BOOK 1671 PAGE 235

STATE OF NORTH CAROLINA 2000 DEC 10 PM 3:43

CONSERVATION EASEMENT

ONSLOW COUNTY

THIS CONSERVATION EASEMENT DEED, made this 9th day of May, 2000, by and between the City of Jacksonville, North Carolina, whose mailing address is City of Jacksonville, PO Box 128, Jacksonville, NC 28541-0128, Grantor, and the State of North Carolina, Grantee, whose mailing address is State of North Carolina State Property Office, 116 West Jones Street, Raleigh, NC 27603-8003. The designations Grantors 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. Gen. Stat. § 143-214.8 et seq., the State of North Carolina has established the Wetlands Restoration Program (as defined in N.C. Gen Stat. § 143-214.8) within the Department of Environment 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, aquatic habitat, wildlife habitat, and recreational opportunities; and

WHEREAS, the Wetlands Restoration Program in the Department of Environment and Natural Resources has approved acceptance of this instrument; and

WHEREAS, the acceptance of this instrument for and on behalf of the State of North Carolina has been duly approved by the Governor and Council of State by resolution adopted at a meeting held in the City of Jacksonville, North Carolina, on the 10th day of May, 2000; and

WHEREAS, pursuant to the provisions of N.C. Gen. Stat. § 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, Grantors own in fee simple certain real property situated, lying, and being in Jacksonville Township, Onslow County, North Carolina (the "Protected Property"), and being more particularly described as that certain parcel(s) of land owned by City of Jacksonville and being conveyed to the Grantors by deed recorded in **Deed Book 197 at Page 263, Deed Book 247 at Page 116, Deed Book 659 at Page 721 and Deed Book 450 at Page 384** of the Onslow County Registry, North Carolina; and

WHEREAS, Grantors are willing to grant a Conservation Easement on the Protected Property, thereby restricting and limiting the use of the Protected Property to 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, Grantors unconditionally and irrevocably hereby grant and convey 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 a portion of the Protected Property, referred to hereafter as the Easement Area, for the benefit of the people of North Carolina, and being all of the tract of land as identified as Tract _____ as shown on a plat of survey entitled "_____" dated _____, certified by _____, and **recorded in Map Book** _____, **Page** _____, _____ County Registry. Tract _____ being more particularly described as follows:

A CERTAIN TRACT OR AREA OF LAND IN JACKSONVILLE TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA, BOUNDED ON THE EAST BY WILSON BAY, ON THE NORTH BY GRANTOR, ON THE WEST BY SHORELINE ESTATES, AND ON THE SOUTH BY WILSON BAY, OVER WHICH LIES AN EASEMENT FOR THE PURPOSES OF CONSERVATION OF NATURAL RESOURCES, DESCRIBED AS FOLLOWS;

COMMENCING AT AN EXISTING CONCRETE MONUMENT, SAID MONUMENT BEING LOCATED APPROXIMATELY 175 FEET ALONG THE SOUTHEASTERN RIGHT-OF-WAY OF COURT STREET FROM THE CENTERLINE OF SHORELINE DRIVE, SAID MONUMENT FURTHER BEING LOCATED N16°52'02"E 127.57 FEET FROM THE MOST WESTERLY CORNER ALONG COURT STREET OF LOT 16, SHORELINE ESTATES, THENCE S58°06'57"E 309.94 FEET WITH AN EASTERN PROPERTY LINE OF SHORELINE ESTATES TO AN EXISTING CONCRETE MONUMENT, SAID MONUMENT BEING A COMMON CORNER OF LOT 13, SHORELINE ESTATES AND THE LAND OF THE CITY OF JACKSONVILLE, THENCE S27°27'27"E 283.02 FEET WITH AN EASTERN PROPERTY LINE OF SHORELINE ESTATES TO AN EXISTING IRON STAKE, SAID STAKE BEING A COMMON CORNER OF LOT 9, SHORELINE ESTATES AND THE LAND OF THE CITY OF JACKSONVILLE, THENCE S87°55'29"E 165.12 FEET WITH A NORTHERN PROPERTY LINE OF SHORELINE ESTATES TO AN EXISTING IRON STAKE, SAID STAKE FURTHER BEING A COMMON CORNER OF LOT 6, SHORELINE ESTATES AND THE LAND OF THE CITY OF JACKSONVILLE, THENCE S30°14'04"E 347.24 FEET WITH AN EASTERN PROPERTY LINE OF SHORELINE ESTATES TO THE POINT OF BEGINNING, SAID BEGINNING POINT BEING A POINT IN THE MEAN HIGH WATER LINE, SAID POINT FURTHER BEING AN EXISTING IRON STAKE, SAID POINT BEING THE SOUTHEASTERNMOST CORNER OF LOT 5, SHORELINE ESTATES AND A COMMON CORNER OF THE LAND OF THE CITY OF JACKSONVILLE, THENCE N30°14'04"W 347.24 FEET WITH AN EASTERN PROPERTY LINE OF SHORELINE ESTATES TO AN EXISTING IRON STAKE, SAID STAKE FURTHER BEING A COMMON CORNER OF LOT 6, SHORELINE ESTATES AND THE LAND OF THE CITY OF JACKSONVILLE, THENCE N33°47'47"W 53.08 FEET TO A POINT, THENCE AS A CURVE TO THE RIGHT HAVING A CHORD DIRECTION OF N16°56'08"E, A CHORD LENGTH OF 77.42 FEET, AN ARC LENGTH OF 88.54 FEET AND A RADIUS OF 50.00 FEET TO A POINT, THENCE N67°40'02"E 82.97 FEET TO A POINT, THENCE S22°19'58"E 174.67 FEET TO A POINT, THENCE N67°40'02"E 219.84 FEET TO A POINT, THENCE N32°58'56"E 155.17 FEET TO A POINT, THENCE N71°56'24"E 73.35 FEET TO A POINT, THENCE S63°51'16"E 23.87 FEET TO A POINT, SAID POINT BEING THE NORTHERNMOST CORNER OF A CONCRETE HEADWALL, SAID HEADWALL BEING THE MAIN EFFLUENT DISCHARGE LOCATION FOR THE ABANDONED CITY OF JACKSONVILLE WASTEWATER TREATMENT PLANT, THENCE S63°51'16"E 9.38 FEET TO A POINT IN THE MEAN HIGH WATER LINE, THENCE WITH THE MEAN HIGH WATER LINE APPROXIMATELY 650 FEET TO THE BEGINNING, CONTAINING 3.06 ACRES, MORE OR LESS AND BEING A PORTION OF GRANTOR'S 27.52± ACRE TRACT.

