

Prepared by and return to: Durham County Attorney's Office 200 E. Main St. Durham, NC

**NORTH CAROLINA
DURHAM COUNTY**

**OPTION TO PURCHASE
CONSERVATION EASEMENT**
Allen and Cindy Needham

This Option to Purchase ("Option") is made and entered into on this 8th day of April 2019, by and between Allen and Cindy Needham (hereinafter "**SELLER**") and the **COUNTY OF DURHAM**, a political subdivision of the State of North Carolina (hereinafter "**BUYER**").

WITNESSETH:

The Seller, for and in consideration of an option fee in the sum of Ten and no/100 Dollars (\$10.00) to it in hand paid by Buyer, the receipt and adequacy of which is hereby acknowledged by Seller, does hereby give and grant unto Buyer, its heirs, successors and assigns, the exclusive right and option to acquire a Conservation Easement over and across the property described in Exhibit A attached hereto (the "Easement Area") for a purchase price to be determined as outlined below and to be paid by the Buyer to the Seller at closing (the "Purchase Price") on the terms and conditions hereinafter set forth.

This Option shall exist and continue until midnight on the 30th day of June 2022. Subject to the terms and conditions recited in this Option, Buyer may exercise this Option by hand delivery or deposit of written notice by certified or registered mail, return receipt requested, to Seller, attention: Allen Needham, 5800 Brickhouse Road, Bahama, North Carolina 27503-9568.

TERMS AND CONDITIONS:

1. This Option to Purchase is subject to the following conditions:

- a.) **FUNDING AVAILABILITY** The Buyer approving adequate funding for its portion of the easement purchase price as necessary, and the Buyer's receipt of a **FEDERAL GRANT OR STATE OF NORTH CAROLINA GRANT OR LOCAL GRANT** (hereinafter "**GRANT**") in an amount that is adequate for the remainder of the Easement Area Appraised Value.

- b.) APPRAISAL. Buyer shall obtain an appraisal of the value of the conservation easement described herein, which appraisal shall meet any GRANT program guidelines and which is deemed acceptable to any GRANT administrators (referred to as the "Easement Area Appraised Value"). The appraisal shall be obtained no more than twelve months prior to the date of sale.
 - c.) PURCHASE PRICE. The Purchase Price for the Easement area shall be an amount equal to the Easement Area Approved Appraised Value, but in no event shall the price paid be less than \$4,000 per acre or more than \$6,000 per acre.
 - d.) CONSERVATION EASEMENT. Prior to Buyer exercising this Option, Seller, Buyer and the USDA (as applicable) and /or other grant funding agency must mutually agree upon the terms and conditions of a Deed of Conservation Easement, the primary purpose of which is the protection of agricultural and topsoil resources by limiting conversion to non-agricultural uses.
 - e.) TITLE. Seller conveying good and marketable title to the Property which shall meet any GRANT program guidelines and which is deemed acceptable to any GRANT administrators.
 - f.) CONSERVATION PLAN. Prior to Buyer exercising this Option, Seller shall prepare a conservation plan with NRCS which meets the specifications required under the Agricultural Land Easement (ALE) program, and seller agrees to manage his farm according to this plan.
2. Closing. The Closing Date, as determined by the Seller, for the conveyance of the Conservation Easement from the Seller to the Buyer shall occur within 60 days after the Grantee has exercised this Option.
 3. Survey. Although the location and size of the Easement Area is generally described in Exhibit A, the exact size, configuration and location of the Easement Area will be determined by survey to be commissioned and completed by the Buyer before exercising this Option.
 4. Default. In the event the Seller fails to convey the Conservation Easement to the Buyer under the terms and conditions hereof, or the terms and conditions of the subsequent Contract to Sell, the Buyer shall have the remedy of specific performance.
 5. Right of Access. Buyer shall have a right of entry onto the Easement Area for surveying, inspection, and other studies, at Buyer's sole cost and expense upon reasonable advance notice to the Seller.
 6. Transfer of Option. This Option may not be assigned or transferred by the Buyer without the written consent of the Seller. Seller may assign this Option and delegate its obligations hereunder without the prior consent of Buyer, but upon any such assignment or transfer by the Seller, Seller shall provide Buyer a copy of such assignment or transfer, which shall be signed by the assignee or transferee to acknowledge its assumption of all of the obligations of Seller hereunder.
 7. Option is Binding. Upon execution by both parties, this Option shall be binding on the heirs, successors and/or assigns of Seller and Buyer.

IN TESTIMONY WHEREOF, the parties have expressed their agreement to these terms by causing this Option to Purchase to be executed by their duly authorized officer or agent.

SELLER:

By: _____

Allen Needham

Date: _____

By: _____

Cindy Needham,

Date: _____

Accepted:

BUYER: COUNTY OF DURHAM

ATTEST:

By: _____

Wendell M. Davis, Durham County Manager

Date: _____

Monica W. Toomer, Clerk to the Board

(SEAL)

ACKNOWLEDGEMENT OF GRANTOR:

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, _____, a Notary Public in and for the aforesaid County and State, do hereby certify that Allen and Cindy Needham personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this ____ day of _____, 2019.

Notary Public (stamp)

My commission expires: _____

ACKNOWLEDGEMENT OF GRANTEE:

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, _____ a Notary Public for Durham County, certify that Monica W. Toomer personally came before me this day and acknowledged that she is Clerk to the Board of the County of Durham, and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name by its County Manager, sealed with its seal, and attested by herself as its Clerk to the Board.

Witness my hand and official seal, this the ____ day of _____, 2019.

Notary Public (stamp)

My commission expires: _____

EXHIBIT A
EASEMENT AREA

The Easement Area to be purchased by Buyer shall consist of approximately 35 acres which is comprised of the following parcels. A final survey shall be prepared by Buyer prior showing the exact boundaries of the area to be encumbered by the Conservation Easement.

PIN #193064, with the address of 5800 Brickhouse Road, Bahama as further described in Deed Book 7722, page 285

PIN #193061, with the address of 6007 Brickhouse Road, Bahama as further described in Deed Book 5036, page 868