

**GREENWAY EASEMENT
JACKSON COUNTY GREENWAY
RIVER WALK CULLOWHEE**

Prepared by: Jackson County Attorney, Heather C. Baker
After Recording Return to: County of Jackson, 401 Grindstaff Cove Road, Sylva,
NC 28779

**NORTH CAROLINA
JACKSON COUNTY**

Tax Parcel No.7559-49-9583

THIS GREENWAY EASEMENT is made this _____ day of _____, 2017, by and between **THREE MOOSE VILLAGE, LLC**, a North Carolina limited liability company, 2770 Electric Road, Suite C, Roanoke, VA 24018 (“Grantor”) and **COUNTY OF JACKSON**, a political subdivision of the State of North Carolina, 401 Grindstaff Cove Road, Sylva, NC 28779 (“Grantee”).

RECITALS & PURPOSES

A. The Grantor is owner in fee simple of certain real property containing 30.22 acres more or less, located in Cullowhee Township, Jackson County, North Carolina, and more particularly described in Book 2011, Page 539 and as shown on Plat Cabinet 20, Slide 150, Jackson County Public Registry (hereinafter the “Property”).

B. The Grantee is conserving land for the development of greenways, parks, and preserved corridors along various creeks, floodplains, and other areas in Jackson County, including the property which is described in attached Exhibit A.

C. The Grantee wishes to develop and expand the Jackson County Greenway over and upon a portion of the Property and has requested that Grantor grant an easement for such purposes.

D. The Easement Area is described in Exhibit A (the "Easement Area") together with the right of ingress, egress and regress over, upon and across the roads and driveways on the Property to and from the Easement Area for purposes of construction of the Greenway and for maintenance as further described below.

NOW, THEREFORE, in consideration of the premises and the mutual benefits recited herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Grantor hereby unconditionally and irrevocably gives, grants and conveys forever and in perpetuity to the Grantee, its successors and assigns, and the Grantee hereby accepts, this Greenway Easement of the nature and character and to the extent hereinafter set forth in, over, through and across the Easement Area.

ARTICLE I. DURATION OF EASEMENT

This Greenway Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by the Grantee against the Grantor, its representatives, successors, assigns, lessees, agents and licensees.

ARTICLE II. RIGHTS RESERVED TO GRANTOR

A. Public Access. There shall be no access by the Grantee or the public at large granted by this Greenway Easement to any other property of the Grantor, save that over the Easement Area as described and conveyed herein. Grantor shall have the right, but not the obligation, to post signs on the Property indicating where the public is and is not permitted access.

B. Quiet Enjoyment. The Grantor expressly reserves the right to continue to use the Easement Area for all purposes not inconsistent with this Greenway Easement.

ARTICLE III. GRANTEE RESERVED USES AND RESPONSIBILITIES

A. Construction of Trails and Incidental Facilities. The Grantee may construct paved or unpaved greenway trails within the Easement Area, and the following facilities incidental to and for the convenience of users of the greenway trail: observation platforms, boardwalks, litter receptacles, signage, canoe accesses, benches, water bottle filling stations, underground water pipes to provide water to such filling stations, security

cameras, and underground internet and power lines to provide power to such security cameras but in each case only within the Easement Area (the "Other Greenway Improvements").

B. Maintenance. The Grantee shall be responsible, at its expense, for maintaining the Easement Area in good repair with the purposes set forth herein, including maintenance of a greenway trail, the Other Greenway Improvements, mowing, removal of trash, waste and litter, and efforts to control and repair vandalism and other crimes within the Easement Area.

C. Vegetation Management. Within the Easement Area the Grantee may install appropriate native landscaping, remove or control invasive exotic plants, remove dead and dangerous trees, and prune vegetation to ensure the health of the vegetation as well as the safety of the public within the Easement Area.

