



# HAYWOOD COUNTY BOARD OF COMMISSIONERS

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## AGENDA REQUEST

***Must be presented to the County Manager's Office  
NO LATER THAN 5 P.M. FRIDAY THE WEEK BEFORE THE MEETING***

DATE OF REQUEST: July 10, 2015

FROM: DBF

MEETING DATE REQUESTED: July 20, 2015

*Regular meetings: First (1<sup>st</sup>) Monday of the month at 9:00 am  
Third (3<sup>rd</sup>) Monday of the month at 5:30 pm*

SUBJECT: Purchase Mauney Cove Convenience Center Site

REQUEST: Haywood County Solid Waste is seeking approval to purchase 30 Mauney Cove which is known as the Mauney Cove Convenience Center site for \$150,000.00.

BACKGROUND: Haywood County Solid Waste oversees the operation of waste and recyclables at ten convenience centers and the Materials Recovery Center. Mauney Cove is the County's busiest site with 250,000 patrons each year. Buying the property will provide years of service for the residents of Haywood County. County will begin planning for expansion of the site next year in the spring of 2016.

IMPLEMENTATION PLAN: Solid Waste Administrator will oversee purchase with the County Attorney.

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FINANCIAL IMPACT STATEMENT: Funds were budgeted in pervious budget for potential purchase of convenient center sites.

SUPPORTING ATTACHMENTS: YES  X  NO      HOW MANY?  14   
LIST: \_\_\_\_\_  
          \_\_\_\_\_

PowerPoint Presentation: YES      NO    

PERSON MAKING PRESENTATION AT MEETING: David B Francis  
TITLE: Solid Waste Administrator  
PHONE NUMBER: 356-2602  
E-MAIL: dbfrancis@haywoodnc.net

## OPTION TO PURCHASE

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Mail/Box after recording to: Ira Dove, Haywood County Manager, Haywood County Courthouse. \_\_\_\_\_

This instrument was prepared by: Leon M. Killian III

Brief description for the Index: County Registry.

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This OPTION TO PURCHASE ("Option") is granted on by Bruce Lowe Toy, the "Seller", to Haywood County, North Carolina, the "Buyer." Seller, intending to bind Seller, Seller's heirs, successors and assigns, in consideration of the sum of one thousand Dollars (\$1,000.00) (The "Option Money") paid to Seller by Buyer, receipt of which is acknowledged, grants to Buyer, Buyer's heirs, successors, assigns or representatives, the exclusive right and option to purchase all of that certain parcel of land, together with all improvements located thereon (collectively, the "Property"), in the City of Waynesville, County of Haywood, State of North Carolina, and more particularly described as follows:

**Street Address:** 30 Mauney Cove Road

**Parcel:** 8616-39-4150

**Legal Description:** That 1.45 acre (more or less) parcel of land to be particularly described by new survey, and being a tract described in Book 809, Page 777 Haywood County Registry, on the terms and conditions set forth below:

1. **Option Period:** This Option shall exist and continue from the date hereof until 5 o'clock PM on August 31, 2015 ("Option Period"). In order to preserve the full legal rights of Buyer, this Option (excluding Exhibit A) may be recorded as legally binding Notice of the Option, at the option of either party. **TIME IS OF THE ESSENCE WITH RESPECT TO THE OPTION PERIOD AND EXERCISE.**

2. **Exercise:** At any time during the Option Period, Buyer may exercise this Option by executing and delivering a copy of the Vacant Land Sales Contract, a copy of which

is attached hereto as Exhibit A, to the Seller; or by giving Seller a written notice thereof signed by the Buyer, which exercise is effective upon (a) hand delivery, (b) complete facsimile transmission, or (c) prepaid deposit of the notice with an overnight commercial delivery service or in certified mail, return receipt requested, at the following address:

**Seller:** Bruce Lowe Toy      762 Jacqueline Lane  
Palm Harbor, FL 34683

3.      **Contract Upon Exercise:** Upon exercise of this Option, the terms of purchase and sale shall be as set forth on the completed "Sales Contract", which is attached as Exhibit A and incorporated herein by reference.

