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FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
September 10, 2010 10:12:06 AM
Book 3772 Page 95-101
FEE: $32.00
INSTRUMENT # 2010011931

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STATE OF NORTH CAROLINA
COUNTY OF LENOIR
Prepared by State Property Office
Return after recording to:
Blane Rice, State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

Amended

CONSERVATION EASEMENT AGREEMENT
Ecosystem Enhancement Program
SPO File Number 63-A~~L~~M
EEP Parcel ID 499

THIS AGREEMENT, hereinafter referred to as Agreement, made and entered into this 11th day of August, 2010 by and between **Baptist Children's Homes of North Carolina, Inc.**, a non-profit corporation, hereinafter referred to as the **Seller**, and the **State of North Carolina**, and its successors and assigns, hereinafter referred to as the **State.**

WITNESSETH

In consideration of $10.00 and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and of the statements contained in this Agreement, **Seller** hereby grants to the **State**, its successors and assigns, the exclusive right and option to receive a perpetual **Conservation Easement** over mutually agreed upon lands owned by the **Seller**, hereinafter referred to as the **Parent Tract**. The **Conservation Easement** shall perpetually protect those lands hereinafter referred to as the **Easement Area.** The **Parent Tract** is located in Greenwood Township Moore County, North Carolina and contains 775.5 +/- acre, more or less, subject to survey. The **Parent Tract** subject to the **Conservation Easement** is recorded in Deed Book 425, Pages 398 and 401, Moore County Registry. Property is also identified as being Tax Parcel Number **953501386339** and is located off Boys Camp Road. Parent Tract is partially located Harnett County.

Being a perpetual **Conservation Easement** that will permanently protect the restoration, enhancement or preservation of Polly Branch located off Boys Camp Road north of Cypress Church Road in Moore County. The **Easement Area** extends a minimum of 70 feet from top of bank on both sides of Polly Branch where possible as the creek meanders on the Parent tract. The exact dimensions of the Easement Area are to be mutually agreed upon and determined by survey. See Attached sketch of property and approximate location of creek.

The following terms, provisions, and conditions are further agreed to:

1. **AGREEMENT PERIOD.** This Agreement shall remain in effect from the date that this Agreement has been executed by the **Grantor** until the **first (1st) day of June, 2011.** This Agreement shall be exercised upon posting, by certified mail, a written notice to the **Grantor** at the following address: PO Box 338, Thomasville, NC 27360. Exercise shall be deemed timely if such written notice is mailed on or before the date first set forth in this paragraph.

2. **PURCHASE PRICE.** The total purchase price for the **Easement Area,** *subject to survey,* shall be the greater of:

   Land which has been timbered*: $3,200.00, (Three Thousand Two Hundred Dollars) per acre, subject to final survey. ($3,200.00 per acre).

   Land which has not been timbered*: ~~$4,000.00~~ $4,500.00 (Four Thousand Five Hundred Dollars) per acre, subject to final survey. (~~$4000.00~~ $4,500.00 per acre) Price change reflects agreement between Grantor and Grantee that no timbering will occur within proposed conservation area prior to closing thereby enhancing the conservation area's value.

   Initial _____

   Date _____

   **Timbered land shall be defined as land with trees 10 inches or greater in diameter, both pine and hardwood, with all timbering trash removed, and free of disease.*

   The Seller elects to not receive compensation for this conveyance and shall donate this conservation easement to the State by striking through the mandatory compensation stated above and placing full initials here __ _____.

3. **CLOSING.** A closing of the sale of this **Conservation Easement** under this Agreement shall be held on or before June 1, 2011; provided, however, in the event of objections to title or condition of land at closing, and diligent efforts on **Seller's** part to cure said objections, a closing shall be held within a reasonable time following the removal of said objections.

   Per plat prepared by Landmark Surveying dated 10/4/2010 and verbally agreed to 2/17/2011, the conservation area will be composed of approximately: 3.96± acres of timbered land; 0.42± acres of permanent access; 10.62± acres of wooded land (non-timbered); total of 15± acres subject to final survey

4. **EVIDENCE OF TITLE.** Upon receipt of this signed Agreement, the **State** will have title to the **Easement Area** examined, and if applicable, obtain a preliminary title insurance commitment. The title examination and/or commitment must evidence the **Seller's** ability to deliver title at closing as set forth below. All costs necessary to procure the title examination and, if applicable, the title commitment and final title insurance policy to be issued at closing, shall be the responsibility of the **State.**

Initial _____

Date _____

5. **TITLE.** At closing, the **Seller** shall convey good, insurable and marketable title to the **Conservation Easement** together with all rights necessary to protect the **Easement Area** in perpetuity, including legal access, all mineral rights and all development rights, to the **State** free and clear of all liens, encumbrances, restrictions, rights, or exceptions except those of record that are acceptable to the **State**.