D. Stream Restoration. The Grantee reserves the right, at its expense, to restore and stabilize the stream channel and bank, based upon prevailing design and permitting standards, to enhance water quality within the Easement Area, provided that the same does not interfere with the retaining walls or other structures of Grantor and does not interfere with the operation of the Property. Restoration and stabilization activities should be based on a design using as many natural materials such as vegetation as practicable and should not include predominantly riprap and, to the extent any work is done outside of the Easement Area, such designs shall be subject to the approval of Grantor. In the event such stream restoration occurs, Grantee shall be responsible for maintaining the integrity of the stream bank.

E. Rules and Regulations. The Grantee shall have the right to promulgate rules and regulations for the reasonable use of the Easement Area by the public provided that the same are approved by the Grantor, which approval shall not be unreasonably withheld, conditioned or delayed, and provided the property is used for the purposes stated herein which shall include only the following: walking, educational tours, scientific study of the Easement Area and its natural ecosystems, hiking, bike riding, jogging, picnicking, and other uses defined in the Jackson County Greenway Plan.

F. Motor Vehicles. The Grantee may use motor vehicles on the greenway trail but only to carry out the purposes of this Greenway Easement and for security purposes within the Easement Area.

ARTICLE IV. CONSTRUCTION AND MAINTENANCE AGREEMENT

A. Grantor hereby grants and establishes to and for the benefit of Grantee an easement, license, right and privilege (the "Construction and Maintenance Easement") upon, over and under that area of the Grantor Property extending ten feet (10') in each direction of the Easement Area and across the vehicular drive (but not the parking area) of the Property (the "Construction and Maintenance Easement Area") for the purpose of enabling Grantee, its agents, contractors and employees, to construct and maintain the

Greenway Improvements within the Easement Area; provided that Grantee obtains Grantor's prior approval for all access and other activities, construction materials shall not be stored on the Property, construction vehicles and trailers shall not be parked on the Property and construction work shall not be done before 8am or after 8pm. Grantee shall be responsible for repairing any damage caused by Grantee, its agents, contractors and employees and by members of the public, to any portion of the Grantor Property and the improvements thereon to as close as reasonably practicable to the condition that existed prior to such damage including, without limitation, damage to lawns, landscaping and paved areas. Grantee shall take reasonable efforts to ensure that business operations on the Grantor Property are not affected in any manner. In no event may access to the Grantor Property be blocked during Grantee's construction or maintenance of the Greenway Improvements.

B. The Construction and Maintenance Easement Area shall only be used for construction and maintenance of the Greenway Improvements by the Grantee, its agents, contractors and employees and shall not be used as a parking area for public access to the Greenway. Grantor shall have the right, but not the obligation, to tow vehicles from the Property and to post signs related thereto.

ARTICLE V. MISCELLANEOUS

A. Intentionally omitted.

B. Notices. 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.

TO HAVE AND TO HOLD the said rights and easements perpetually unto the Grantee for the aforesaid purposes. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon the Grantor, the Grantor's representatives, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

[SEE FOLLOWING PAGES FOR SIGNATURES AND NOTARY]

IN WITNESS WHEREOF, Grantor and Grantee, by authority duly given, have executed this Greenway Easement the day and year above written.

GRANTOR:

COUNTY OF JACKSON, A Political Subdivision
and Body Politic of the State of North Carolina

By: _____
BRIAN THOMAS MCMAHAN, Chairman
Jackson County Board of Commissioners

ATTEST:

By: _____
Angela M. Winchester, Clerk to the Board

NORTH CAROLINA
JACKSON COUNTY

I, _____, a Notary Public, do hereby certify that ANGELA M. WINCHESTER personally appeared before me this day, with whom I am personally acquainted, who, being by me duly sworn, says that she is the Clerk to the Jackson County Board of Commissioners, and that BRIAN THOMAS MCMAHAN is the Chairman of the Jackson County Board of Commissioners, the entity which executed the foregoing and annexed instrument; that she knows the common seal of said County of Jackson; that the seal affixed to the name of the County of Jackson was subscribed thereto by said Chairman of the Board of Commissioners and that said Chairman of the Board of Commissioners and said Clerk to the Board of Commissioners subscribed their names thereto, and said common seal was affixed by order of the Board of Commissioners, and said instrument is the act and deed of said County of Jackson.