The purposes of this Conservation Easement are to maintain, restore, enhance, and create wetland and/or riparian resources in the Easement Area that contributes to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Easement Area in its natural condition, consistent with these purposes; and to prevent any use of the Easement Area that will significantly 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 Grantors, their personal representatives, heirs, successors, and assigns, lessees, agents, and licensees.

II. RESERVED USES AND RESTRICTED ACTIVITES

The Easement Area 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 in, or use of, the Easement Area by the Grantors is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantors have been acquired by the Grantee. The following specific uses are prohibited, restricted, or reserved as indicated:

A. **Recreational Uses.** Grantors expressly reserve the right to undeveloped recreational uses, including hunting and fishing, and access to the Easement Area for the purposes thereof. Usage of motorized vehicles in the Easement Area is prohibited.
B. **Educational Uses.** The Grantors reserve the right to undeveloped educational uses and the right of access to the Easement Area for such purposes including organized educational activities such as site visits, studies, and observations.
C. **Vegetative Cutting.** Cutting, removal, mowing, harming, or destruction of any vegetation in the Easement Area is prohibited.
D. **Industrial Use.** Industrial activities in the Easement Area are prohibited.
E. **Residential Use.** Residential use of the Easement Area is prohibited.
F. **Commercial Use.** Commercial activities in the Easement Area are prohibited.
G. **Agricultural Use.** Agricultural use of the Easement Area including use for cropland, waste lagoons, or pastureland is prohibited.
H. **New Construction.** There shall be no building, facility, mobile home, or other structure constructed or placed in the Easement Area.
I. **Signs.** No signs shall be permitted in the Easement Area except interpretive signs describing restoration activities and the conservation values of the Easement Area, 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 Easement Area.
J. **Dumping.** Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliance or machinery, or other material in the Easement Area 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.** There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.
M. **Subdivision.** Subdivision, partitioning, or dividing the Easement Area is prohibited.
N. **Development Rights.** No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.
O. **Boardwalks.** With prior approval from the Wetlands Restoration Program, there can be two crossings of a boardwalk within the easement area (entrance and return). The boardwalks must be properly permitted and in accordance with the rules and regulations of the Division of Coastal Management.

The Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times to undertake any activities to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Easement Area. These activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare the soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow. In addition, the Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times for the purpose of inspecting said property to determine if the Grantors are complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. The easement rights granted herein do not include public access rights.

The Grantors 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 Grantors shall not vary from the above restrictions without first obtaining written approval from the Wetlands Restoration Program, whose mailing address is 1619 Mail Services Center, Raleigh, NC 27699-1619.

III. ENFORCEMENT AND REMEDIES

A. In the event that the Grantee determines that the Grantors have violated or are threatening to violate any of these terms, conditions, or restrictions, the Grantee may institute a suit to enjoin such violation and if necessary, to require the restoration of the Easement Area to its prior condition at the expense of the Grantors.

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 of 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. Gen Stat. § 143-214.8 et seq., the Wetlands Restoration Program.

B. This instrument sets forth the entire agreement of the parties with respect to the 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 provision 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. Grantors 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. Grantors further agree to make 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.

V. QUIET ENJOYMENT

Grantors reserve 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 Easement Area 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, the Grantors expressly reserve to the Grantors, and the Grantors' invitees and licensees, the right of access to the Easement Area, and the right of quiet enjoyment of the Easement Area.

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

AND Grantors covenant that they are seized of said premises in fee and have the right to convey the permanent easement herein granted; that the same are free from encumbrances and that they will warrant and defend title to the same against the claims of all persons whomsoever.

BOOK 1671 PAGE 239

IN TESTIMONY WHEREOF, the Grantors have hereunto set their hand and seal, the day and year first above written,

CITY OF JACKSONVILLE

By: George L Jones, Mayor

Date: _____

ATTEST:

Carmen K Miracle, City Clerk

(Municipal Seal)

NORTH CAROLINA COUNTY OF Onslow

I, Debra Forney, a Notary Public in and for the County and State aforesaid, do hereby certify that George L Jones and Carmen Miracle Grantors, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITHNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the 20th day of June, 2000.

Debra A Forney
Notary Public

My commission expires:
9-15-04

NORTH CAROLINA, ONSLOW COUNTY
The foregoing certificate(s) of Debra A. Forney

Notary(ies) Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 1671 Page 235 This 18th day of December 2000 A.D. at 3:43 o'clock P. M.

Mildred M. Thomas, Register of Deeds, Onslow County By ____, Register of Deeds