

**Northern Virginia Regional Park Authority**  
**RFP #2020-005 Mitigation and Ecosystem Banks**

**Conservation Easements and Special Conditions: Exhibits G-K**

**NOTE TO TITLE EXAMINERS:** This conservation easement contains restrictions on permitted uses and activities on the property described below, which run with the land and are applicable to the property in perpetuity.

Insurer: Lawyer's Title Insurance Corporation

Prepared by and when recorded, please return to:  
Virginia Department of Historic Resources  
2801 Kensington Avenue  
Richmond, VA 23221



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Gary M. Clemens, Clerk

Plat# 201409190052681

PIN No. 323-26-0591-000

Exempted from recordation taxes  
under the Code of Virginia (1950), as amended,  
§§ 58.1-811(A)(3) and 58.1-811(D)  
and from Circuit Court Clerk's Fees under §17.1-266

## **DEED OF CONSERVATION EASEMENT**

**Gilbert's Corner Regional Park Tract  
on the Aldie Battlefield**

Loudoun County

VDHR EASEMENT FILE NO. 053-5056-0002\_ep

THIS DEED OF CONSERVATION EASEMENT made this 12<sup>th</sup> day of September, 2014, by the **NORTHERN VIRGINIA REGIONAL PARK AUTHORITY**, a regional park authority and political subdivision of the Commonwealth of Virginia, and its successors and assigns, whose address is 5400 Ox Road, Fairfax Station, Virginia 22039 ("Grantor"), and the **COMMONWEALTH OF VIRGINIA, BOARD OF HISTORIC RESOURCES ("VBHR")**, whose address is: Virginia Department of Historic Resources, 2801 Kensington Avenue, Richmond, Virginia 23221 ("Grantee").

### **RECITALS:**

**R-1** Grantor is the owner in fee simple of real property situated in Loudoun County, Virginia, containing in the aggregate 68.28 acres, more or less, fronting U.S. Route 50/John S. Mosby Highway, as more particularly described on **Exhibit A** attached hereto and referenced herein (the "Property"), and known as the Gilbert's Corner Regional Park Tract on the Aldie Battlefield. The Property contains, as of the Effective Date of this Deed of Conservation Easement (the "Effective Date" is hereinafter defined in Section V, Paragraph 5.19 below), the historic resources and features described in Section II, Paragraph 2.3 below.

**R-2** Grantor and Grantee desire to protect in perpetuity the historic battlefield, archaeological, historic, forestal, agricultural, water quality, and open-space values on the Property, as described in Section 1, Paragraph 1.2 below (the “Preservation and Conservation Values”). Grantor and Grantee intend to accomplish such protection by restricting the use of the Property, and to that end Grantor desires to grant and convey to Grantee and Grantee desires to accept a perpetual conservation easement over the Property, all as more particularly set forth herein (the “Easement”).

**R-3** Chapter 461 of the Acts of 1966, codified in Chapter 17, Title 10.1, Sections 10.1-1700 through 10.1-1705 of the Code of Virginia, as amended (the “Virginia Open-Space Land Act”), provides that the provision and preservation of permanent open-space land, including property preserved for historic, agricultural, or open-space purposes, are necessary to help curb urban sprawl, to prevent the spread of urban blight and deterioration, to encourage and assist more economic and desirable urban development, to help provide or preserve necessary park, recreational, historic and scenic areas, and to conserve land and other natural resources and authorizes the acquisition of interests in real property, including easements in gross, as a means of preserving open-space land.

**R-4** Chapter 22, Title 10.1 of the Code of Virginia, entitled “Historic Resources,” was enacted to support the preservation and protection of the Commonwealth of Virginia’s significant historic, architectural, archaeological, and cultural resources and charges Grantee to designate as historic landmarks to be listed in the Virginia Landmarks Register such buildings, structures, districts, and sites which it determines to have local, statewide, or national significance. Pursuant to Section 10.1-2204(A)(4) of the Code of Virginia, Grantee is authorized to acquire easements in such properties and Grantee has the resources to manage and enforce the restrictions in this Easement and the commitment to do so.

**R-5** The Virginia Department of Historic Resources (“VDHR”), an agency of the Commonwealth of Virginia, represents that its mission is “to foster, encourage, and support the stewardship of Virginia’s significant historic, architectural, archaeological, and cultural resources.” Under the leadership of its Director, VDHR administers such easements on behalf of Grantee.

**R-6** Grantee is a public body under the Virginia Open-Space Land Act, as an agency of the Commonwealth of Virginia, and is authorized under the Virginia Open-Space Land Act, to receive and acquire properties and easements in gross or other interests in properties for the purpose of, among other things, the preservation and protection of historic resources in Virginia, and Grantee is willing to accept this perpetual Easement over the Property as herein set forth.

**R-7** Article XI of the 1971 Constitution of the Commonwealth of Virginia declares the preservation of historic properties and sites to be a policy of state government, and Section 1 of that article provides that “[I]t shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands and its historic sites and buildings. Further, it shall be the Commonwealth’s policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment and general welfare of the people of the Commonwealth.”

**R-8** As required under Section 10.I-1701 of the Virginia Open-Space Land Act, the use of the Property for open-space land, which includes the provision or protection of the real property for “(i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) historic or scenic purposes, (iv) assisting in the shaping of the character, direction, and timing of community development, (v) wetlands as defined in § 28.2-1300 of the Code of Virginia, or (vi) agricultural and forestal production,” conforms to the official Loudoun County Comprehensive Plan. The Property is designated as within the Rural Policy Area on the County’s future land use map. The Rural Policy Area was established to support the preservation of “Green Infrastructure,” which the plan defines to include the physical environment of public open space and trails, stream valleys, floodplains, wetlands, and mountainsides, as well as the scenic byways and vistas, historic and archaeological sites. The Property is also within the Route 15 South Planning Subarea, which area is planned for rural economy uses and limited residential development to protect the rural character of the western portion of the County.

**R-9** In accordance with the Virginia Open-Space Land Act, the purposes of this Easement (as defined in Section I, Paragraph 1.2 below) include retaining and protecting the historic battlefield and the archaeological and historic aspects of the Property, the use of the Property for agricultural, forestal, and open-space purposes, the protection of natural resources, and maintaining or enhancing water quality, and limiting and restricting the use of the Property, including but not limited to division or subdivision of the Property, alterations to historic buildings, structures, amenities and features on the Property, new construction, and ground disturbing activities, ensure that the Property will remain perpetually protected for open-space uses, all as more particularly set forth below.

**R-10** “The Civil War Sites Study Act of 1990” (Pub. L. 101-628, Title XII Sections 1201-1210, as amended by 16 U.S.C. § 1a-5) authorized the establishment of the Civil War Sites Advisory Commission (“CWSAC”). The fifteen-member Commission, appointed by Congress and the Secretary of the Interior, was asked to prepare a study that identified the nation’s historically significant Civil War sites; determined their relative importance and condition; assessed threats to their integrity; and recommended alternatives for preserving and interpreting the sites. In 1993, the CWSAC issued its report to Congress, titled “The Report on the Nation’s Civil War Battlefields” (“CWSAC Report”), which prioritized the importance, condition of, and the threats to American Civil War battlefields. The CWSAC also recommended that the federal government establish a program for acquisition and protection of priority battlefields that would authorize direct matching grants to state and local governments, educational institutions, and to qualified non-profit Civil War battlefield preservation organizations working in coordination with the Federal and state battlefield protection programs.

**R-11** The “American Battlefield Protection Act of 1996” (16 U.S.C. § 469k) was established to “assist citizens, public, and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.” This legislation authorized the Secretary of the Interior, acting through the American Battlefield Protection Program (“ABPP”), to encourage, support, assist, recognize, and work in partnership with citizens, federal, state, local, and tribal



governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a national, state, and local level.

**R-12** The “Civil War Battlefield Preservation Act of 2002” (16 U.S.C. § 469k), amended the American Battlefield Protection Act of 1996, and stated among its purposes in Section 469k(2)(a) to “act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchase of those battlefields from willing sellers,” and in Section 469k(2)(b) to “create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.” This legislation authorized the Secretary of the Interior to establish a battlefield acquisition grant program for the preservation and protection of “eligible sites.” An “eligible site” is defined as a site (i) that is not within the exterior boundaries of a unit of the National Park System and (ii) that is identified in the CWSAC Report (16 U.S.C. § 469k-1(c)(1)(C)).

**R-13** The “American Battlefield Protection Program Authorization of 2009” (16 U.S.C. § 469k-1) replaced the “Civil War Battlefield Preservation Act of 2002” (16 U.S.C. § 469k). The ABPP, under the authority of the American Battlefield Protection Program Authorization of 2009, as amended (16 U.S.C. § 469k-1), awarded a grant of seventy eight thousand two hundred seven dollars and zero cents (\$78,207.00) from the Land and Water Conservation Fund to Grantor for acquisition of a 10.0-acre portion of the Property, a 5.34-acre portion of which is within the study area of the Aldie Battlefield as described in Article V, Paragraph 5.3(b) below and shown on Exhibit A attached hereto. As such, this 10.0-acre portion of the Property is subject to 16 U.S.C. § 4601-8(f)(3) of the Land and Water Conservation Fund Act ((16 U.S.C. §§ 4601-4 – 4601-11 (2014))), which section contains a provision stating that no property acquired or developed with grant assistance shall be converted from conservation/recreation uses, other than with the approval of the Secretary of the Interior.

**R-14** In accordance with the American Battlefield Protection Program Authorization of 2009 (16 U.S.C. § 469k-1) and Section 6(f)(3), lands and interests in land acquired with Land and Water Conservation Fund assistance can be converted to a use other than conservation and open space only upon the written permission of the Secretary of the Interior, acting through the ABPP, as set forth in Paragraph 5.3 (Conversion or Diversion) below, and only upon the substitution of other land of equal market value and of reasonably equivalent usefulness and location for conservation/recreation purposes to be perpetually protected for conservation and open-space purposes. *See* 16 U.S.C. § 4601-8(f)(3) and 36 C.F.R. 59.3.

**R-15** As of the Effective Date, the Property contains approximately five and thirty-four one hundreds (5.34) acres of land within the study area of the Aldie Battlefield, as determined by the CWSAC, which Commission has given the Battlefield a Preservation Priority III.3 Class C Rating. The CWSAC Report defines Priority III battlefields as those with good to fair integrity, but in need of “additional protection” by state and local governments or private entities, and further defines Class C battlefields as those “having an observable influence on the outcome of a campaign,” in this case the Gettysburg Campaign from June to August 1863 (*American Battlefield Protection Program Technical Volume II: Battle Summaries, 1997 (rev. 2009)*).

**R-16** Phase II of the June 1863 battle occurred on the Property and marked the Federal approach to Aldie along the Ashby's Gap Turnpike. Federal Brigadier General David McMurtrie Gregg, under the directions of Brigadier General Alfred Pleasonton, led the advance of 1,200 troops westward along the Ashby's Gap Turnpike (modern U.S. Route 50) and the Property's southern boundary toward the Village of Aldie. Confederate pickets moving eastward toward the intersection of Ashby's Gap Turnpike, Snickers Gap Road, and the Little River Turnpike in the Village of Aldie encountered the Federal advance. Both sides made mounted assaults by regiments and squadrons with inconclusive results.

**R-17** In the opinion of the VDHR, the Property meets the "Criteria for Evaluation" for listing on the National Register of Historic Places (36 C.F.R. 60.4). Because the Property is associated with military events that made a significant contribution to the course of the American Civil War, the Property would qualify for listing under National Register "Criterion A" as an historic battlefield, particularly for its role in the June 17, 1863 Battle of Aldie. Critical landscape features integral to the Aldie Battlefield remain intact, particularly the alignment of the Ashby's Gap Turnpike, also known as U.S. Route 50 or the John S. Mosby Highway which forms the southern boundary of the Property. The Property retains integrity of setting, location, feeling, and association as a Civil War battlefield and as a cultural landscape.

**R-18** Based upon the Property's location within the study area of the Aldie Battlefield, there is potential that archaeological sites, features, and deposits representative of troop movements associated with this Civil War battle remain intact.

**R-19** The Property contains three (3) archaeological sites documented through professional archaeological survey (the "Known Archaeological Sites"), all of which represent prehistoric use and occupation of the Property and which are recorded in the permanent archives of the VDHR.

**R-20** The Intermodal Surface Transportation Efficiency Act ("ISTEA") (23 U.S.C. § 101), established by Congress in 1991, requires each state to set aside ten percent (10%) of its Surface Transportation Fund monies to fund transportation enhancement projects. Eligible projects include, among other activities, installation of sidewalks, pedestrian and other trails, restoration of historic transportation-related buildings and structures and acquisition of lands and/or easements to preserve historic cultural landscapes, battlefields and scenic vistas along state designated Virginia Byways. Because acquisition of the Property supported a state designated byway, the relationship to surface transportation was established. In Virginia, the Department of Transportation is charged with allocating federal funds as part of the Transportation Enhancement program. Grantor's acquisition of the Property was funded in part through a Fiscal Year 2013 grant in the amount of five hundred and nineteen thousand dollars (\$519,000.00) awarded under the Transportation Enhancement program.