4.      **Application of Option Money:** If this Option is exercised, the Option Money shall be applied to the purchase price at closing. If this Option is not exercised, the Option Money shall be retained by Seller.

5.      **Entry:** During the Option Period, Buyer and those reasonably designated by Buyer may, with reasonable advance notice to Seller, enter the Property to inspect, survey and appraise the Property. Buyer shall be responsible for the repair of any damage done to the Property during any such entry.

6.      **Other Conditions:**

- A.      Approval of the purchase contract by the Haywood County Board County of Commissioners.
- B.      Approval by the Town of Waynesville to expand the existing Convenience Center located at 30 Mauney Cove Road, Waynesville, NC.
- C.      Approval by NC Department of Transportation to expand the existing Convenience Center located at 30 Mauney Cove Road, Waynesville, NC.
- D.      Haywood County will provide water and a sewer lines to the house on parcel 8616-39-4312 during construction to expand the Convenience Center. Haywood County will provide one additional water tap to parcel 8616-39-4312.
- E.      Execution of Easement and Construction Agreements by Robert Van Toy.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL

VALIDITY OR ADEQUACY OF ANY PROVISIONS OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

IN WITNESS WHEREOF, the Seller has caused the due execution of the foregoing as of the day and year first above written.

Hywood Cant  
(Entity Name)

By: [Signature]  
Title: Cant Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature] (SEAL)  
**BRUCE LOWE TOY**

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

USE BLACK INK ONLY

SEAL-STAMP

State of Florida - County of PINELAS

USE BLACK INK  
CONT V

I, the undersigned Notary Public of the Count and State aforesaid, certify that BRUCE LOWE TOY personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 24 day of April, 2015.

My Commission Expires: 07/22/2017  
Notary Public



The foregoing Certificate(s) of \_\_\_\_\_ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof. \_\_\_\_\_ Register of Deeds for \_\_\_\_\_ County.

By: \_\_\_\_\_

Deputy/Assistant - Register of Deeds

North Carolina

Haywood County

**SALES CONTRACT**

THIS SALES CONTRACT, made and entered into this the 24<sup>th</sup> day of April 2015 between the Parties hereinafter named:

NOW THEREFORE, for good and valuable consideration running to each of the Parties hereinafter named from the other, the receipt of which is hereby accepted, Buyer agrees to purchase from Seller, and Seller agrees to sell to Purchaser, the Real Estate herein described according to the following terms and conditions:

1. THE PARTIES: Buyer and Seller are collectively hereinafter referred to as the "Parties" and individually as a "Party".

Buyer(s): HAYWOOD COUNTY, a body politic and corporate, and a political subdivision of the State of North Carolina

Seller(s): Bruce Lowe Toy

2. THE REAL ESTATE: The term "Real Estate" shall be defined to include the real property and all improvements thereon. Seller agrees to convey to Buyer or to Buyer's designated grantee, the Real Estate described on Exhibit "A" attached hereto and made a part hereof to this Contract. It is agreed between the Parties, that upon completion of the plat of survey for the Real Estate to be conveyed, the legal description resulting therefrom shall be attached as a replacement to and in lieu of the current version of Exhibit A, and initialed as an amendment to this Contract by the Parties.

3. PURCHASE PRICE: The Purchase price for the Real Estate is \$150,000 and is conditional on the approval of this Contract by the Haywood County Board of Commissioners and those conditions listed with Paragraph 9 on or before August 31, 2015 and shall be paid by Buyer as follows: (i) initial non-refundable earnest money of \$1,000.00 by check delivered to Seller with the Option to Purchase, and continued as consideration for the executed Contract, and the (ii) balance in accordance with Paragraph 13 hereof.

4. CLOSING: The closing under this Contract (the "Closing") shall take place on or before August 31, 2015.

5. LEASED PROPERTY: Seller warrants that the Real Estate is not currently leased to any other party than the buyer, or contain options to purchase or rights of first refusal. Purchase of property will terminate current lease with seller dated September 1, 2011.