6. **TITLE DEFECTS.** If for any reason the **Seller** cannot deliver title at closing as required by Paragraph 5 of this Agreement, the **State** may elect to a) accept the **Conservation Easement** with title as is; b) refuse to accept the **Conservation Easement**; or c) allow the **Seller** additional time to pursue reasonable efforts to correct the problem, including bringing any necessary quiet title actions or other lawsuits.

7. **SUBJECT TO SURVEY AND DESIGN.** It is understood and intended that the final **Easement Area** and **Conservation Easement** under this Agreement is subject to final design, approval and survey by the **Ecosystem Enhancement Program** with these costs paid by the **State.** Landowners representative, surveyor, and EEP project manager shall meet on site to flag the easement boundary. Access will be specified on plat.

8. **DOCUMENTS FOR CLOSING.** The **Seller** shall execute and deliver at closing a **Conservation Easement**, any owner's affidavits or documents required by a title insurance company to remove the standard title policy exceptions, and any other documents necessary to close in accordance with the terms of this Agreement. These documents will be prepared at the expense of the **State.** Seller agrees to execute boundary line agreement with adjoining neighbor, Pree, as shown on plat prepared by Landmark Surveying dated 10/4/2010 and verbally agreed to 2/17/2011

_____ Initial

_____ Date

9. **PROPERTY TAXES.** Any delinquent real estate taxes and all levied assessments are the **Seller**'s responsibility and should be satisfied of record by the **Seller** at or before closing. Any deferred taxes on the **Easement Area**, which become due as a result of this conveyance, shall be the responsibility of the **Seller**. Real estate taxes for the year in which the transaction is closed shall be the responsibility of the **Seller** and not prorated, as the **State** is not receiving fee simple title.

10. **MISCELLANEOUS CLOSING EXPENSES.** The **Seller** will pay any documentary stamp tax, real estate transfer fee or any similar charge due upon conveyance of title to the **State**. The **State** will pay recording fees.

11. **POSSESSION.** The **Seller** will deliver possession of the **Easement Area** to the **State** at closing subject to no leases, mortgages, liens or other reserved rights, and in the condition set forth below in Paragraph 12.

12. **CONDITION OF PROPERTY/ RISK OF LOSS.** The **Seller** shall not transfer or encumber any interests in the **Easement Area** prior to closing. The **Seller** shall keep the **Easement Area** in its current condition until closing and shall prevent and refrain from any use of the **Easement Area**, for any purpose or in any manner, that would diminish its value or adversely affect the **State's** intended uses.

In the event of any adverse change in the condition of the **Easement Area**, whether said change is caused by **Seller** or by forces beyond **Seller's** control, the **State** may elect to a) refuse to accept the property; b) accept the Property, or a portion thereof, in which case there may be an equitable adjustment of the purchase price based on a change in circumstances; or c) require restoration of the Property to its condition at the time this Agreement was granted.

13. **RIGHT OF ENTRY AND INSPECTION.** The **State** and its agents shall have the right to enter upon the Property at reasonable times for surveying, engineering, conducting environmental inspections and assessments to detect hazardous or toxic substances, and other reasonable purposes related to this transaction. Based upon the results of the environmental inspections and assessments, or upon other conditions revealed to be unsuitable to the **State**, the **State** may elect to refuse to accept the **Easement Area**.

14. **REMEDIES.** In addition to any other remedy specifically set forth in this Agreement, the **State** has the right to enforce the provisions of this Agreement through an action for specific performance, injunctive relief, damages, contribution or any other available proceedings in law or equity. The election of any one remedy available under this Agreement shall not constitute a waiver of any other available remedies.

15. **BINDING EFFECT.** This Agreement becomes effective when signed by the **Seller** and shall then apply to and bind the **Seller** and **Seller's** heirs, executors, administrators, successors, and assigns.

16. **COMPLETE AGREEMENT.** This Agreement constitutes the sole and complete agreement between the parties and cannot be changed except by written agreement. The **Ecosystem Enhancement Program** promotes the preservation, restoration and enhancement of streams and/or wetlands. Any representations, contracts or agreements created by or for the **Ecosystem Enhancement Program** are exclusive of this agreement unless specifically incorporated herein by exhibit.

17. **NO WAIVER.** No provision of the Agreement shall be deemed amended or waived unless such amendment or waiver is set forth in a writing signed by the **State**. No act or failure to act by the **State** shall be deemed a waiver of its rights hereunder, and no waiver in any one circumstance or of any one provision shall be deemed a waiver in other circumstances or of other provisions.

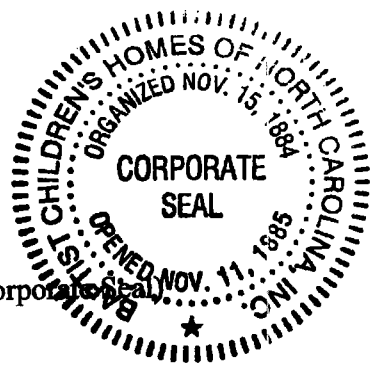
18. **ASSIGNMENT.** The **State** has the right to assign this Agreement. In the event of such assignment, the assignee will have all the rights, powers, privileges and duties held by the **State** pursuant to this Agreement.