**R-21** Pursuant to Sections 10.1-1020 and 10.1-1022 of the Code of Virginia, the Virginia Land Conservation Foundation ("VLCF") has awarded a grant in the amount two hundred thousand dollars and zero cents (\$200,000.00) for the acquisition of the Property to ensure the permanent protection of its Preservation and Conservation Values.

**R-22** The Property is located within the Journey Through Hallowed Ground National Heritage Area (“JTHG NHA”), a 175-mile region created by the “Journey Through Hallowed Ground National Heritage Act of 2008” (16 U.S.C. § 461). The JTHG NHA is a corridor that generally follows U.S. Route 15 through four states from Gettysburg in Adams County, Pennsylvania to Monticello in Albemarle County, Virginia. Among its purposes, the JTHG NHA was established to preserve, support, conserve, and interpret the legacy of American History created along the JTHG NHA and to recognize and interpret the effect of the Civil War on the civilian population of the JTHG NHA during the war and post-war reconstruction period.

**R-23** The Property lies within the Mosby Heritage Area, an 1,800-acre portion of Northern Virginia designated a Heritage Area by the State of Virginia in 1995 to increase awareness of the historic, scenic, and natural qualities of the region, which area was named for Civil War Confederate Cavalry Officer John S. Mosby, and is supported by the Mosby Heritage Area Association, Inc.

**R-24** The Property, as of the Effective Date, contains approximately fourteen and five-tenths (14.5) acres of open fields and meadows used for agricultural crop production and forty and eight tenths (40.8) acres of land forested or wooded cover. As of the Effective Date, the Property is unimproved, and is used for agricultural production and as open space.

**R-25** The Property lies adjacent to or nearby lands protected by historic preservation and open-space easements held by Grantee and recorded among the land records of Loudoun County, Virginia, including (i) to the southeast, the 6.8 acre Mount Zion Old School Baptist Church tract, recorded on May 23, 2002 at Deed Book 2179, Page 829 and (ii) to the west, a 96.7 acre parcel known as the Furr Farm on the Aldie Battlefield, recorded on December 22, 2008 as Instrument Number 20081222-0073649.

**R-26** The Property fronts U.S. Route 50, also known as John S. Mosby Highway and is visible from U.S. Route 15, which routes are public transportation corridors, and the Property represents publicly significant open space in these corridors, and the Property’s historic, open-space, and forestal resources contribute to the rural character and landscape quality and features along these roadways.

**R-27** In accordance with Section 10.1-200 of the Code of Virginia, the *2013 Virginia Outdoors Plan* (the “VOP”) is Virginia’s official document regarding land conservation, outdoor recreation and open space planning. It provides guidance for the protection of lands through actions of the Virginia Land Conservation Foundation, and the VOP is required in order for Virginia to take part in the federal Land and Water Conservation Fund (“LWCF”) program.

1. Chapter 5 of the VOP, titled “Conservation Planning” states the following:
  - a. “Conserved open-space lands provide benefits in terms of working (agricultural and forestal) landscapes, scenic landscapes, recreation, natural areas and parks, cultural and historic resource protection, natural resource protection, water quality improvement and maintenance, and carbon sequestration, along with the economic benefits associated with these functions.” (VOP, Page 5.2)

- b. "Preservation of historic resources is linked with land conservation and open-space protection. As development spreads throughout the Commonwealth, it is even more important to protect cultural and archaeological resources. These historic resources provide insight into the social, cultural and economic development of Virginia and give citizens a tangible link to the past. These resources include historic houses, commercial buildings, factories, mills, churches, battlefields, archaeological sites and cultural landscapes. It is sound environmental policy to protect these resources which preserve important pieces of the past needed to inspire and inform future generations." (VOP, Page 5.6)
  - c. "Proactive measures must be taken now to preserve Virginia's historic resources. Such actions should be comprehensive in scope, considering the resource as well as its surroundings and context. When a historic building is preserved, it is also important to protect its historic setting and landscape, including existing archaeological and other resources, if possible. Collectively, these elements provide a more accurate and rich understanding of the past." (VOP, Page 5.7)
2. Chapter 10 of the VOP, titled "Regional Analysis/Recommendations," establishes outdoor recreational planning regions, and the Property is within Region 8: Northern Virginia. The VOP states among its land conservation recommendations for this region:
- a. "Regional and local organizations and agencies should support land-protection efforts on priority lands, as identified by conservation partners in the region. Lands for protection may include those located adjacent to rivers and tributaries, national and state park and forest lands, other parks and natural areas, core battlefield areas, properties on the state and national historic registers, and state scenic byways." (VOP, Page 10.91)
  - b. "Continue focus on Gilbert's Corner as an important historic landscape." (VOP, Page 10.94)
  - c. "Regional and local agencies and organizations should partner to preserve historic battlefield sites, including Aldie, Middleburg, and Upperville battlefields and their environs." (VOP, Page 10.98)

**R-28** This Easement constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to clearly delineated governmental policies set forth below:

- 1. Land conservation documents and policies of the United States of America as set forth in:
  - a. The "Report on the Nation's Civil War Battlefields," issued by the CWSAC in 1993, authorized under 16 U.S.C. § 1a-5, cited above.

- b. The “American Battlefield Protection Program Act of 1996,” authorized under 16 U.S.C. § 469k, as amended by the “The Civil War Battlefield Protection Act of 2002,” authorized under 16 U.S.C. § 469k, cited above.
  - c. The “American Battlefield Protection Program Authorization of 2009,” as amended (16 U.S.C. § 469k-1), cited above.
  - d. The Land and Water Conservation Fund Act, 16 U.S.C. § 460l-8(f)(3), cited above.
  - e. The “Journey Through Hallowed Ground National Heritage Act of 2008,” authorized under 16 U.S.C. § 461, cited above.
  - f. The Intermodal Surface Transportation Efficiency Act (23 U.S.C. § 101), cited above.
2. Land conservation policies of the Commonwealth of Virginia as set forth in:
- a. Chapter 22 of Title 10.1, Sections 10.1-2200 through 10.1-2215 of the Code of Virginia, cited above.
  - b. The Virginia Open-Space Land Act, Chapter 18 of Title 10.1, Sections 10.1-1700 through 10.1-1705 of the Code of Virginia, cited above.
  - c. Section 1 of Article XI of the Constitution of Virginia, cited above.
  - d. The John Singleton Mosby Heritage Area, cited above.
  - e. The Virginia Outdoors Plan (2013), Chapter 10.1-200 of the Code of Virginia, cited above.
  - f. The Virginia Land Conservation Foundation, established in Sections 10.1-1020 and 10.1-1022 of the Code of Virginia, cited above.
  - g. The 2007-2008 Biennial Report of the Virginia Land Conservation Foundation, dated January 2009, which states that meeting Virginia’s land preservation goals under the Chesapeake 2000 Agreement “requires the conservation of 309,692 acres by 2014 or 51,615 acres per year.”
3. Land use policies of the County of Loudoun as delineated in:
- a. The *Revised General Plan for Loudoun County*, adopted by the Board of Supervisors on September 17, 1991, revised on July 23, 2001, and amended through December 11, 2013 (the “Comprehensive Plan”) to which plan the restrictions set forth in this deed conform as follows:
    - (i) the preservation of the Property will further the goals of Chapter 5: Green Infrastructure: Environmental, Natural, and Heritage Resources, which states that the County will apply a “Green Infrastructure” strategy to guide the implementation of environmental policies, with such policies including “the County will proactively promote private, state and federal conservation programs and their allocated resources to advance conservation programs within the County through public and private

means such as grants, voluntary easements, dedications, etc.” (Green Infrastructure Policies, 5-9); and that “...the County will stress the importance of heritage resource protection and preservation as a means to protect and preserve the character of the County’s rural roads” (Scenic Areas and Corridors, 5-4); and that “The County will continue to encourage the use of open space easements as a way to complement and enhance the ‘Green Infrastructure’ and its elements” (Open Space Easements).

- (ii) the preservation of the Property will further goals of Chapter 7: Rural Policy Areas, which states that “the County will protect its natural and cultural-resource base (including stream corridors, wetlands, steep slopes, ridges, mountains, working landscapes, woodlands, historic and archaeological resources, habitats, greenways, trails, reservoirs and public facilities) in order to preserve the rural character of the land and the social and experiential aspects of the rural way of life” (Land Use Design and Strategy Policies, 7-2); and that the “County supports the Rural Policy Area as a permanent rural landscape, a unique composite of natural and man-made environments, farms and forestal areas, natural areas and wildlife habitats, villages, and hamlets. The County will permit development in the Rural Policy Area that promotes opportunities for the expansion of rural economic uses, open space, farms, historic and natural areas, forests, the “Green Infrastructure,” and protects the rural character of the landscape” (Land Use Design and Strategy Policies, 7-8).
- b. The *Loudoun County Heritage Preservation Plan* (“Heritage Plan”), adopted by the Board of Supervisors on December 15, 2003 and as amended on February 9, 2009 (CPAM 2008-0001), which states in Chapter 5: Cultural Landscapes that, “Among Loudoun County’s significant cultural landscapes are its Civil War Battlefields” and “One of the primary goals of the Heritage Preservation Plan is to promote the identification and preservation of Loudoun’s heritage resources, including its historic battlefields” (Cultural Landscapes, Page. 26) and identifies the Battle of Aldie as one of the four principal battles of the Civil War in Loudoun County identified by the Civil War Sites Advisory Commission (CWSAC) (Cultural Landscapes, Page 26) and articulates policies that state that “[w]hen Loudoun properties are found to be on a battlefield identified by CWSAC [...] the County will work with private organizations to provide information to property owners about site protection, conservation, and management. This information will include a summary of tax and other preservation benefits of voluntary conservation easements” (Cultural Landscapes, Page 30); and in Chapter 10 Heritage Tourism encourages “The development of new heritage sites should be encouraged and fostered, such as those associated with Civil War battles and skirmishes and other historical events.” (Heritage Tourism, Page 35)

**R-29** Grantee has engaged in a rigorous review, considered and evaluated the benefits provided by this Easement to the general public as set forth in these recitals, and concluded that the protection afforded the historic and open-space values of the Property by this Easement will yield a significant public benefit and further the conservation objectives of Grantee and the Commonwealth of Virginia.

**R-30** Grantee has determined that the restrictions and covenants set forth in this Easement will preserve and protect in perpetuity the Preservation and Conservation Values of the Property, which values are reflected in this Easement and in Grantee's evaluation of the Property. The documentation of the condition of the Property is contained in the Grantee's files and records as further described below in Section IV, Paragraph 4.1 (Baseline Documentation Report). In addition, Grantee has determined that the restrictions and covenants will limit the uses of the Property to those uses consistent with, and not adversely affecting, the Preservation and Conservation Values of the Property and the other governmental conservation policies furthered by this Easement.

**R-31** Grantee, by acceptance of this Easement, designates the Property as property to be retained and used in perpetuity for the preservation and provision of open-space land pursuant to the Virginia Open-Space Land Act.

#### **EASEMENT:**

**NOW THEREFORE**, in recognition of the foregoing recitals incorporated herein and made a part hereof and in consideration of the mutual covenants herein and their acceptance by Grantee, Grantor does hereby GRANT and CONVEY to Grantee a conservation easement in gross (this "Easement") over, and the right in perpetuity to restrict the use of the Property, which is described below and on **Exhibit A** attached hereto, and which Property consists of 68.28 acres, more or less, located in Loudoun County, Virginia, to-wit:

ALL that certain parcel or tract of land as shown on the plat of survey made by Wolford and Chen, P.C., titled "Gilbert's Corner Regional Park, LWCF-ABPP 6f Boundary Map (Tax Map 90, Parcel 24) (PIN 323-26-0591-000) Blue Ridge Election District, Loudoun County, Virginia" dated June 13, 2014, a copy of which plat is attached hereto as **Exhibit A**.

As of the Effective Date, the Property is shown as PIN 323-26-0591 among the land records of the County of Loudoun, Virginia. Even if the Property consists of more than one parcel for real estate tax or any other purpose, after the Effective Date, it shall be considered one parcel for the purposes of this Easement, and the restrictions and covenants of this Easement shall apply to the Property as a whole and shall bind all successors in interest of such Property in perpetuity.

**AND SUBJECT, HOWEVER**, to the restriction that Grantee or its successors and assigns may not transfer or convey the Easement herein conveyed to Grantee unless Grantee conditions such transfer or conveyance on the requirement that all restrictions and conservation

purposes set forth in the conveyance accomplished by this Easement are to be continued in perpetuity. The provisions of Section 5.10 (Assignment) of this Easement shall likewise apply to any assignment of the interests granted herein.

## **SECTION I: RECITALS AND PURPOSE**

**1.1 RECITALS AND EXHIBITS:** All recitals set forth herein and exhibits attached hereto are hereby incorporated into and made a part of this Easement.

