Image ID: 000001756212 Type: CRP
Kind: EASEMENT
Recorded: 08/18/2009 at 02:51:39 PM
Fee Amt: $23.00 Page 1 of 4
Workflow# 0000010654-0001
Craven, NC
Sherri B. Richard Register of Deeds
BK 2851 PG 406

Prepared by and return to:
State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321
SPO File No. 25-Y
EEP Site ID No. 92646
CRAVEN COUNTY

Davis Hartman Wright

TEMPORARY CONSTRUCTION EASEMENT
Simmons Street Stormwater Wetland

This Agreement, made this 11th day of August 2009, between The City of New Bern, a municipal corporation, hereinafter designated as **Grantor**, and the **State of North Carolina**, acting by and through the **Ecosystem Enhancement Program (formerly known as the Wetlands Restoration Program)**, hereinafter designated **Grantee**, does hereby grant unto the **Grantee**, its successors, assigns, agents, contractors, subcontractors and employees the exclusive right to perform those certain construction activities necessary to perform a stream restoration, enhancement and/or wetlands restoration, enhancement, preservation, or creation project, hereinafter designated **Project,** along with the to right of reasonable ingress and egress to the **Project** along Jack Smith Creek in Craven County for the benefit of the **Grantor.**

Grantor, for the true and actual consideration of Ten Dollars and other valuable consideration does convey to **Grantee**, its successors and assigns, a **Temporary Construction Easement**, hereinafter **Easement,** for a specified work area over the entire property identified as ***Parcel ID Number*** 8-240-062 containing approximately 51.95 +/- acres, Craven County Tax Office and recorded in Deed Book 2706 at Page 914 and Deed Book 1685 Page 254 recorded in the Craven County Registry.

Said **Easement** shall cover the entire 51.95+/- acre parcel located on the east side of Simmons Street and the north side of an existing railroad right of way in New Bern shown as "Exhibit A" attached and incorporated hereinto.

Grantor agrees the consideration recited herein is just compensation for the **Easement**, including any and all damages to Grantor's remaining property, if any, which may result from the acquisition or use of said property and said **Project**.

The **Grantor** also grants to the **Grantee**, its successors, assigns, agents, contractors, and employees the right to erect and use construction equipment at the site of the **Easement** herein described.

IT IS UNDERSTOOD that the **Easement** rights herein granted shall automatically terminate 2 years from the date rendered hereof or upon completion of the above referenced **Project**, whichever is sooner.

The **Grantee**, its successors, and assigns agree to the following conditions of this **Easement:**

1. The **Grantee** shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued.

2. The **Grantee** shall at all times cooperate with **Grantor** and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued.

3. The **Grantee** if necessary, shall perform felling, bucking, and decking of merchantable timber according to acceptable logging practices with a minimum of breakage, damage, and waste. Utilization of heavy equipment to grade, fill, and prepare the soil, including modification of the hydrology of the site.

4. The **Grantee**, at a minimum, shall spread material uniformly over the construction site for uniform topography and seed with grass. Such material may include the planting of trees, shrubs and herbaceous vegetation. **Grantee** shall fertilize all areas. Upon completion of the **Project**, **Grantee** shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.

5. **Grantee** shall leave all parts of the **Project** site in acceptable condition.

IN TESTIMONY WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written,

City of New Bern

By: _____

Mayor

Print Name: T. A. Bayuss, III

(Corporate Seal)

Attested By: _____

Print Name/Title: Dawn McAdams, Deputy City Clerk

Image ID: 000001756213 Type: CRP
Kind: EASEMENT
Page 2 of 4

BK 2851 PG 407

NORTH CAROLINA

COUNTY OF Craven

I, Dawn E. Heller, a Notary Public in and for the County and State aforesaid, do hereby certify that Danny Meadows, personally appeared before me this day and acknowledged that he/she is the ~~City~~ Deputy Clerk of the City of New Bern, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by Tom Bayliss III, its Mayor ____ and sealed with its corporate seal, and attested to by himself/herself as is Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the 11th day of August, 2009.

