves all rights accruing from ownership of the Protected Property, including the right to engage in or permit or invite others to engage in only those uses of the Protected Property that are expressly reserved herein, not prohibited or restricted herein, and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, Grantor expressly reserves to Grantor, and Grantor's invitees and licensees, the right of access to the Protected Property, and the right of quite enjoyment of the Protected Property.

TO HAVE AND TO HOLD the said rights and easements perpetually unto the Grantee for the aforesaid purposes.

AND Grantor covenants that it has done nothing to impair such title as the Grantor has received and it will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor.

IN TESTIMONY WHEREOF, the City has caused this instrument to be executed by its Mayor, attested by its Clerk and its corporate seal affixed hereto all by authority duly given, this the day and year first above written.

CITY OF WILSON

By: _____
C. Bruce Rose, Mayor

Attest: _____
Ana I. Heder, City Clerk
(Corporate Seal)

NORTH CAROLINA
WILSON COUNTY

I, Charlotte F. Pender, a notary public, in and for said County and State, do hereby certify that Ana I. Heder, personally appeared before me and acknowledged that she is the City Clerk of the City of Wilson, a North Carolina body politic and corporate, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by herself as its City Clerk.

Witness my hand and notarial seal, this 30th day of MAY, 2001.

_____
Notary Public

My Commission Expires: APRIL 25, 2004
(SEAL)

EXHIBIT A

Lying and being situate along the Hominy Swamp Canal in the area between Kincaid Drive and Raleigh Road, consisting of 3.99 acres, more or less, as shown on the plat titled "Conservation Easement Map For City of Wilson" dated February 7, 2001, prepared by Southwind Surveying and Engineering, Inc. and recorded in Plat Book 30, Page 54 of the Wilson County Registry, said easement being on a portion of the property owned by the City of Wilson and described in Deed Book 233, Page 242 of the Wilson County Registry, said property being now and previously used by the City of Wilson as a municipal recreation park.

NORTH CAROLINA, WILSON COUNTY
The foregoing certificate(s) of Charlotte F. Pender, ——— and ———
Notary(ies) Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 1818 Page 539. This 5 day of June 2001 A. D., at 1:35 o'clock P M.

Celia W. Brinson
Register of Deeds, Wilson County

By Karen L. Webb
Dep. *Register of Deeds*