**1.2 PURPOSE:** In accordance with Sections 10.1-1700 and 10.1-1703 of the Virginia Open-Space Land Act, the purpose of this Easement is to preserve and protect the Preservation and Conservation Values of the Property in perpetuity by imposing restrictions on the development, alteration, and use of the Property and providing for their enforcement. The Preservation and Conservation Values of the Property are described in the above recitals, and are documented in the Baseline Documentation Report ("BDR"), and are identified as follows:

- (a) Historic resources, as identified in Paragraph 2.3 below and further documented in the BDR;
- (b) Archaeological resources, both known as identified in Paragraph 2.3 below, and unknown as of the Effective Date;
- (c) Agricultural capacity and productivity;
- (d) Open space, including agricultural and forestal lands.

Grantor covenants that no acts or uses that are inconsistent with the purpose of this Easement or the Preservation and Conservation Values herein protected shall be conducted on the Property.

## **SECTION II: RESTRICTIONS AND COVENANTS**

**2.1 RESTRICTIONS:** The restrictions and covenants hereby imposed on the use of the Property are in accord with the policy of the Commonwealth of Virginia, as set forth in Title 10.1, Chapters 22 and 17 of the Code of Virginia to preserve the Commonwealth's designated historic landmarks, and to preserve historic and open-space lands in the Commonwealth. The acts which Grantor covenants to do and not to do upon the Property, and the restrictions which Grantee is hereby entitled to enforce, shall be as set forth in this Easement.

**2.2 DIVISION:**

- (a) As of the Effective Date, the Property consists of one (1) tax parcel (Loudoun County PIN 323-26-0591) as depicted on Exhibit A attached hereto, and currently comprising 68.28 acres, more or less.
- (b) The Property shall not be divided, subdivided, or conveyed in fee other than as a single tract.



(c) Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered separate conveyances of portions of the Property or divisions or subdivisions of the Property, provided that Grantee approves such adjustments and is made party to any deed creating a boundary line adjustment, and at least one of the following conditions is met:

1. The entire adjacent parcel is subject to a recorded perpetual conservation easement pursuant to the Virginia Open-Space Land Act; or
2. The proposed boundary line adjustment shall have been reviewed and approved in writing in advance by Grantee.

**2.3 EXISTING BUILDINGS, STRUCTURES, AMENITIES AND FEATURES:**  
The following historic buildings, structures, amenities and features exist as of the Effective Date:

- (a) Five and thirty-four hundredths (5.34) acres of historic landscape within the study area of the Aldie Battlefield as determined by the CWSAC.
- (b) The "Known Archaeological Sites," as described in R-19 above and as recorded in the permanent files of the VDHR.

**2.4 PERMITTED NEW BUILDINGS, STRUCTURES, FEATURES, AND AMENITIES:** No new building, structure, feature or amenity shall be built or maintained on the Property other than the following, subject to the requirements imposed by Paragraphs 2.5 (Alterations and New Construction), 2.10 (Archaeology), 2.13 (Ground Disturbing Activities), 2.14 (Roads and Utilities), and 2.15 (Signs) below, and the purposes of this Easement as set forth in Paragraph 1.2 (Purpose) above:

- (a) Amenities such as trails, footpaths and parking facilities, pursuant to Paragraph 2.14 (Roads and Utilities) below; and signs and markers, pursuant to Paragraph 2.15 (Signs) below appropriate for the preservation, maintenance, exhibition, and interpretation of the Property as a battlefield or historic site as described in Paragraph 2.9(a)(1) below, or passive park as described in Paragraph 2.9(a)(2) below.
- (b) New outbuildings and structures such as a shed, kiosk, picnic shelter, restroom, maintenance building, educational or interpretative building, or other buildings or structures ancillary to the Property's use as a battlefield or historic site as described in Paragraph 2.9(a)(1) below, or passive park as described in Paragraph 2.9(a)(2) below, provided that the aggregate footprint for such outbuildings and structures shall not exceed ten thousand (10,000) square feet in ground area and shall be consistent with the maximum allowance for impervious surface coverage set forth below in Paragraph 2.5(b).
- (c) Agricultural buildings; for the purposes of this subparagraph an agricultural building or structure shall mean a building or structure originally constructed and

used for the activities specified in Paragraph 2.9(a)(4) below.

- (d) Reconstructions of historic buildings or structures which are documented through professional historical and/or archaeological investigation to have been located on the Property, which shall be consistent with and evaluated according to the Standards for Review outlined in Paragraph 2.6 below, specifically the *Standards for Reconstruction*.
- (e) Temporary buildings and structures not requiring trenching, footers, a pad or other ground disturbing activities erected for no more than sixteen (16) consecutive calendar days for use by Grantor or Grantor's designees, not to exceed a maximum of one hundred sixty days (160) days per calendar year. Any extension of the sixteen (16) day duration must be reviewed and approved in advance in writing by Grantee.
- (f) Nothing permanent shall be constructed, erected, maintained or allowed to grow above four (4) feet measured from ground level that would obstruct the views of the Property from U.S. Route 50 or U.S. Route 15, except for the shrubs and vegetation existing as of the Effective Date and documented in the BDR. Temporary buildings, and structures, features, fixtures or plants, that would obstruct the views from U.S. Route 50 or U.S. Route 15 may be constructed, erected, maintained or allowed to grow above four (4) feet measured from ground level provided such duration does not exceed one hundred twenty (120) consecutive calendar days or one hundred eighty (180) days total within any calendar year.
- (g) Notwithstanding the above, no new building, structure, amenity, or feature permitted under Paragraph 2.4(b) and 2.4(c) shall be constructed within the 10.0-acre area of the Property located within the study area of the Aldie Battlefield, as shown on **Exhibit A** attached hereto.

## **2.5 REVIEW OF ALTERATIONS AND NEW CONSTRUCTION:**

- (a) No building, structure, amenity or feature permitted in Paragraphs 2.3 (Existing Buildings and Structures) and 2.4 (Permitted New Buildings and Structures) above, including roads and trails permitted in Paragraph 2.14 (Roads and Utilities) below, shall be constructed, altered, restored, renovated, replaced, extended, increased or decreased in height, mass, or footprint, or demolished or removed, in whole or in part, except in a way that would, in the opinion of Grantee, be consistent with the historic character of the Property, the Standards for Review as set forth in Paragraph 2.6 below, and the Preservation and Conservation Values identified in Paragraph 1.2 (Purpose) above and protected by this Easement, and provided the prior written approval of Grantee to any and all such actions shall have been obtained. The location, size, and design, inclusive of but not limited to massing, scale, and materials, of any new permitted building, structure, amenity, feature, road, or utility specified in Paragraphs 2.4 and 2.14 are subject to the prior written approval of Grantee.
- (b) The collective footprint of all permitted construction on the Property, excluding

roads, trails and parking facilities pursuant to Section II, Paragraph 2.14 (Roads and Utilities) below, shall not exceed one-half percent (0.5%) of the total area of the Property. For the purpose of this paragraph, collective footprint is defined as the ground area measured in square feet covered by the buildings, structures, amenities and features, including all roofed decks, porches, stoops and other attached structures, as set forth in Paragraphs 2.3 and 2.4 above, and all other impervious surfaces, excluding roads, trails and parking facilities pursuant to Paragraph 2.14 below.

- (c) The highest roofed structure or component of any permitted building or structure under Paragraph 2.4(a) and 2.4(b) above shall not exceed thirty (30) feet measured from ground level.
- (d) Any new construction, alteration, restoration, or rehabilitation of any building, structure, feature, or amenity undertaken on the Property shall be in conformance with all applicable local, state, and federal laws and regulations concerning any zoning, overlay or historic district in which the Property is located. Compliance with the Easement in no way obviates, negates, waives or satisfies applicable local, state, or federal laws or regulations.
- (e) Any building, structure, amenity, or feature not already in existence as of the Effective Date as set forth in Paragraph 2.3 (Existing Buildings and Structures) or permitted in Paragraph 2.4 (Permitted New Buildings and Structures) above or 2.15 (Signs) below is prohibited.

**2.6 STANDARDS FOR REVIEW:** In exercising any authority created by this Easement to inspect the Property or to review any construction, reconstruction, alteration, repair, or maintenance activity, Grantee shall apply the following documents (hereinafter collectively referred to as the “*Secretary’s Standards*”), as appropriate in the determination of Grantee:

- (a) *Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation* (National Park Service, as amended).
- (b) *Secretary of the Interior’s Professional Qualification Standards* (48 F.R. 44716 (Sept. 1983, as amended).
- (c) *Secretary of the Interior’s Standards for Rehabilitation* (36 C.F.R. 67, as amended).
- (d) *Secretary of the Interior’s Standards for the Treatment of Historic Properties* (36 C.F.R. 68, as amended).
- (e) *Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes* (National Park Service, as amended).

**2.7 GRANTOR’S RESERVED RIGHTS:** Grantor reserves the right to continue all manner of use and enjoyment of the Property, including but not limited to the right

to maintain and repair existing fences; the right to maintain and repair the buildings, structures, amenities and features identified in Paragraphs 2.3 (Existing Buildings and Structures) and 2.4 (Permitted New Buildings and Structures) above, the right to maintain existing or permitted driveways, roads, and paths with the use of same or similar surface materials; the right to use and maintain existing utilities or utility lines; the right to cut, remove, and clear grass or other vegetation and to perform routine maintenance, landscaping, agricultural, and horticultural activities, and upkeep of the Property, consistent with the Preservation and Conservation Values and the provisions contained herein.

**2.8 DESTRUCTION:** In the event that any non-historic building, structure, amenity and/or feature permitted in Paragraph 2.4 (Permitted New Buildings and Structures) of this Easement is destroyed or damaged by causes beyond Grantors' reasonable control, including fire, flood, storm, earth movement, or other acts of God, Grantor shall have no obligation to rehabilitate or reconstruct such building, structure, amenity and/or feature to its condition as existed on the Effective Date or as thereafter altered or changed with the written approval of Grantee.

**2.9 PERMITTED ACTIVITIES:**

(a) Activities on the Property, other than those set out elsewhere in this Easement and the following, are prohibited:

1. Activities that foster the preservation, maintenance, exhibition, and interpretation of the Property as a Civil War battlefield or historic site.
2. Activities that foster passive park uses and do not diminish the Preservation and Conservation Values protected herein. Passive park uses are defined as recreational uses (such as hiking, nature observation, and picnicking) not requiring constructed facilities, but making use of areas which are largely left in their natural state except for basic facilities such as bathrooms, benches, picnic tables, and trails.
3. Temporary or seasonal outdoor activities or events that do not permanently alter the physical appearance of the Property and that do not diminish or impair the Preservation and Conservation Values of the Property herein protected.
4. Activities including (or incidental to) agricultural production, viticulture, forestal or silvicultural production, horticultural production, and livestock production, including the display or sale of agricultural products or livestock grown, raised, or maintained on the Property.
5. Activities conducted within permitted buildings and structures

whereby no changes or alterations are made to the exterior of such buildings or structures, or where such exterior changes or alterations have received the prior written approval of Grantee pursuant to Paragraph 2.5 (Alterations and New Construction) above.

- (b) Grantor reserves the right to continue all activities on and uses of the Property as of the Effective Date; such uses clearly anticipated by and provided for in permitted buildings and structures in Paragraph 2.4 (Permitted New Buildings and Structures); and historic uses of the Property that are not inconsistent or incompatible with the Preservation and Conservation Values.
- (c) Grantor agrees to notify Grantee in writing of any significant change of use of the Property or the commencement of any new activity on the Property not being undertaken or maintained on the Property as of the Effective Date.

## **2.10 ARCHAEOLOGY:**

- (a) Consistent with the requirements of Paragraph 2.13 (Ground Disturbing Activities) below, any and all ground disturbing activities on the Property may require archaeological survey and/or investigation if, in the opinion of Grantee, such ground disturbing activity or earth removal may impact historic amenities and/or features identified in Paragraphs 2.3 or other archaeologically significant deposits, sites or features on the Property, whether known or unknown as of the Effective Date. Generally accepted agricultural activities, including, but not limited to cultivation of agricultural fields, including plowing, disking, harrowing, and use of harvesting machinery, and use of aboveground irrigation equipment that does not involve ground disturbing activities subject to the terms of this Paragraph 2.10, are exempt from this requirement.
- (b) Archaeological survey and/or investigation may be undertaken on the Property only if a scope of work for such survey or investigation is reviewed and approved in writing in advance by Grantee and only if such survey or investigation is performed in accordance with the *Secretary's Standards* set forth in Paragraph 2.6 (Standards for Review) above and under the supervision of a professionally qualified archaeologist meeting or exceeding the *Secretary of the Interior's Professional Qualification Standards*. Any such survey or investigation shall be designed to protect, preserve or recover archaeologically significant deposits, sites, or features in the area of the proposed ground disturbing activity. Additional or more intensive archaeological survey and/or investigation may be required if, in the opinion of Grantee, such survey or investigation is necessary to identify, protect, preserve or recover archaeologically significant deposits, sites or features. Such additional archaeological survey or investigation shall be completed prior to the commencement of the proposed ground disturbing activity.
- (c) Artifacts, both prehistoric and historic, recovered from the Property after the Effective Date shall remain in Grantor's possession. Grantor may choose to

donate any or all artifacts to Grantee or to another educational or museum organization with the prior written approval of Grantee. All artifacts professionally excavated from archaeological deposits, sites, or features on the Property shall be treated, curated, and preserved according to the *Virginia Department of Historic Resources State Collection Management Standards* (June 16, 2011, and as amended or superseded).