6. POSSESSION: Seller agrees to vacate and surrender possession of the Real Estate at the Closing, provided, however, that as a condition to this Contract.

7. PRORATIONS: The general real estate taxes payable with respect to the Real Estate shall be paid by the buyer.

8. OTHER PROVISIONS: This Contract is subject to the GENERAL CONDITIONS and other conditions the following attachments: Exhibit "A" (Legal Description of the Real Estate).

**OTHER CONDITIONS:**

- A. Approval of the purchase contract by the Haywood County Board County of Commissioners.
- B. Approval by the Town of Waynesville to expand the existing Convenience Center at 30 Mauney Cove Road.
- C. Approval by NC Department of Transportation to expand the existing Convenience Center at 30Mauney Cove Road.
- D. Haywood County will provide water and a sewer lines to the house on parcel 8616-39-4312 during construction to expand the Convenience Center. Haywood County will provide one additional water tap to parcel 8616-39-4312.
- E. Execution of Easement and Construction Agreements by Robert Van Toy.

**GENERAL CONDITIONS**

10. INSPECTIONS: Seller agrees to allow Buyer's inspectors reasonable access to the Real Estate upon reasonable notice and to give Buyer's inspectors permission to perform tests of the Real Property if such inspections and the tests are reasonably necessary to satisfy the contingencies of this Contract. Buyer agrees to promptly provide copies of all such inspection and test reports to Seller. Furthermore, Buyer agrees to promptly restore the Real Property to its original condition and agrees to be responsible for any damage occurring as a result of the performance of such inspections or tests. Seller authorizes Buyer's inspectors to take soil samples which may detect environmental contamination which may be required to be reported to the appropriate governmental authorities. Buyer agrees to hold harmless and indemnify Seller from any liability for the actions of Buyer's agents and representatives while conducting such inspections and tests on the property.

11. NOTICE: All notices required hereunder shall be in writing and shall be served by one Party or its attorney to the other Party or its attorney at their respective addresses. Notice to any one of a multiple person Party shall be sufficient notice to all. Notice shall be given in the following manner:

a. By personal delivery of such notice; or

b. By mailing of such notice to the addresses recited herein by regular mail and by certified mail, return receipt requested, .except as otherwise provided herein, notice served by certified mail, shall be effective two (2) days after the date of mailing.

12. THE DEED: Seller shall convey or cause to be conveyed to Buyer, or Buyer's designee, good and merchantable title to the Real Estate by recordable Warranty Deed, (the "Deed") describing the Real Estate according to a new survey to be obtained by and paid for by the Buyer, subject to approval of Seller, and with real estate transfer stamps to be paid by Buyer. Title, when conveyed, will be good and valid, subject only to:

(a) general real estate taxes not due and payable at the time of closing; (b) building, building lines and use or occupancy restrictions covenants and conditions of record; (c) zoning laws and ordinances; (d) visible public roads and highways and easements therefore; (e) easements for public utilities; (f) drainage ditches, feeders, laterals and drain title, pipe and other conduit; (g) existing leases and tenancies; (h) acts of Grantees; (i) title exceptions set forth in Schedule B of such Title Insurance Policy or commitment for title insurance as might be obtained by the Buyer.

13. PURCHASE PRICE; CLOSING EXPENSES: The balance of the purchase price shall be paid as follows at Closing: \$149,000 via certified check, official bank check or cashier's check, shall be paid to Seller unless otherwise directed by Seller upon 2 business days prior notice to Buyer. Seller shall pay excise taxes on the sale. Buyer and Seller shall pay their respective closing expenses.

14. GOVERNMENTAL COMPLIANCE: Parties agree to comply with the reporting requirements of Section 6045(e) and Section 1445 of the Internal Revenue Code and the Real Estate Settlement Procedures Act of 1974, as amended.

