

MEMORANDUM OF UNDERSTANDING
AND GRANT AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING AND GRANT AGREEMENT, hereinafter referred to as “Grant Agreement” entered into this _____ day of _____, 2019 by and between the COUNTY OF JACKSON, a body politic and subdivision of the State of North Carolina, hereinafter referred to as “County” and the TOWN OF SYLVA, a North Carolina Municipality, hereinafter referred to as “Town”;

WITNESSETH

WHEREAS, The Conservation Fund, a Nonprofit Corporation organized and existing under the laws of the State of Maryland, hereinafter “The Conservation Fund” is a nonprofit conservation entity that has worked in 50 states to protect over eight (8) million acres of land since 1985 (230,539 acres in North Carolina) and has been awarded accreditation from the Land Trust Accreditation Commission; and

WHEREAS, Mainspring Conservation Trust, Inc. is a North Carolina nonprofit corporation whose mission is land and water conservation that has been awarded accreditation from the Land Trust Accreditation Commission; and

WHEREAS, The Conservation Fund is under contract to purchase 441.53 acres, more or less, of real property located off of Black Rock Road, Sylva, NC, hereinafter the “Subject Property”. Details of the property may be found in the following:

Deed Book Reference	Tax Map Reference	Site Size
Book 1669, Page 540	7654-48-1575	+/- 20.18 acres
Book 1677, Page 659	7654-47-7910	+/- 8.98 acres
Book 1677, Page 661	7654-57-0586	+/- 8.97 acres
Book 1425, Page 290	7654-24-5944	+/- 403.40 acres
		+/- 441.53 Total Acres

and;

WHEREAS, the Conservation Fund has funded two independent appraisals that have been conducted on the Subject Property in order to ascertain fair market value; and

WHEREAS, the appraisals have determined the fair market value of the Subject Property to be approximately at or above the acquisition costs; and

WHEREAS, upon its purchase of the Subject Property at a total acquisition cost of \$2,088,225 (does not include \$16,600 in stewardship costs and \$74,225 reduction in sales price that would increase total project cost to \$2,179,050 as identified in the NC Clean Water Management Trust Fund grant agreement), The Conservation Fund intends to transfer fee title of the Subject Property to the Town subject to a conservation easement that will allow for the most flexible use of the property in the future as it relates to passive recreational uses to include non-commercial hunting, non-commercial fishing, hiking, walking, non-motorized biking, scientific study, animal/plant observation, nature and environmental education, historic tours, photography and any other purposes consistent with these accepted uses; and

WHEREAS, the Town is willing to accept ownership of the property with certain conditions; and

WHEREAS, the conservation easement will be managed by Mainspring Conservation Trust, Inc.; and

WHEREAS, the North Carolina Clean Water Management Trust Fund (CWMTF) has awarded \$1,021,600 towards the acquisition and easement maintenance costs associated with the purchase of the Subject Property for conservation purposes; and

WHEREAS, the Town has agreed to be the direct recipient of \$1,005,000 of the CWMTF's \$1,021,600 grant award (\$16,600 to be paid directly to Mainspring Conservation Trust for easement maintenance); and

WHEREAS, the Town will commit the \$1,005,000 in CWMTF grants funds to the total \$2,088,225 acquisition costs of the Subject Property for conservation purposes; and

WHEREAS, the Town has committed an additional \$250,000 to the total \$2,088,225 acquisition costs of the Subject Property for conservation purposes; and

WHEREAS, the County has conditionally committed an additional \$250,000 to the total \$2,088,225 acquisition costs of Subject Property for conservation purposes; and

WHEREAS, The Conservation Fund has committed an additional \$583,225 from private donations to the total \$2,088,225 acquisition costs of the Subject Property for conservation purposes; and

WHEREAS, it is anticipated that The Conservation Fund will initially incur all property purchase costs associated with the acquisition of the Subject Property with the understanding that the Town, upon receipt of title to the Subject Property, will reimburse The Conservation Fund \$1,005,000 in CWMTF grant funds and \$500,000.00 which includes the \$250,000.00 the Town has committed and the \$250,000.00 the County has committed if certain conditions enumerated below have been satisfied.

NOW THEREFORE, in consideration of the promises and assurances recited herein, and the payment of One (\$1.00) Dollar, and other good and valuable considerations, the parties hereto agree as follows:

1. That the Town and the County, prior to the purchase of the property, have received copies of both certified appraisals and the Town and the County are satisfied that the purchase price paid by The Conservation Fund is at or below fair market value as determined by the appraisals and as required by the North Carolina Constitution.
2. That the County and Town are satisfied with the proposed conservation easement to be placed onto the property prior to the Town's ownership and that it allows for the most flexible use of the property in the future as it relates to passive recreational uses to include non-commercial hunting, non-commercial fishing, hiking, walking, non-motorized biking, scientific study, animal/plant observation, nature and environmental education, historic tours, photography and any other purposes consistent with these accepted uses.
3. Once conditions 1 and 2 above are satisfied, the County agrees to transfer \$250,000 to the Town with the following additional conditions agreed upon between the County and Town.
4. That the Subject Property must be transferred into the Town's fee simple ownership.
5. That the Town, upon receipt of title to the Subject Property, will reimburse The Conservation Fund \$1,005,000 in CWMTF grant funds and \$500,000.00 which includes the \$250,000.00 the Town has committed and the \$250,000.00 the County has committed.
6. That the Town shall not restrict or prohibit any allowable passive recreational uses including non-commercial hunting, non-commercial fishing, hiking, walking, non-motorized biking, scientific study, animal/plant observation, nature and environmental education, historic tours, photography and any other purposes consistent with these accepted uses without mutual consent of the County and the Town. Mutual consent to be by written approval of the governing bodies of the County and the Town.
7. That the Town will not transfer the Subject Property in fee simple or transfer use or full or partial control of the Subject Property without the written consent of County.
8. That the Town agrees that if the Town never receives fee simple ownership of the Subject Property and/or if the Town ever restricts or prohibits a passive recreational use as defined by the conservation easement placed on the property and/or if the Town ever transfers the title or use of the property without the written consent of the County, the Town shall reimburse the County its \$250,000 in funds the County paid to the Town as reimbursement towards the acquisition costs of the Subject Property. Such payment shall be due no later than (i) thirty (30) days after the Subject Property is restricted or prohibited from an allowable passive recreational use as defined in the conservation easement placed on the Subject Property or (ii) thirty (30) days after the property is transferred to an entity without County's written approval.
9. That this Grant Agreement represents the entire agreement between the parties and shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.
10. That this Grant Agreement shall be governed by the laws of the State of North Carolina and may not be changed, altered, or modified in any way, unless in writing signed by both parties.

[SIGNATURES ON FOLLOWING PAGE]

IN TESTIMONY WHEREOF, this Agreement has been executed in duplicate by the County of Jackson and the Town of Sylva pursuant to authority duly given by Resolution of their respective boards.

COUNTY OF JACKSON

By: _____
Brian Thomas McMahan, Chairman

ATTEST:

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

TOWN OF SYLVA

By: _____
Lynda Sossamon, Mayor

ATTEST:

By: _____
Amanda W. Murajda, Town Clerk