- (d) Grantor shall take all reasonable precautions to protect the archaeological deposits, sites or features on the Property identified pursuant to this Paragraph 2.10(a), and 2.10(b), whether known or unknown as of the Effective Date, from looting, vandalism, erosion, mutilation, or destruction from any cause. Grantor shall notify Grantee as soon as practicable but within thirty (30) calendar days following discovery or knowledge of any looting, vandalism, erosion, mutilation, or destruction of archaeological deposits, sites, or features on the Property.
- (e) No archaeological activities of any kind, including the use of non-invasive technologies, may take place on the Property without the express written consent of Grantor and Grantee. Relic hunting of any kind on the Property is expressly prohibited.

**2.11 TRASH:** Accumulation or permanent dumping of trash, refuse, junk, or other unsightly or offensive material is not permitted on the Property. This provision shall not prevent generally accepted agriculture or forest management practices, such as creating brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural by-products on the Property so long as these practices are conducted in accordance with applicable federal, state and local laws and regulations. The accumulation or dumping of any toxic or hazardous material or substance as defined by federal or state law is strictly prohibited. Grantor shall be responsible for removal of trash, refuse, and other unsightly materials present on the Property as of the Effective Date or at any point thereafter, in compliance with applicable laws and regulations.

**2.12 FOREST MANAGEMENT:**

- (a) All forest management, including the planting or removal of timber, undertaken on the Property shall be in accordance with a written plan that is approved in advance, in writing, by Grantee, which approval shall be conditioned upon Grantee's determination that the proposed planting or removal and disposal of timber is consistent with the protection of the Preservation and Conservation Values of the Property and will not harm or destroy any of the following within the area to be managed, planted or timbered or within any area used to stage equipment for such management, planting or timbering:

1. The study area of the Aldie Battlefield as delineated by the CWSAC Report,

as revised and amended, and as described in Paragraph 2.3(a) above.

2. The Known Archaeological Sites described in Paragraph 2.3(b) above.
  3. Any other archaeologically significant deposits, sites, or features, whether known or unknown as of the Effective Date.
- (b) Such written plan shall be submitted to the Grantee for approval sixty (60) business days prior to the commencement of any forest management activity or timbering and shall include a written description and a map of the area to be managed or timbered and a description of the Best Management Practices, as defined by the Virginia Department of Forestry, to be implemented in connection with such forest management activity or timbering. Best Management Practices shall be used to control erosion and protect water quality when any timber management, planting, harvest or land-clearing activity is undertaken.
- (c) Notwithstanding the foregoing, the following activities shall be permitted without requiring the prior written approval of Grantee:
1. Non-commercial, *de minimis* harvest of trees for trail clearing, firewood, or Grantor's personal use;
  2. Removal of individual dead, diseased, or dying trees or invasive species; and
  3. Removal of trees that pose an imminent hazard to existing or permitted buildings, structures, amenities and/or features, to livestock or other domesticated animals maintained on the Property or to human health and safety.

## **2.13 GROUND DISTURBING ACTIVITIES:**

- (a) Any and all ground disturbing activities on the Property, including grading for new construction permitted under Paragraph 2.4 (Permitted New Buildings and Structures) above and the installation of utilities, roads and trails permitted under Paragraph 2.14 (Roads and Utilities) below, but with the exception of generally accepted agricultural activities, are subject to Grantee's prior written approval. Ground disturbing activity or earth removal may require archaeological survey and/or investigation if, in the opinion of Grantee, such ground disturbing activity or earth removal may impact existing historic, amenities and/or features identified in Paragraph 2.3 or other archaeologically significant deposits, sites or features on the Property, whether known or unknown as of the Effective Date.
- (b) Notwithstanding the foregoing, no grading, blasting, earth removal, or other ground disturbing activities is permitted on the Property that will diminish or impair the Preservation and Conservation Values of the Property and without the prior written approval of Grantee.

- (c) Any grading, blasting, earth removal, or other ground disturbing activities approved in writing by Grantee shall be conducted in accordance with all applicable local and state laws and regulations and the *Virginia Erosion and Sediment Control Handbook* (3<sup>rd</sup> ed. 1992, as amended) as issued by the Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation.
- (d) Mining on the Property by strip surface or subsurface mining (including the extraction or removal of gravel or similar materials, whether or not deemed “minerals” under the laws of the Commonwealth of Virginia), dredging on or from the Property, and drilling for oil, gas or any natural resource, excluding fresh water for private use, on the Property, or under the Property from an adjacent or nearby parcel, are prohibited.

#### **2.14 ROADS AND UTILITIES:**

- (a) The construction, location and maintenance of any new roads, trails, parking facilities, utilities, utility lines or rights-of-way that serve permitted buildings, structures, and amenities on the Property, except for rights-of-way existing as of the Effective Date, shall be subject to the prior written approval of Grantee, which approval shall not be unreasonably withheld.
- (b) Other than utilities, utility lines and rights-of-way existing as of the Effective Date, public or private utilities or utility lines that do not serve the Property shall not be constructed, located or maintained on or across the Property unless Grantee determines that the construction and maintenance of such utilities or utility lines will not diminish or impair the Preservation and Conservation Values of the Property and gives its prior written approval for such construction and maintenance. Grantor retains the independent right to permit or approve such construction and maintenance.
- (c) The construction, location and maintenance of any new roads, trails, parking facilities, utilities or utility lines, whether public or private, permitted under this Paragraph 2.14(a) or (b) and approved by Grantee are subject to the requirements of Paragraphs 2.10 (Archaeology) and 2.13 (Ground Disturbing Activities) regardless of who performs such construction or maintenance.
- (d) The construction by Grantor of roads, trails, footpaths, or parking facilities to aid in the interpretation of the Property as a Civil War battlefield, historic site, or passive park as defined in Paragraph 2.9 (Permitted Activities) above is permitted, provided the prior written approval of Grantee has been obtained. Such prior written approval shall be based on Grantee’s review of the proposal, methodology, and detailed site plans and evaluation of the impact of the proposed project on the Preservation and Conservation Values associated with the Property and shall not be unreasonably withheld. All new roads, trails, footpaths, or parking facilities constructed on the Property after the Effective



Date shall be permeable in nature, to the extent permitted by the Americans with Disabilities Act and the Americans with Disabilities Amendment Act (42 U.S.C. §§ 12101 -12213), the Chesapeake Bay Preservation Act (VA Code §§ 62.1-44.15:67 - 62.1-44.15:79) and all other applicable federal, state and local laws and regulations.

## **2.15 SIGNS:**

- (a) Other than those existing on the Effective Date, no new sign, billboard, or outdoor advertising structure shall be displayed on the Property without the consent of Grantee, other than non-internally illuminated signs not to individually exceed nine (9) feet square for any or all of the following purposes:
  - 1. To state the name and address of the Property or Property owners;
  - 2. To provide information necessary for the normal conduct of any permitted business or activity on the Property;
  - 3. To advertise the Property for sale or rental;
  - 4. To provide notice necessary for the protection of the Property and for giving directions to visitors;
  - 5. To provide historical interpretation and information to visitors to the Property as a Civil War battlefield or historic site and natural resource interpretation; and
  - 6. To recognize historic status or participation in a conservation or preservation program.
- (b) Notwithstanding the provisions of Paragraph 2.15(a) above, Grantor may construct, install, and maintain one (1) non-internally illuminated oversized sign that individually exceeds nine (9) square feet, but does not individually exceed a maximum of thirty-two (32) square feet for the purposes described in Paragraph 2.9(a)(1) and 2.9(a)(2) above, provided that Grantee provides prior written approval of such sign. In reviewing the new oversized sign, Grantee shall consider, but is not limited to, any or all of the following factors:
  - 1. Duration,
  - 2. Location,
  - 3. Size,
  - 4. Design,
  - 5. Historical uses of the Property,
  - 6. Impact on the Preservation and Conservation Values protected by this Easement,
  - 7. Total number of signs existing on the Property at that time, and

8. Total number of signs proposed or requested by Grantor.

- (c) Notwithstanding the provisions of this Paragraph 2.15(a) and 2.15(b) above, Grantee, in its discretion, and upon reasonable notice to Grantor, may erect at a location acceptable to Grantor, a single marker or sign, not exceeding two (2) feet by two (2) feet, which states the name of Grantee and advises that Grantee holds the Easement granted herein.

## **2.16 PUBLIC ACCESS:**

- (a) The parties hereby acknowledge that the Property is visible from U.S. Route 50, also known as the John S. Mosby Highway, and U.S. Route 15, both of which roads are public right-of-ways, and that members of the general public may view the Property from said right-of-ways.
- (b) At a minimum, Grantor shall make the Property accessible to the public for six (6) consecutive hours for at least two (2) days per calendar year. This requirement may be fulfilled through a battlefield tour or similar event that is open to the general public. Grantor may have a representative present during such public access, and access may be subject to reasonable restrictions to ensure security of the Property and safety of the visitors.
- (c) At other reasonable times, upon request of Grantee made with reasonable prior written notice to Grantor, persons affiliated with educational organizations, professional associations, and historical societies or other organizations related to the Property's Preservation and Conservation Values, including but not limited to the fields of historic preservation, history, archaeology and landscape architecture shall be admitted to study the Property at a date and time convenient to Grantor. In addition, Grantee may take photographs, drawings, or other representations documenting the significant historical, archaeological, and cultural character and features of the Property and may use or publish them (or authorize others to do so) to fulfill its charitable or educational purposes.
- (d) The access granted hereunder or any permission to enter the Property by Grantor or Grantee shall not be construed as an invitation or license, and Grantor and Grantee do not assume any liability to the general public for accidents, injuries, acts, or omissions beyond that defined by the standard of care owed by landowners under Virginia Recreational Use Statutes (VA Code § 29.1-509) and any other applicable law.
- (e) Although this Easement in gross will benefit the public in the ways recited above, nothing herein shall be construed to convey a right to the public of access to or use of the Property and Grantor shall retain exclusive right to such access and use, subject only to the provisions herein recited.

### **SECTION III: ENFORCEMENT**

#### **3.1 RIGHT OF INSPECTION:**

- (a) Grantee and its representatives may enter the Property from time to time, upon reasonable notice to Grantor, for the limited purposes of inspecting the Property, documenting the condition of the Property and enforcing the terms of the Easement granted herein.
- (b) No notice to Grantor shall be required if, in the reasonable opinion of Grantee, emergency access is necessary to prevent irreversible damage to the Preservation and Conservation Values. In the event of such emergency access Grantee shall provide Grantor with a written explanation of the reason for such emergency access and the actions taken by Grantee on the Property during such emergency access. Grantee shall limit its actions during such emergency access to those necessary to prevent irreversible damage to the Preservation and Conservation Values.

#### **3.2 APPROVALS:**

- (a) Whenever a written request for Grantee's approval is submitted pursuant to the requirements imposed by this Easement and Grantee fails to respond in writing within thirty (30) business days of receipt of such request, then Grantee shall be deemed to have approved the request, and Grantor may proceed with the action for which approval was requested.
- (b) Nothing herein shall be construed, however, to require Grantee to issue a final decision on such request within such thirty (30) business day period, provided that such final decisions are issued as timely as is practicable under the circumstances. Such circumstances may include, but are not limited to, the complexity of the request or proposed project, the adequacy of the information submitted with the request, the degree to which the request or project complies with the Easement, whether the request or project is consistent with the Standards for Review as set forth in Paragraph 2.6 (Standards for Review) above, the need for archaeological investigation pursuant to Paragraph 2.10 (Archaeology) above, and the need for on-site inspections or consultations.
- (c) Grantee is not liable to Grantor or any third party for any damage, injury, liability or consequence arising out of or resulting from Grantor's failure to obtain Grantee's prior written approval as required under this Easement.
- (d) No approval required hereunder shall be unreasonably withheld or delayed by Grantee.
- (e) Nothing herein shall be construed to affect the authority of the Secretary of the Interior under Section 6(f)(3) of the Land and Water Conservation Act.

**3.3 ENFORCEMENT:** Grantee, in accepting this Easement, commits to protecting the Preservation and Conservation Values identified herein and has the resources necessary to enforce the restrictions and covenants set forth herein.