Dawn E. Heller
Notary Public

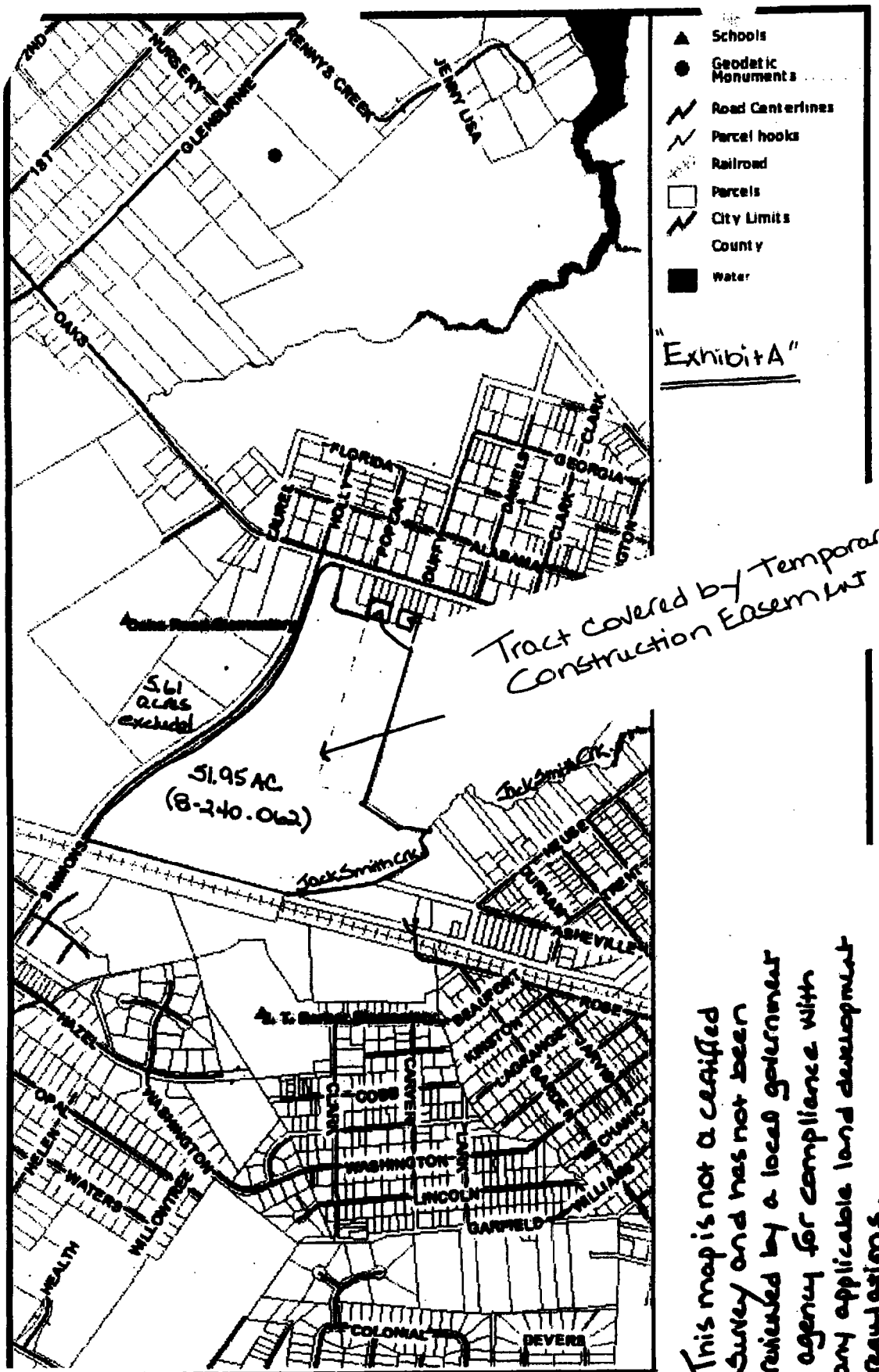
My commission expires:

July 27, 2013

DAWN E. HELLER NOTARY PUBLIC CRAVEN COUNTY, NC

Image ID: 000001756214 Type: CRP
Kind: EASEMENT
Page 3 of 4

BK 2851 PG 408



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.

CRAVEN COUNTY NORTH CAROLINA

0 929 ft

Image ID: 000001756215 Type: CRP
Kind: EASEMENT
Page 4 of 4
BK 2851 PG 409

FOUNDED
1710
DANNY MEADOWS, Director

City of New Bern
Public Works Department
P.O. BOX 1129
New Bern, N.C.
28563-1129
Three Centuries of North Carolina Heritage

PHONE (252) 639-7501
FAX (252) 636-1848

August 4, 2009

Memo to: Mayor and Board of Aldermen

From: Danny Meadows, Assistant City Manager

Re: Resolution: Temporary Construction Easement – Simmons Street Stormwater Wetland

Recommendation: That the Resolution be adopted authorizing the Mayor to sign the Temporary Construction Easement for the Ecosystem Enhancement Program of North Carolina to perform construction work on city owned property along Simmons Street.

This temporary construction easement is required by the state to allow the Ecosystem Enhancement Program to participate in our stormwater project for the Jack Smith Creek Drainage Basin. They have provided the funding and will be performing the construction of the wetlands and other stormwater treatment BMP's for this project. Upon finalization of permitting for the project we will also be required to place a conservation easement over the stormwater improvements on this property which was purchased as part of the larger stormwater project with partial funding from the Clean Water Management Fund. If you have any questions concerning this matter give me a call.

skb

1 encl.

xc: Richard Morris, Public Works Superintendent