WITNESS my hand and notarial seal, this ____ day of _____, 2017.

Notary Public

My Commission Expires: _____

(NOTARIAL SEAL-STAMP)

GRANTEE:

THREE MOOSE VILLAGE, LLC, a North
Carolina limited liability company

By: Bradley Family Investors, LLC, its Manager

By: _____
Name: Wesley C. Bradley
Title: President

COMMONWEALTH OF VIRGINIA

COUNTY OF _____

I certify that the following person personally appeared before me this day,
acknowledging to me that he/she voluntarily signed the foregoing document for the
purpose stated therein and in the capacity indicated: President of Bradley Family
Investors, LLC, Manager of Three Moose Village, LLC

Date: _____, 2017

Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal)

My commission expires: _____

EXHIBIT A

Description of Easement Area Three Moose Village, LLC to County of Jackson

BEING AND COMPREHENDING THE 20' wide easement area consisting of approximately .821 Acres or 35,744 Square Feet between the New Greenway Easement Lines as shown on the Plat entitled 20' Easement For Jackson County Across the property of Three Moose Village, LLC and recorded in Plat Cabinet _____, Slide _____, Jackson County Public Registry reference to which is made for a full and complete description and by Metes and Bounds Description as follows:

Metes and Bounds Description:

Beginning at a calculated point, said point being S 63°05'44" W a distance of 14.16' from an existing concrete monument;

**thence S 63°05'44" W a distance of 20.06' a calculated point;
thence N 31°28'27" W a distance of 157.13' a calculated point;
thence N 33°07'31" W a distance of 185.71' a calculated point;
thence N 38°44'55" W a distance of 36.76' a calculated point;
thence N 29°39'47" W a distance of 59.60' a calculated point;
thence N 33°07'36" W a distance of 77.05' a calculated point;
thence N 22°25'59" W a distance of 25.17' a calculated point;
thence N 28°48'51" W a distance of 47.67' a calculated point;
thence N 12°42'05" W a distance of 31.34' a calculated point;
thence N 22°25'59" W a distance of 372.98' a calculated point;
thence N 10°44'25" W a distance of 86.97' a calculated point;
thence N 21°23'08" W a distance of 54.85' a calculated point;
thence N 08°31'55" W a distance of 245.92' a calculated point;
thence N 11°50'48" W a distance of 73.11' a calculated point;
thence N 01°12'09" W a distance of 78.84' a calculated point;
thence N 10°59'40" E a distance of 124.13' a calculated point;
thence N 20°16'13" E a distance of 137.97' a calculated point;
thence S 71°07'04" E a distance of 20.00' to a 1" open iron pipe;
thence S 20°15'49" W a distance of 136.93' a calculated point;
thence S 10°59'40" W a distance of 120.27' a calculated point;
thence S 01°12'09" E a distance of 74.84' a calculated point;
thence S 11°50'48" E a distance of 71.82' a calculated point;
thence S 08°31'55" E a distance of 244.25' a calculated point;
thence S 21°23'08" E a distance of 54.46' a calculated point;
thence S 10°44'25" E a distance of 86.79' a calculated point;
thence S 22°25'59" E a distance of 372.63' a calculated point;
thence S 12°42'05" E a distance of 30.21' a calculated point;
thence S 28°48'51" E a distance of 45.95' a calculated point;
thence S 22°25'59" E a distance of 24.41' a calculated point;
thence S 33°07'36" E a distance of 75.78' a calculated point;
thence S 29°39'47" E a distance of 58.62' a calculated point;
thence S 38°44'55" E a distance of 36.15' a calculated point;
thence S 33°07'31" E a distance of 186.98' a calculated point;
thence S 31°28'27" E a distance of 159.01' a calculated point;
which is the point of beginning and having an area of 35,744 square feet or 0.82 acres.**

This conveyance of easement is granted subject to all existing rights of way and easements within the Easement Area including but not limited to the 20' sewer Right of Way Agreement described in Deed Book 375, Page 313 Jackson County Public Registry.