- (a) Grantee has the right to bring an action at law or in equity in any court of competent jurisdiction to enforce the restrictions and covenants contained in this Easement. This right specifically includes:
  - 1. To require restoration of the Property to a condition of compliance with the terms of this Easement as existed on the Effective Date except to the extent such condition thereafter changed in a manner consistent with the Restrictions,
  - 2. To recover any damages arising from non-compliance, and
  - 3. To enjoin non-compliance by *ex parte* temporary or permanent injunction.
- (b) If a court determines that Grantor failed to comply with this Easement, to the extent permitted by applicable law, Grantee may recover damages and actual and reasonable costs of enforcement, including costs of restoration, court costs and reasonable attorneys' fees, if such payments are ordered by such court.
- (c) Grantee does not waive or forfeit the right to take action as may be necessary to ensure compliance with this Easement by any delay or prior failure to act and Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any delay or prior failure to act by Grantee.
- (d) Any challenge to the validity or enforceability of this Easement must be brought in a court of competent jurisdiction within the Commonwealth of Virginia. No such challenge or action may originate in, be transferred or removed to any court outside of the Commonwealth of Virginia except for federal courts of appeal.
- (e) Nothing in this Easement shall create any right in the public or any third party to maintain any judicial proceeding against Grantor or Grantee or to enforce this Easement through any means including, but not limited to, judicial action, except as may otherwise be provided by applicable law.

#### **SECTION IV: DOCUMENTATION**

##### **4.1 BASELINE DOCUMENTATION REPORT:**

- (a) Grantor and Grantee agree that the Baseline Documentation Report (the "BDR"), which contains among other items a written report describing the Property, aerial, topographic, and photopoint maps, a site plan, and photographs of the Property taken by the Easement Program Architect and Easement Program Stewardship Counsel of the Virginia Department of Historic Resources on December 3, 2013 (VDHR negative number 25358) and digital photographs of the Property taken by the Easement Program Stewardship Coordinator on July 31, 2014 accurately document the appearance and

condition of the Property as of the Effective Date. The BDR shall be stored permanently in the archives of the Virginia Department of Historic Resources, which is located at 2801 Kensington Avenue, Richmond, Virginia, or its successors.

(b) Hereafter, the Property shall be maintained, preserved, and protected in its condition as of the Effective Date as nearly as practicable, except for changes that are expressly permitted hereunder. The BDR may be used to determine compliance with and enforcement of the terms of this Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination.

(c) Grantor and Grantee hereby acknowledge receipt and acceptance of the BDR prior to the Effective Date.

## **SECTION V: GENERAL PROVISIONS**

**5.1 INSURANCE:** Grantor shall keep the Property insured by an insurance company licensed to issue policies in the Commonwealth of Virginia and rated "Secure" by A.M. Best Company or other qualified insurance rating company with comprehensive liability insurance against claims for personal injury, death, and property damage.

**5.2 GRANTEE'S PROPERTY RIGHT:** Grantor agrees that the conveyance of this Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that the perpetual conservation restriction at the time of the conveyance bears to the fair market value of the Property as a whole at that time.

**5.3 CONVERSION OR DIVERSION:**

(a) Grantor and Grantee intend that this Easement shall be perpetual and acknowledge that no part of the Property may be converted or diverted from its open-space use except in compliance with the provisions of Section 10.1-1704 of the Virginia Open-Space Land Act, which does not permit extinguishment of open-space easements or loss of open-space unless the following conditions are satisfied:

1. The conversion or diversion is determined by the public body to be (i) essential to the orderly development and growth of the locality and (ii) in accordance with the official comprehensive plan for the locality in effect at the time of conversion or diversion, and
2. There is substituted other real property which is (i) of at least equal fair market value, (ii) of greater value as permanent open-space land than the land converted or diverted and (iii) of as nearly as feasible equivalent

usefulness and location for use as permanent open-space land as is the land converted or diverted.

- (b) Monies from the Land and Water Conservation Fund Act (16 U.S.C. § 4601-8), pursuant to the American Battlefield Protection Program Authorization of 2009, as amended (16 U.S.C. § 469k-1), were used to acquire a portion of the legal interest in the Property in fee. Section 6(f)(3) of the Land and Water Conservation Act applies to only a 10.0 acre portion of the Property within the study area of the Aldie Battlefield and shown on Exhibit A. The real property subject to Section 6(f)(3) shall be referred to as the "Section 6(f)(3) Property" hereafter.
- (c) No part of the Section 6(f)(3) Property may be converted or diverted from its open-space use unless approved by the Secretary of the Interior, acting through the ABPP, in accordance with Section 6(f)(3) of the Land and Water Conservation Fund Act (16 U.S.C. § 4601-8(f)(3)). In the event of a proposed conversion or diversion of the Section 6(f)(3) Property to a use other than those specified herein and provided for in the Land and Water Conservation Fund Act, Grantor shall consult with Grantee. If following that consultation, Grantee determines that conversion or diversion is appropriate, Grantee shall, in accordance with Section 6(f)(3) of the Land and Water Conservation Fund Act, propose such conversion or diversion to the Secretary of the Interior, acting through the ABPP. Any such proposal shall include the proposed mitigation for the conversion or diversion. The proposal shall also include a letter from Grantee setting out its opinions on the advisability of the proposed conversion or diversion and the adequacy of the proposed mitigation. The Secretary shall approve such conversion or diversion only if he or she finds it to be in accord with Section 6(f)(3) of the Land and Water Conservation Fund Act and the American Battlefield Protection Program Authorization Act of 2009, as amended (16 U.S.C. § 469k-1), and only upon such conditions as he or she deems necessary to assure the substitution of other appropriate properties of at least equal fair market value and of reasonably equivalent usefulness and location. In the event of a breach of Section 6(f)(3) of the Land and Water Conservation Fund Act, there shall be no remedy other than immediate compliance with Section 6(f)(3), nor may grant funds be repaid to nullify the conditions of Section 6(f)(3) as applied to the Section 6(f)(3) Property.

#### **5.4 EXTINGUISHMENT:**

- (a) Should an attempt be made to extinguish this Easement, such extinguishment can be carried out only by judicial proceedings and only if such extinguishment also complies with the requirements of Virginia Open-Space Land Act, specifically Section 10.1-1704 of the Code of Virginia; and if approved by the Secretary of the Interior, acting through the ABPP and in accordance with the requirements of Section 6(f)(3) of the Land and Water Conservation Fund Act as applied to the Section 6(f)(3) Property.

- (b) In any sale, exchange or involuntary conversion of the Property or portion of the Property subsequent to such extinguishment, Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of the perpetual conservation restriction computed as set forth in Paragraph 5.2 (Grantee's Property Right) above, but not to be less than the proportionate value that the perpetual conservation restriction at the time of the extinguishment bears to the then value of the Property as a whole. Grantee shall use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purposes of this Easement, Sections 10.1-2200 through 10.1-2215 of the Code of Virginia, and the Virginia Open-Space Land Act and the requirements of Section 6(f)(3) of the Land and Water Conservation Fund Act as applied to the Section 6(f)(3) Property.
- (c) Except as set forth herein, no part of the Property may be converted or diverted from preservation or open space uses as herein defined except in accordance with Section 10.1-1704 of the Virginia Open-Space Land Act.
- (d) Except as set forth herein, no part of the Section 6(f)(3) Property may be converted or diverted from conservation/recreation use as provided herein unless and until such conversion or diversion is if approved by the Secretary of the Interior in accordance with the requirements of Section 6(f)(3) of the Land and Water Conservation Fund Act and the American Battlefield Protection Program Authorization of 2009.

**5.5 SEVERABILITY:** The invalidity or unenforceability of any provision of this Easement shall not affect the validity or enforceability of any other provision of this Easement or any ancillary or supplementary agreement relating to the subject matter hereof.

**5.6 AMENDMENT:** Grantee and Grantor may amend this Easement to enhance the Property's Preservation and Conservation Values or add to the restricted property, provided that no amendment shall:

- (a) Affect this Easement's perpetual duration;
- (b) Conflict with or be contrary to or inconsistent with the preservation and conservation purposes of this Easement;
- (c) Reduce the protection of the Preservation and Conservation Values;
- (d) Affect the qualification of this Easement as an "interest in land" or "open-space easement;" or
- (e) Affect the status of Grantee as a "public body."

No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia.

**5.7 DURATION:** This Easement shall be perpetual. It is an easement in gross that runs

with the land as an incorporeal interest in the Property. The covenants, terms, conditions, and restrictions contained in the Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. Grantor's rights and covenants under this Easement terminate upon proper transfer of Grantor's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**5.8 TITLE:** Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances, other than restrictions, covenants, conditions, and utility and access easements recorded in the land records of Loudoun County, Virginia, prior to the Effective Date, and including, but not limited to, any mortgages, liens, leases or option contracts not subordinated to this Easement.

**5.9 TRANSFER OF TITLE:** Whenever feasible, within at least thirty (30) calendar days prior to any inter vivos transfer of title to the Property, excluding deeds of trust given for the purpose of securing loans, Grantor shall notify Grantee in writing. This Easement shall be referenced by deed book and page number, instrument number, or other appropriate reference in any deed conveying an interest in the Property.

**5.10 ASSIGNMENT:** This Easement may be assigned, transferred or conveyed to another public body at the discretion of Grantee and in consultation with Grantor only if:

- (a) The assignment, transfer or conveyance is consistent with the Virginia Open-Space Land Act (Code of Virginia §§ 10.1-1700 through 10.1-1705);
- (b) All of the restrictions and protections for the Preservation and Conservation Values set forth in this Easement are to be continued in perpetuity; and
- (c) The assignment, transfer or conveyance is approved with the written permission of the Secretary of the Interior, acting through the ABPP, in accordance with the requirements of Section 6(f)(3) of the Land and Water Conservation Fund Act and the American Battlefield Protection Program Authorization of 2009, as amended (16 U.S.C. 469k-1).

Such assignment shall be in writing with all signatures notarized and shall be recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia.

**5.11 NO MERGER:** Grantor and Grantee agree that in the event that Grantee, or any agency or entity of the Commonwealth of Virginia, acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.

**5.12 SUCCESSORS IN INTEREST:** The covenants, terms, conditions, and restrictions



contained in this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. If Grantor at any time owns the Property, any portion of the Property or interest therein in joint tenancy, tenancy by the entirety, or tenancy in common, all such tenants shall be jointly and severally liable for all obligations of Grantor set forth herein.

**5.13 CONTROLLING LAW:**

- (a) This Easement shall be construed according to the laws of the Commonwealth of Virginia and the United States of America. Nevertheless, any general rule of construction notwithstanding, Grantor and Grantee agree that this Easement shall be liberally construed in favor of the conveyance to Grantee to effect the Preservation and Conservation Values, and the policy and purpose of the Virginia Open-Space Land Act.
- (b) If any provision of this Easement is found to be ambiguous, an interpretation consistent with advancing the Preservation and Conservation Values pursuant to the Code of Virginia shall be favored over any other interpretation.

**5.14 INTERACTION WITH OTHER LAWS:**

- (a) This Easement does not permit any use of the Property that is otherwise prohibited by federal, state, or local law or regulation.
- (b) Compliance with this Easement in no way obviates, negates, supersedes, waives or satisfies applicable federal, state or local laws or regulations. In the event of any conflict between applicable federal, state or local laws or regulations and the provisions of this Easement, that standard which more effectively protects and promotes the Preservation and Conservation Values of the Property shall prevail.

**5.15 EXTINGUISHMENT OF DEVELOPMENT RIGHTS:**

- (a) Grantor warrants and covenants that neither the Property, nor any portion of it, has been or shall be dedicated as open space within, or as part of, a residential subdivision or any other type of real estate development plan or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other real property pursuant to a transfer of development rights or purchase of development rights program, cluster development plan, planned unit development or other type of land use program or regulation intended to restrict the future development of the Property.
- (b) This Easement hereby terminates and extinguishes all of the development rights, subdivision rights and other rights affecting the future development (generally referred to as "development rights") of the Property, except for

those rights expressly reserved in Paragraphs 2.2 (Division), 2.4 (Permitted New Buildings and Structures) and 2.9 (Permitted Activities) herein. Grantor unconditionally and irrevocably relinquishes the right to transfer such development rights to any other property or to use them for purposes of calculating lot yield, density allowances, increases or decreases, and/or development potential of the Property or any other property. The parties to this Easement agree that all such development rights, except those expressly reserved herein, are hereby terminated and extinguished in perpetuity.