IN TESTIMONY THEREOF, the parties have hereunto set their hands and seals, or if corporate have caused this instrument to be executed in their corporate names by their duly authorized representatives as of the dates indicated below.

Seller – Baptist Children's Home of North Carolina, Inc.

By: Michael C. Blackwell

Michael C. Blackwell, President



(Corporate Seal)

Attested by: Samuel V. Barefoot

Print Name and Title Samuel V. BAREFOOT, TREASURER

NORTH CAROLINA

COUNTY OF DAVIDSON

I, PATRICIA S. CARROLL, a Notary Public for DAVIDSON County and State aforesaid, certify that Michael C. Blackwell personally came before me this day and acknowledged that he is President of Baptist Children's Home of North Carolina, Inc., a non-profit corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President (Title), sealed with its corporate seal, and attested by himself/herself as its Treasurer (Title).

Witness my hand and official seal, this the 11th day of AUGUST, 2010.

Patricia S. Carroll

Notary Public

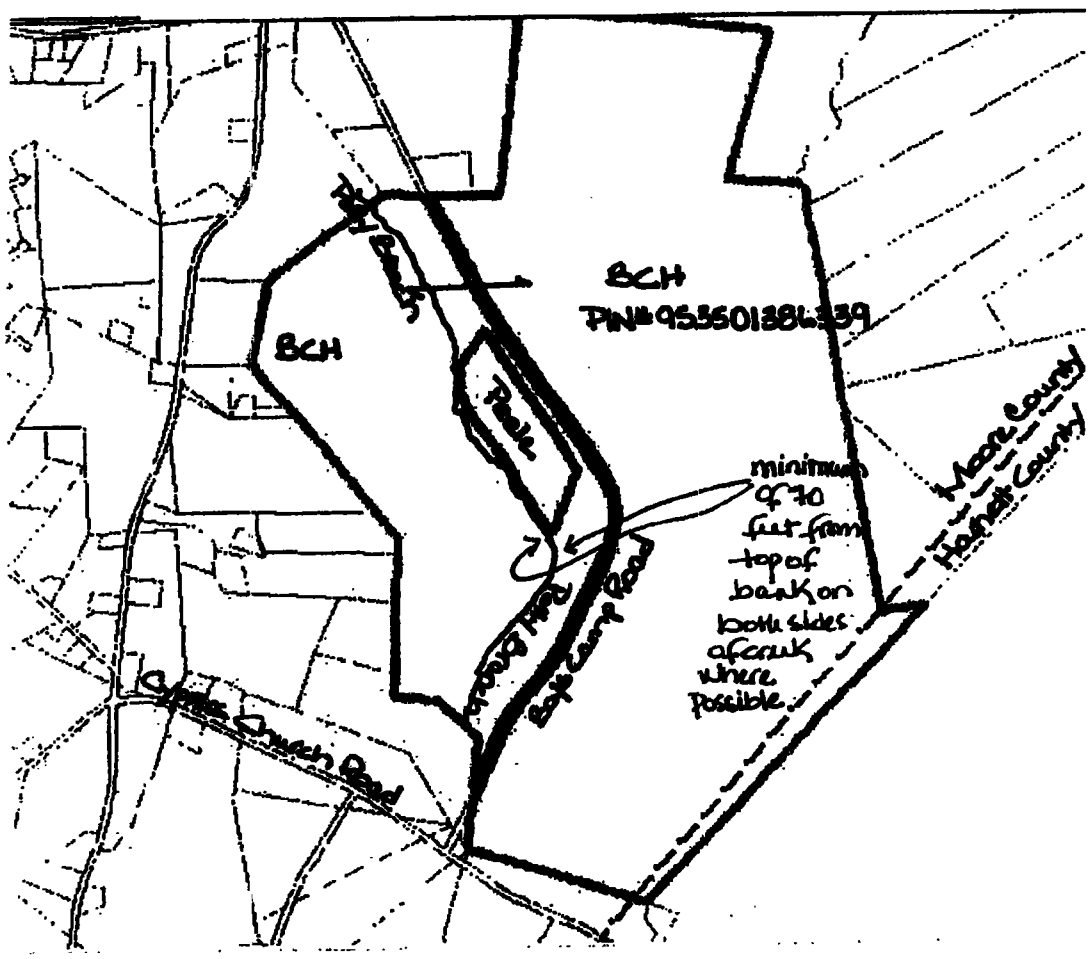
My Commission Expires:

NOVEMBER 18, 2012

ATTACHMENT

Sketch for Option Agreement

(inserted map here)



This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

BCH = Baptist Children's Home

Projected Area = extends a minimum of 70 feet from the top of bank on both sides of Polly Branch where possible as the creek meanders on the Parent tract.