15. CONSTRUCTION: During construction, County will provide water and sewer lines to the house located on parcel 8616-39-4312. An additional water tap will be located on parcel 8616-39-4312. Current owner of parcel 8616-39-4312 will sign any necessary easements and construction agreements to accomplish the aforementioned work.

15. SECTION 1031 TAX FREE EXCHANGE: In the event Seller desires to exchange other property of like kind and qualifying use within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended and the regulations promulgated there under, for the title or interest in the Premises, the other party shall cooperate (at no cost to such cooperating party) in structuring this transaction to

accommodate such exchange. Each party expressly reserves the right to assign its rights, but not its obligations, hereunder to a "Qualified Intermediary" as provided in Treasury Regulations 1.103 (k)-1(g)(4) on or before Closing. The exchanging party shall bear any costs relating to such exchange.

THIS DOCUMENT WILL BECOME A LEGALLY BINDING CONTRACT WHEN SIGNED BY ALL PARTIES AND DELIVERED.

Date of Offer: \_\_\_\_\_

Buyer:

HAYWOOD COUNTY, a body politic and corporate, and a political subdivision of the State of North Carolina

  
\_\_\_\_\_  
BY: Ira Dove, Haywood County Manager

Seller: Bruce Lowe Toy

  
\_\_\_\_\_  
Bruce Lowe Toy



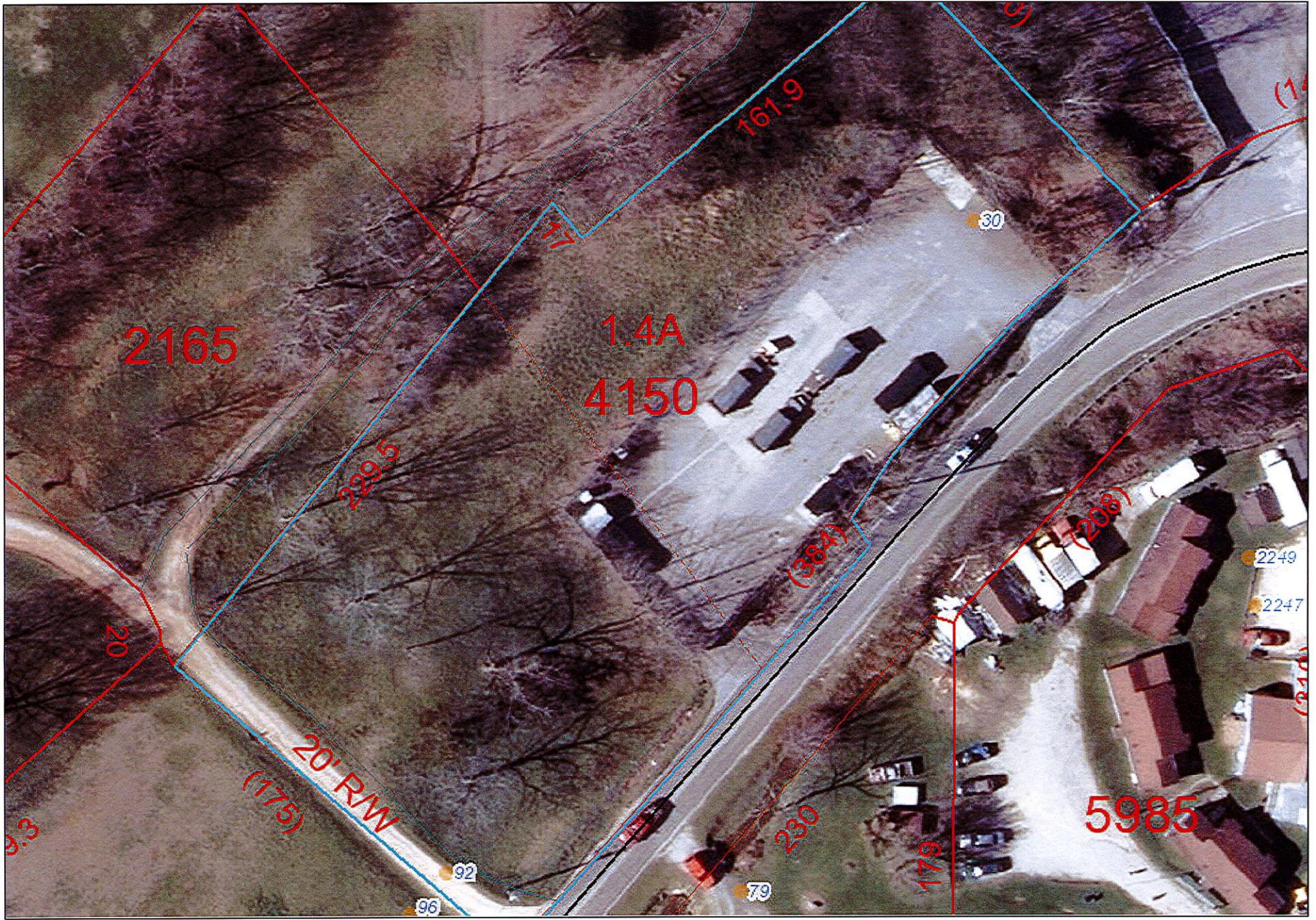
**EXHIBIT "A"**

BEGINNING at a point, said point being located in a twenty (20') foot right-of-way and a nine (9') foot gravel drive leading to Mauney Cove Road, NCSR 1204, said point being the terminus of the fourth call of that Deed from Mildred Toy to Clarence K. Lowe and wife, Merry Jo Lowe, as recorded in Deed Book 482, at Page 101, Haywood County Registry, and from said point of BEGINNING thus established, running the following calls and distances: N. 36 deg. 48 min. 50 sec. E. 229.53' to a point; thence S. 42 deg. 6 min. 0 sec. E. 17.84' to a point; thence N. 47 deg. 52 min. 0 sec. E. 161.90' to a point; thence S. 46 deg. 11 min. 35 sec. E. 147.40' to a point in the center of Mauney Cove Road, NCSR 1204; thence running generally with the center of said road, S. 43 deg. 50 min. 23 sec. W. 125.79' to a point; thence S. 38 deg. 49 min. 36 sec. W. 246.26' to a point; thence leaving said road and running generally with the centerline of the aforementioned right-of-way and gravel driveway, N. 51 deg. 52 min. 37 sec. W. 170.93' to the point and place of BEGINNING.