- 5.16 ENVIRONMENTAL LIABILITY:** Grantee is in no way liable for any condition existing on or in the Property, whether known or unknown, as of the Effective Date under the Clean Water Act (33 U.S.C. §§ 1251-1387 (2014, as amended)), the Clean Air Act (42 U.S.C. §§ 7401-7671q (2014, as amended)), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901-6922k (2014, as amended)), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601-9675 (2014, as amended)), or any comparable state or local law concerning the storage, disposal, remediation or release of any toxic or hazardous waste, material or substance.
- 5.17 RECORDING:** This Easement shall be recorded in the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, and Grantee may re-record it at any time to preserve its rights under this Easement.
- 5.18 COUNTERPARTS:** This Easement may be executed in one or more counterpart copies, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same Easement. Execution of this Easement at different times and in different places by the parties hereto shall not affect the validity of the Easement.
- 5.19 EFFECTIVE DATE:** The date upon which this Easement shall be recorded in the land records of Loudoun County, Virginia shall be the effective date ("Effective Date") hereof.
- 5.20 DEFINITIONS:** In this Easement "Grantor" shall include Grantor and its successors and assigns, "Grantee" shall include Grantee and its successors and assigns, and "ABPP" shall include ABPP and its successors and assigns.
- 5.21 NOTICE:** All notices and communications under this Easement shall be directed as follows:

**Grantor:**

Northern Virginia Regional Park Authority  
5400 Ox Road  
Fairfax Station, Virginia 22039

**Grantee:**

Easement Program  
Virginia Department of Historic Resources  
2801 Kensington Avenue  
Richmond, VA 23221

**ABPP:**

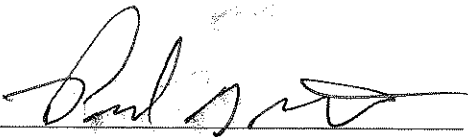
National Park Service  
American Battlefield Protection Program  
1201 Eye Street, NW (2287)  
Washington, D.C. 20005

- 5.22 SOVEREIGN IMMUNITY:** This easement shall not be construed as a waiver of the sovereign immunity of the Northern Virginia Regional Park Authority, Fairfax County, Virginia, or the Commonwealth of Virginia, or the United States of America.
- 5.23 ENTIRE AGREEMENT:** This instrument sets forth the entire agreement of the parties hereto with respect to this Easement and supersedes all prior discussions, negotiations, understandings, documents, drafts or agreements relating to the conveyance of this Deed of Easement.
- 5.24 ACCEPTANCE AUTHORITY:** Acceptance by Grantee of this conveyance is authorized by Sections 10.1-2204 and 10.1-1701 of the Code of Virginia.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

{Counterpart Signature Page 1 of 2}

Grantor:  
NORTHERN VIRGINIA REGIONAL PARK AUTHORITY

By: 

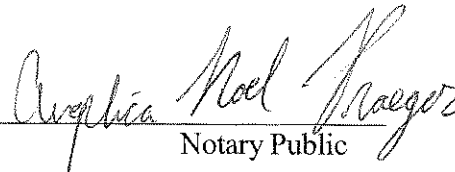
Name: Paul Gilbert

Title: Executive Director

Date: 9/12/14

STATE/DISTRICT OF Virginia ), to-wit:  
CITY/COUNTY OF Fairfax )

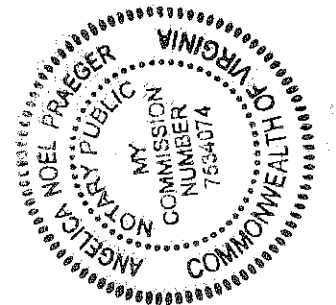
The foregoing instrument was acknowledged before me this 12 day of  
September, 2014, by Paul Gilbert, as Executive Director and on behalf of the Northern  
Virginia Regional Park Authority, Grantor herein.

  
Notary Public

My commission expires: June 30th 2016

Notary Commission No. 7534074

(SEAL)



{Counterpart Signature Page 2 of 2}

Accepted:

Grantee:

COMMONWEALTH OF VIRGINIA, BOARD of HISTORIC RESOURCES

By: *Julie V. Langan*  
Julie V. Langan  
Director, Virginia Department of Historic Resources

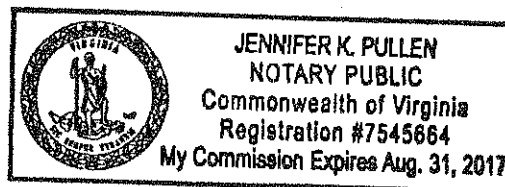
Date: 9/15/2014

COMMONWEALTH of VIRGINIA                    )  
CITY of RICHMOND                                ), to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of September, 2014, by Julie V. Langan, Director, Virginia Department of Historic Resources, on behalf of the Commonwealth of Virginia, Board of Historic Resources, Grantee herein.

*Jennifer K. Pullen*  
Notary Public

My commission expires: 8.31.17  
Notary Commission No. 7545664  
(SEAL)



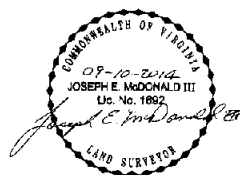
**Exhibit A**

“Gilbert’s Corner Regional Park, LWCF-ABPP 6f Boundary Map (Tax Map 90, Parcel 24) (PIN 323-26-0591-000) Blue Ridge Election District, Loudoun County, Virginia” dated June 13, 2014, by Wolford & Chen, P.C.

NOTES:

- \* THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT NECESSARILY SHOW ALL ENCUMBRANCES ON THE PROPERTY.
- \* APPROXIMATE LIMITS OF 100-YEAR FLOODPLAIN SHOWN HEREON WERE INTERPOLATED FROM COMMUNITY-PANEL NO. 51107C0355 D OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR LOUDOUN COUNTY, VIRGINIA, DATED JULY 5, 2001, AND FROM INFORMATION PROVIDED BY THE LOUDOUN COUNTY DEPARTMENT OF MAPPING AND GEOGRAPHIC INFORMATION.
- \* CURRENT OWNER: NORTHERN VIRGINIA REGIONAL PARK AUTHORITY (INSTR 20131115-0089800)

PLAT CABBINET F SLOT 35 PAGE 8



TW # 90 PAR 24A, PIN 361-20-8351-000  
39958 JOHN MOSBY HWY  
GREEN PROJECT, LLC.

TW # 90 PAR 17, PIN 322-16-0170-000  
23016 JAMES MONROE HWY  
RAYMOND PETSCHER SMITH,  
DEREK PETSCHER SMITH &  
MARK PETSCHER SMITH

TW # 90 PAR 20, PIN 323-47-8315-000  
DONG HYUN CHO & TAE JA CHO

TAX MAP # 90 PARCEL 24  
PIN 323-26-0591-000  
68.27888 ACRES

TW # 90 PAR 25, PIN 323-27-4221-000  
23575 WATSON RD  
NORTHERN VIRGINIA REGIONAL PARK AUTHORITY

20140919-0052681  
09/19/2014 11:03:03V  
Gary M. Clements - Clerk

Filed with Instrument Number:  
201409190052680

APPROXIMATE CENTERLINE, WEST BOUND LANES

JOHN MOSBY HIGHWAY  
U.S. ROUTE NO. 36 - VARIABLE WIDTH  
TO US RTE 15  
TO RTE 260

LAT: 38° 58' 07"  
LONG: 77° 37' 07"

N 80°58'30" W 872.27'

ABPP SECTION 6(1) BOUNDARY  
10.0000 AC

APPROX. STREAM LOCATION  
CIRCA MARCH 2000

ALDIE BATTLEFIELD STUDY AREA  
5.3400 AC

LAT: 38° 58' 06"  
LONG: 77° 38' 56"

EXHIBIT "A"

GILBERT'S CORNER REGIONAL PARK,  
LWCF-ABPP 6f BOUNDARY MAP

(TAX MAP 90, PARCEL 24)  
(PIN 323-26-0591-000)

BLUE RIDGE ELECTION DISTRICT

LOUDOUN COUNTY, VIRGINIA

SCALE: 1" = 200' DATE: JUNE 13, 2014

WOLFORD & CHEN, P.C.

ENGINEERS - SURVEYORS - LAND PLANNERS

PO BOX 431 ( 39 FT. EVANS RD., N.E. ) LEESBURG, VA. 20178

PHONE: (703) 777-3461

FAX (703) 777-8236

SHEET 1 OF 1

WC JOB NO. 8518A

PREPARED FOR: NORTHERN VIRGINIA REGIONAL PARK AUTHORITY

RE:

**PLEASE RETURN TO:**

LOUDOUN COMMERCIAL TITLE, LLC  
FIVE WIRT STREET, SW, SUITE 200  
LEESBURG, VA 20175  
PH: 703.737.3800

**Box 7A**

Prepared by Georgia H. Herbert, P.C., VSB #22672  
& return to: P.O. Box 21  
The Plains, VA 20198  
Tax Map No: 323-26-0591-000



**20131115-0089801**

Loudoun County, VA Pgs: 18  
11/15/2013 1:46:39PM  
Gary M. Clemens, Clerk

*Exempted from recordation tax under the Code of Virginia (1950), as amended, Section 58.1-811 (D) and from Circuit Court Clerk's fee under Section 17.1-266*

**DEED OF GIFT OF EASEMENT**

THIS DEED OF GIFT OF EASEMENT (this "Easement"), made this 14<sup>TH</sup> day of November, 2013, (between/among) **NORTHERN VIRGINIA REGIONAL PARK** AUTHORITY, whose address is 5400 Ox Road, Fairfax Station, VA 22039 (collectively, "Grantor"); **THE PIEDMONT ENVIRONMENTAL COUNCIL** ("PEC"), a private non-profit conservation organization which is a Virginia non-stock corporation, whose address is 45 Horner Street, Warrenton, Virginia 20186, herein called the Grantee (the designations "Grantor" and "Grantee" refer to Grantor and Grantee and their respective successors and assigns);

**WITNESSETH:**

WHEREAS, the Virginia Conservation Easement Act, §10.1-1009, et seq. of the Code of Virginia authorizes certain charitable corporations, associations or trusts exempt from taxation pursuant to 26 U.S.C.A. 501(c)(3) to hold a nonpossessory interest in real property for purposes of retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property;

WHEREAS, The Piedmont Environmental Council meets the statutory requirements of Virginia Code §10.1-1009 for a holder of a perpetual easement under the Virginia Conservation Easement Act and has had its principal office in Virginia for more than five (5) years, as required by Virginia Code §10.1-1010.C;

WHEREAS, Grantor is the owner in fee simple of real property situated on John Mosby Highway (U.S. Route 50) in Loudoun County, Virginia containing in the aggregate 68.27888 acres as further described below (the Property), and desires to grant and convey to Grantee a perpetual conservation easement over the Property as set forth in this deed;

WHEREAS, this conservation easement in gross ("Easement") constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to the clearly delineated governmental policies set forth below:

1. Land conservation policies of the Commonwealth of Virginia as set forth in:
  - A. Section 1 of Article XI of the Constitution of Virginia, which states that it is the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general weifare of the people of the Commonwealth;

LET 13-1994  
Box 7A Loudoun Commercial Title, LLC



- B. The Virginia Conservation Easement Act cited above;
  - C. The Virginia Land Conservation Incentives Act, Chapter 3 of Title 58.1, §§58.1-510 through 58.1-513 of the Code of Virginia, which supplements existing land conservation programs to further encourage the preservation and sustainability of the Commonwealth's unique natural resources, wildlife habitats, open spaces and forest resources;
  - D. Chapter 32, of Title 58.1, §§58.1-3230 through 58.1-3244 of the Code of Virginia, which authorizes special use-value tax assessments for real estate devoted to agricultural, forestal, horticultural and open-space use. Loudoun County has determined that it is desirable to encourage the continued preservation of the Property as open space and agricultural land by providing for such aforementioned use value taxation of the Property under Chapter 848 of the Codified Ordinances of Loudoun County
2. Land use policies of the County of Loudoun as delineated in:
- A. its Revised General Plan, as adopted on July 23, 2001, and as amended through July 1, 2013, to which plan the restrictions set forth in this deed conform through policies that include, but are not limited to the following:
    - 1. "The County recognizes that the vitality of the rural economy and the rural way of life require the protection and enhancement of the County's Green Infrastructure. The County will protect its natural and cultural-resource base (including stream corridors, wetlands, steep slopes, ridges, mountains, working landscapes, woodlands, historic and archaeological resources, habitats, greenways, trails, reservoirs and public facilities) in order to preserve the rural character of the land and the social and experiential aspects of the rural way of life." (Revised General Plan, Chapter 7: Rural Policy Area, Land Use Pattern and Design Strategy Policies).
    - 2. "The County will preserve agricultural land, natural resources, open space and historic landscapes through the implementation of the Purchase of Developments Rights Program, the Agricultural and Forestal District Program, conservation-design regulations and other land use programs." (Revised General Plan, Chapter 7: Rural Policy Area, Land Use Pattern and Design Strategy Policies).
    - 3. "The County will identify those properties that are not conducive to development due to sensitive environmental, cultural, and historical characteristics, and promote their purchase through various programs (such as the County's PDR program, through land trusts, etc.)" (Revised General Plan, Chapter 7: Rural Policy Area, Green Infrastructure Policies).
    - 4. "The County will promote and support the establishment of public and private nature preserves throughout the County, in addition to Banshee

Reeks, as part of the protection of the Green Infrastructure.” (Revised General Plan, Chapter 5: Green Infrastructure, Plant and Wildlife Policies).

5. “The County encourages the contiguous development of regional linear parks, trails, and natural open space corridors to provide pedestrian links and preserve environmental and aesthetic resources.” (Revised General Plan, Chapter 3: Fiscal Policies, Parks, Recreation, and Community Services Policies).
6. “The County will support the Northern Virginia Regional Park Authority (NVRPA) and others in the acquisition of land and the development of facilities such as the Potomac Heritage Trail, extension of the W&OD Trail to Bluemont, and the Appalachian Trail, and the preservation of the Ball’s Bluff Battlefield.” (Revised General Plan, Chapter 3: Fiscal Policies, Parks, Recreation, and Community Services Policies).

WHEREAS, the Property contains approximately 5.34 acres of land that is part of the June 17, 1863 Battle of Aldie, a battlefield that has been listed as a Priority III.3 by the Civil War Advisory Commission Report of 1993, as amended;

WHEREAS, the Property is visible from Mount Zion Old School Baptist Church, a site listed on the National Register of Historic Places and the Virginia Historic Landmarks Registry (053-0339);

WHEREAS, the Property is located within the Journey Through Hallowed Ground National Heritage Area, a National Heritage Area designated and signed into law on May 8, 2008 and that recognizes the unparalleled cultural, historic and scenic resources within the region that generally follows the Old Carolina Road (Rt. 15/231) from Gettysburg, Pennsylvania through Maryland, to Monticello in Albemarle County, Virginia;

WHEREAS, the Property is visible from U.S. Route 15, which was designated the Journey Through Hallowed Ground National Scenic Byway by the U.S. Secretary of Transportation on October 16, 2009;

WHEREAS, the Property lies within the Mosby Heritage Area, formed in 1995 to increase awareness of the historic, cultural, and natural qualities of an approximately 1600-square-mile area, the Mosby Heritage Area being the first heritage area designated in the Commonwealth of Virginia, and limiting intensive development of the Property contributes to the protection of the rural and historic character of the landscape;

WHEREAS, the Property has approximately 790 linear feet of frontage along Route 50 (John Mosby Highway) that is within the Virginia Department of Transportation’s (VDOT) Route 50 Traffic Calming Project, which is a partnership between VDOT and the Route 50 Taskforce to help slow traffic, improve safety for pedestrians and motorists, and preserve the historic and rural nature of the Route 50 corridor between Upperville and Lenah;

WHEREAS, the Property contains approximately 615 linear feet of Howsers Branch and 850 linear feet of an unnamed tributary to Howsers Branch, which are located within the Goose Creek watershed, which provide important public drinking water source to eastern Loudoun County and City of Fairfax;

WHEREAS, the Property contains 19 acres of Prime Agricultural land and 13 acres of forest;

WHEREAS, the Northern Virginia Regional Park Authority (NVRPA) is an inter-jurisdictional agency, organized in 1959 under the Virginia Park Authorities Act, §15.2-5700, et seq. of the Code of Virginia that operates twenty-nine (29) regional parks in six jurisdictions in Northern Virginia and owns more than eleven thousand (11,000) acres of woodlands, streams, parks, trails, nature reserves, countryside and historic sites;

WHEREAS, the mission of the NVRPA is that it “enhances the communities of Northern Virginia and enriches the lives of their citizens through the conservation of regional natural and cultural resources. It provides diverse regional, recreational and educational opportunities, and fosters an understanding of the relationships between people and their environment.”;

WHEREAS, the NVRPA is the owner of certain unimproved real property comprising approximately eighty-eight and six-tenths (88.6) acres of land located adjacent to the Property and identified in the land records of Loudoun County as PIN# 323274221 (the “Mosby Run Property”);

WHEREAS, PEC has leased the Property to NVRPA since January 2010 and, in doing so, collaborated with NVRPA to create the Gilberts Corner Regional Park, which encompasses 155 acres and includes both the Property and Mosby Run property;

WHEREAS, the Gilberts Corner Regional Park will protect the natural, historic, and scenic resources found on the Property and the Mosby Run property and provide public access for passive recreation, historical interpretation, and environmental education;

WHEREAS, this Easement will yield significant public benefit to the citizens of the Commonwealth as set forth in Section I of this deed; and

WHEREAS, Grantor and Grantee desire to protect in perpetuity the Conservation Values of the Property, which are specified in Section I of this deed, by restricting the use of the Property as set forth in Section II of this deed; and

WHEREAS, Grantee has determined that the restrictions set forth in Section II (the Restrictions) will preserve and protect in perpetuity the Conservation Values of the Property, which values are reflected in Section I and the Grantee’s evaluation and documentation of the current condition of the Property; and

WHEREAS, Grantee has determined that the Restrictions will limit use of the Property to those uses consistent with, and not adversely affecting, the Conservation Values of the Property and the governmental conservation policies furthered by the Easement; and

WHEREAS, Grantee, by acceptance of this Easement, designates the Property as property to be retained and used in perpetuity for the preservation and provision of open-space land pursuant to the Virginia Conservation Easement Act.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein and the acceptance hereof by Grantee, Grantor does hereby give, grant and convey to Grantee a conservation easement in gross (Easement) over, and the right in perpetuity to restrict the use of, the Property, which is described below (or in SCHEDULE "A" attached hereto and made a part hereof), and consists of 68.27888 acres located in Blue Ridge Magisterial District, Loudoun County, Virginia, fronting on U.S. Route 50 (John Mosby Highway) to-wit:

ALL THAT certain tract or parcel of land containing 68.27888 Acres of land as noted in the Boundary Line Adjustment recorded in Deed Book 1842 at Page 628, and as shown on the plat entitled "Boundary Line Adjustment Property of New Dominion Investments, LLC", prepared by Wolford & Chen, P.C., filed in Plat Cab F, Slot 35, Page 8, all among the land records of Loudoun County, Virginia.

AND BEING the exact same property conveyed to The Piedmont Environmental Council by deed from David N. Prensky, Substitute Trustee and Brambleton Land Corporation, a Maryland corporation dated May 14, 2009, recorded May 14, 2009, as Instrument Number 20090514-0030703, among the land records of Loudoun County, Virginia.

On the date of this deed, the Property is shown as PIN 323-26-0591-000 among the land records of the County of Loudoun, Virginia. Even if the Property consists of more than one parcel for real estate tax or any other purpose, it shall be considered one parcel for purposes of interpreting this Easement, and the Restrictions and covenants of this Easement shall apply to the Property as a whole.

#### SECTION I – PURPOSE

The purpose of this Easement ("Purpose") is to preserve and protect the Conservation Values of the Property in perpetuity by imposing the Restrictions on the use of the Property set forth in Section II and providing for their enforcement in Section III. The Conservation Values of the Property are its values as open-space land preserved for open-space, public passive recreation, and rural uses including agriculture, livestock production and forestry ("Conservation Values").

#### SECTION II – RESTRICTIONS

Restrictions are hereby imposed on the use of the Property pursuant to the public policies set forth above. Grantor covenants that no acts or uses that are inconsistent with the Purpose of this Easement or with the protection of the Property's Conservation Values shall be conducted or undertaken on the Property. The acts that Grantor covenants to do and not to do upon the

Property, and the Restrictions that Grantee is hereby entitled to enforce, are and shall be as follows:

1. **DIVISION:** Division of the Property is prohibited. The Property shall not be sold or conveyed except as a whole.

Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered a division of the Property, provided that Grantee is made party to the deed creating the boundary line adjustment and at least one of the following conditions is met:

- A. The entire adjacent parcel is subject to a recorded conservation easement held by Grantee; or
  - B. The proposed boundary line adjustment shall have been reviewed and approved in advance by the Board of Directors of Grantee.
2. **BUILDINGS, STRUCTURES, ROADS AND UTILITIES:** No buildings or structures other than the following are permitted on the Property:

A. **BUILDINGS AND STRUCTURES:**

- (i) buildings or structures originally constructed and used for the activities specified in paragraph 3.A through C, except no building, picnic shelter, rest room facilities (permanent or portable), or farm structure exceeding Two Thousand (2,000) square feet in ground area may be constructed on the Property unless prior written approval for the building or structure shall have been obtained from Grantee, which approval shall consider the impact of the size, height and siting of the proposed structure on the Conservation Values of the Property.
- (ii) Structures accessory to passive recreational uses such as picnic tables, informational and directional signs, benches, bike racks, trash containers, lights, and similar incidental amenities or facilities.
- (iii) No Dwellings may be built or maintained on the Property. A "Dwelling" is a building or structure or a portion of a building or structure used or intended to be used for permanent or temporary human habitation. No Dwellings stand on the Property on the date of this Easement.
- (iv) No athletic fields or courts, golf courses, swimming/wading pools, water parks, or Campgrounds/Camping Areas (as defined below) may be constructed or maintained on the Property.

- B. **ROADS AND PARKING AREAS:** Roads and parking areas to serve permitted buildings, structures, and permitted uses may be constructed and maintained on the Property, except that any such road or parking area shall not be constructed on the Property unless prior written approval for the road or parking area shall have been obtained from Grantee, which approval shall consider the impact of the

siting, extent, size, and/or surface materials of the proposed road and/or parking area on the Conservation Values of the Property. Roads and parking areas shall be constructed of pervious surfaces and kept to the minimum size necessary to accommodate activities permitted under paragraph 3.A through E.

- C. **NON-MOTORIZED TRAILS:** Non-motorized, permeable-surface trails no more than ten (10) feet in width may be constructed on the Property, provided such trails are constructed and maintained for activities specified in paragraph 3 and are not visually intrusive. Erosion and sediment control, and preservation of ecologically sensitive areas shall be given primary consideration in the design, construction, and maintenance of all trails on the Property.
- D. **UTILITIES:** Only those public or private utilities which serve permitted buildings or structures on the Property shall be constructed or maintained on the Property. Public or private utilities that do not serve the Property shall not be permitted on the Property unless Grantee determines that such utilities will not impair the Conservation Values of the Property and gives its prior written approval for such utilities, which approval shall take into consideration the visibility and other impact of such utilities on the Conservation Values of the Property. Grantor reserves its separate right to approve such public or private utilities.
- E. **LOCATION RESTRICTIONS:** To protect the scenic, historic, and agricultural qualities of the Property, no buildings, roads, parking areas, or other structures other than incidental structures such as customary farm fencing, livestock feeding and watering troughs, informational and directional signs, benches, and trash containers, shall be constructed within the designated "Restricted-Build Area" shown on the sketch plat dated November 11, 2013, prepared by The Piedmont Environmental Council and attached hereto as Exhibit A (the "Sketch Plat").
- F. **IMPERVIOUS COVERAGE:** The Collective Footprint (as defined below) of all buildings and structures on the Property, excluding roads, shall not exceed Ten Thousand (10,000) square feet in ground area, provided that if Grantor can demonstrate that an increase in the Collective Footprint would result in increased protection of the Conservation Values protected herein, Grantee may approve such increase.
- G. **LIGHTING RESTRICTIONS:** Interior and exterior lighting associated with any use of the Property should be designed to minimize the effect of artificial light, including sky glow, glare, light trespass, light clutter, decreased visibility at night, and energy waste. All outdoor light fixtures installed or used on the Property shall be (i) fully shielded such that all light emitted is projected below a horizontal plane running through the lowest part of the fixture and (ii) shielded or located such that the source of the light is not visible beyond the Property boundary. No lights shall be installed or used within the Restricted Building Area shown on the Sketch Plat; no more than one permanent exterior light fixture shall be installed on any permitted structure outside the "Restricted-Build Area" shown

on the Sketch Plat; and no free-standing exterior light fixture shall be installed or used outside of the "Restricted-Build Area" shown on the Sketch Plat without Grantee's prior written permission. These lighting restrictions shall not apply to security lighting controlled by sensors which provide illumination for fifteen (15) minutes or less. Grantee may grant an exception to these lighting restrictions upon finding, in its sole discretion, that there are conditions warranting the exception, there are no reasonably-available conforming fixtures which would suffice, and alternatives proposed by the Grantor are consistent with the Purpose of the Easement.

- H. DEFINITIONS: The following definitions shall be used in the interpretation of the Buildings and Structures provisions of this Easement:

"Campgrounds/Camping Areas" are facilities designed for overnight accommodation of human beings in tents, cabins, shelters or vehicles.

"Collective Footprint" is the ground area measured in square feet of the structures set forth in subsection A of this section 2 and all other impervious surfaces, excluding roads.