Said property being a portion of that +/- 2.90 acre tract as described in the Last Will and Testament of Mildred Lowe Toy as recorded in the Office of the Clerk of Superior Court for Haywood County in File No. 11 E 109, and as shown on that survey prepared by Douglas Keith Gibson, R.L.S., dated November 16, 1979 entitled "Fay Toy to William & James Toy," as described in said Will referenced hereinabove. Further reference to said Will and said survey is hereby made for a more particular description of said tract.

TOGETHER WITH and SUBJECT TO that twenty (20') foot easement for purposes of ingress, egress and regress and utility installation as described in the aforementioned Will and as set forth on the aforementioned survey of said property. Grantors herein reserve for themselves, their heirs and successors and or assigns, the right to use said (20') foot right of way for purposes of ingress, egress and regress and utility installation from the Grantors' remaining lands to Mauney Cove Road, NCSR 1204.

BEING the same property conveyed from Robert Van Toy and wife, Yukart Toy to Bruce Lowe Toy by Deed dated June 16, 2011 and being recorded in Deed Book 809, Page 777, Haywood County Registry. Whereas the male Grantor and Grantee of said Deed are two of the surviving beneficiaries under the Last Will and Testament of Mildred Lowe Toy as recorded in the office of the Clerk of Superior Court for Haywood County in File No. 11 E 109, and whereas both are desirous of dividing the real property devised to them under said Will in a manner inconsistent with the terms as provided in said Will, it is the express purpose of this Deed to convey all of the Grantors' interest in the real property described hereinabove to the Grantee.



1 inch = 50 feet  
July 10, 2015

## Haywood County

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.