3. ACTIVITIES: Activities other than the following are prohibited:

- A. agriculture (including livestock production), forestry, and related small-scale incidental commercial or industrial operations that Grantee approves in writing as being consistent with the Conservation Values of this Easement;
- B. agricultural accessory uses that are directly associated with on-going, on-site agricultural activity. These uses include: agri-education; direct market businesses for the sale of products produced on-site, including but not limited to PYO (pick-your-own); farm based tourism events; commercial nurseries; stables; wayside stands; and operations that Grantee approves in writing as being consistent with the Conservation Values of this Easement;
- C. passive recreational uses including, without limitation, walking, hiking, equestrian activities, picnicking, environmental or historic observation, and other similar low-impact recreational uses that preserve the integrity and character of the Property;
- D. temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property, and that do not diminish the Conservation Values herein protected, and
- E. activities that can be and in fact are conducted within permitted buildings without material alteration to their external appearance.
- F. activities to restore or enhance wetlands or streams or restore, enhance, or develop other ecosystem functions on the Property including, but not limited to stream bank restoration, wetland and stream mitigation, biological carbon

sequestration and biodiversity mitigation, provided that such activities are not in conflict or inconsistent with the conservation Purpose of or the Restrictions set forth in this Easement and that prior written approval for same shall have been obtained from Grantee. Grantee shall not be responsible for monitoring any such activities and shall have no obligation to enforce the provisions of any permit(s), restriction(s), or easement(s) therefor. The provisions of this Easement do not require consideration of or participation in ecosystem activities or programs on the Property and, subject to Grantee's approval, Grantor is free to participate in same at Grantor's option and to retain any remuneration derived therefrom.

4. **MANAGEMENT OF FOREST:** Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality if any timber harvest or land clearing activity is undertaken on the Property. All timber and land clearing activities except removal of trees posing an imminent hazard to the health or safety of persons or livestock shall be guided by a forest stewardship management plan approved by Grantee and prepared within ten years of the proposed harvest or land clearing. A pre-harvest or other appropriate land clearing plan consistent with the Forest Stewardship Management Plan shall be submitted to Grantee for written approval by Grantee at least 30 days before beginning (1) any timber harvest; (2) clearing of over two (2) acres of forestland in association with the permitted uses of the Property or construction of permitted buildings, roads, or parking areas, or (3) removal of trees within the thirty-five (35) foot buffer strips which parallel certain boundaries of the Property, as shown on the Sketch Plat (the "Tree Line Buffer Strips"). The objectives of the Forest Stewardship Management Plan shall include, but shall not be limited to, preservation of the Tree Line Buffer Strips as scenic buffers and wildlife corridors, forest health, biodiversity, wildlife habitat, scenic forest, aesthetics, recreation, water and air quality, carbon or other mitigation banking programs, historic and cultural resource preservation, natural area preservation, or any combination thereof.
5. **GRADING, BLASTING, MINING:** Grading, blasting or earth removal shall not materially alter the topography of the Property except for (i) dam construction to create wildlife management or agricultural ponds, (ii) wetlands or stream bank restoration pursuant to a government permit issued to the Grantor or its assigns, (iii) erosion and sediment control pursuant to a government-required and approved erosion and sediment control plan, or (iv) as required in the construction of permitted buildings, structures, roads, and utilities. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in such construction. Grading, blasting or earth removal in excess of one acre for the Purposes set forth in subparagraphs (i) through (iv) above require 30 days' prior notice to Grantee. Generally accepted agricultural activities shall not constitute a material alteration. Surface mining, subsurface mining, dredging on or from the Property, and drilling for oil or gas on the Property are prohibited.
6. **ACCUMULATION OF TRASH:** Accumulation or dumping of trash, refuse, junk or toxic materials is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural



products or agricultural byproducts on the Property.

7. **SIGNS:** Display of billboards, signs, or other advertisements is not permitted on or over the Property except to: (i) state the name and/or address of the owners of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property, (iv) provide notice necessary for the protection of the Property, (v) give directions to visitors, or (vi) recognize historic status or participation in a conservation program. Grantee, in its discretion, and upon reasonable notice to Grantor, may erect at a location acceptable to Grantor, a single marker or sign, not exceeding two (2) feet by two (2) feet, which states the name of Grantee and advises that Grantee is the holder of this Easement. Temporary political signs are not allowed. No signs visible from outside the Property shall exceed nine square feet in size. Notwithstanding the foregoing, Grantor may construct, install, and maintain one (1) larger sign which does not exceed thirty-two (32) square feet in size and is installed for the purposes set forth above, provided that Grantee gives its prior written approval for such sign, taking into consideration the impact of the size, height and siting of the proposed sign on the Conservation Values of the Property.

8. **RIPARIAN BUFFER:** To protect water quality, riparian buffer strips shall be maintained as follows:

An one-hundred-foot (100) buffer strip, measured from the top of each bank shall be maintained along the edge of Howsers Branch and the unnamed tributary of Howsers Branch shown on the Sketch Plat.

- (i) Within the buffer strip(s) there shall be (a) no buildings or other substantial structures constructed, (b) no new roads paved without Grantee's approval (c) no storage of compost, manure, fertilizers, chemicals, machinery or equipment, (d) no removal of trees except removal of invasive species or removal of dead, diseased or dying trees, or trees posing a threat to human or livestock health or safety, and (e) no plowing, cultivation, filling, or other earth-disturbing activity, except as may be reasonably necessary for the activities set forth in Subparagraph (ii) below. Livestock shall be excluded from the buffer strips except (1) during times of drought or other emergencies, (2) for stream crossings or (3) for watering at limited access points.
- (ii) Notwithstanding the foregoing, permitted within the buffer strip(s), subject to any applicable laws and regulations, are (a) erosion control or restoration, enhancement, or development of ecosystem functions on the Property as permitted and limited under Section II, Paragraph 3.F above, (b) fencing along or within the buffer strip(s), (c) construction and maintenance of stream crossings for pedestrians, livestock and vehicles that minimize obstruction of water flow, (d) creation and maintenance of trails with unimproved surfaces, (e) removal of invasive species or dead, diseased or dying trees, (f) minimal removal of individual trees or trees posing a threat to human or livestock health or safety, (g) planting of trees,

shrubs, grasses, or other vegetation, and limited mowing to protect such plantings, (h) dam construction to create ponds, and (i) diversion of water for agricultural use on the Property.

- (iii) Should Howsers Branch or the unnamed tributary of Howsers Branch meander or change course naturally, or as a result of the restoration, enhancement, or development of ecosystem functions on the Property as permitted and limited under Section II, Paragraph 3.E above, the buffer strip(s) shall remain the same width, but move relative to the movement of Howsers Branch or the unnamed tributary of Howsers Branch. In such event, any buildings or structures that were outside of the original buffer strip(s) and are determined to be within the new buffer strip(s) shall not be considered in violation of these restrictions and may be maintained at such location(s).

### SECTION III – ENFORCEMENT

1. **RIGHT OF INSPECTION:** Representatives of Grantee may enter the Property from time to time for purposes of inspection, documentation and enforcement of the terms of this Easement after permission from or reasonable notice to the Grantor or the Grantor's representative, provided, however, that in the event of an emergency, entrance may be made to prevent, terminate or mitigate a potential violation of these Restrictions with notice to the Grantor or Grantor's representative being given at the earliest practicable time.
2. **ENFORCEMENT:** Grantee has the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the right to require restoration of the Property to a condition of compliance with the terms of this Easement as existed on the date of the grant of the Easement, taking into consideration the extent to which such condition thereafter changed in a manner consistent with the Restrictions; to recover any damages arising from non-compliance, and to enjoin non-compliance by ex parte temporary or permanent injunction. If the court determines that Grantor failed to comply with this Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration of the Property to bring it into compliance with this Easement, court costs and attorney's fees, if such payments are ordered by the court. Grantee's delay shall not waive or forfeit its right to take such action as may be necessary to insure compliance with this Easement, and Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act by Grantee. Notwithstanding any other provision of this Easement, Grantor shall not be responsible or liable for any damage or change to the condition of the Property caused by fire, flood, storm, Act of God, governmental act or other cause outside of Grantor's control or any prudent action taken by Grantor to avoid, abate, prevent or mitigate damage or changes to the Property from such causes.

#### SECTION IV – DOCUMENTATION

Documentation retained in the office of Grantee including, but not limited to the baseline documentation report, describes the condition and character of the Property at the time of the grant of this Easement. The documentation may be used to determine compliance with and enforcement of the terms of the Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination. Grantor has made available to Grantee, prior to the grant of this Easement, documentation sufficient to establish the condition of the Property at the time of the gift. The parties hereby acknowledge that the documentation supplied and contained in the files of Grantee prior to the date of this deed is an accurate representation of the Property.

#### SECTION V – GENERAL PROVISIONS

1. **DURATION:** This Easement shall be perpetual. It is an easement in gross that runs with the land as an incorporeal interest in the Property. The covenants, terms, conditions and Restrictions contained in this Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. The rights and obligations of an owner of the Property under this Easement terminate upon proper transfer of such owner's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
2. **NO PUBLIC ACCESS:** Although this Easement will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to, or use of the Property. Grantor retains the exclusive right to such access and use, subject to the terms hereof.
3. **TITLE:** Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances, including but not limited to, any mortgages not subordinated to this Easement.
4. **ACCEPTANCE:** Acceptance of this conveyance by Grantee is authorized by The Virginia Conservation Easement Act, Virginia Code §§ 10.1-1009 *et seq.* and is evidenced by the signature of the President of PEC, by authority granted by PEC's Board of Directors.
5. **INTERACTION WITH OTHER LAWS:** This Easement does not permit any use of the Property which is otherwise prohibited by federal, state, or local law or regulation. Neither the Property, nor any portion of it, shall be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage or open-space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement or transferred hereby to Grantee as a restricted charitable gift shall be transferred to any other Property pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.

6. **CONSTRUCTION:** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the Purposes of the Easement and the policy and purposes of Grantee. If any provision of this Easement is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Notwithstanding the foregoing, lawful acts or uses not expressly prohibited by this Easement are permitted on the Property. Grantor and Grantee intend that the grant of this Easement qualify as a "qualified conservation contribution" as that term is defined in Section 170(h)(1) of the Internal Revenue Code and Treasury Regulations §1.170A-14, and the Restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this Easement from being a qualified conservation contribution.
7. **INCLUSION OF TERMS IN SUBSEQUENT DEEDS:** This Easement shall be referenced by deed book and page number, instrument number or other appropriate reference in any deed or other instrument conveying any interest in the Property. Failure to comply with this requirement shall not impair the validity of the Easement or limit its enforceability in any way.
8. **NOTICE TO GRANTEE AND GRANTOR:** For the purpose of giving notices hereunder the current address of Grantee is 45 Horner Street, Warrenton, Virginia 20186, and any notice to Grantor shall be given to the recipient at the address of record with the Commissioner of the Revenue, which address is currently 5400 Ox Road, Fairfax Station, VA 22039.

Grantor agrees to notify Grantee in writing (i) before exercising any reserved right that Grantor believes may have an adverse effect on the conservation or open-space values or interests associated with the Property (the purpose of requiring such notice is to afford Grantee an adequate opportunity to monitor such activities to ensure that they are carried out in a manner consistent with the Purpose of this Easement; such notice shall describe the proposed activity in sufficient detail to allow Grantee to judge the consistency of the proposed activity with the Purpose of this Easement); and (ii) within sixty (60) days of closing on any inter vivos transfer, other than a deed of trust or mortgage, of all or any part of the Property. Failure to comply with this requirement shall not impair the validity of the Easement or limit its enforceability in any way.
9. **TAX MATTERS:** The parties hereto agree and understand that no income tax benefits will result from the donation of this Easement and neither party shall apply for or claim any income tax benefits in connection with this Easement.
10. **NO MERGER:** Grantor and Grantee agree that in the event that Grantee acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.
11. **ASSIGNMENT BY GRANTEE:** Grantee may not transfer or convey this Easement unless Grantee conditions such transfer or conveyance on the requirement that (1) all Restrictions and conservation Purposes set forth in this Easement are to be continued in

perpetuity and (2) the transferee then qualifies as an eligible donee as defined in Section 170(h)(3) of the IRC as amended and the applicable Treasury Regulations and meets the statutory requirements of The Virginia Conservation Easement Act Virginia Code § 10.1-1009 et seq. (as amended) for a holder of a perpetual conservation easement or the definition of a public body under the Open Space Land Act Virginia Code § 10.1-1700 et seq. (as amended).

12. **GRANTEE'S PROPERTY RIGHT:** Grantor agrees that the donation of this Easement gives rise to a Property right, immediately vested in Grantee, with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time.
13. **CONVERSION, DIVERSION, EXTINGUISHMENT:** The Grantor and the Grantee intend that this easement be perpetual and not be extinguished, and no part of the Property may be converted or diverted from its open space use (the "Conversion or Diversion"), nor shall this Easement be terminated or amended to release any portion of the Property from its terms (the "Extinguishment"), unless all of the following conditions are met:
  - A. the Board of Directors of the Grantee makes a positive finding that the uses allowed on the Property are not possible under the circumstances existing at the time of the proposed Conversion, Diversion or Extinguishment and are in conflict with the duly adopted comprehensive plan for the local governing body in which the Property is located at the time of the proposed Conversion, Diversion or Extinguishment;
  - B. substitute Property of at least equivalent usefulness as open space, acreage and fair market value and which would better comply with the local governing body's comprehensive plan at the time of the proposed Conversion, Diversion or Extinguishment is placed under a conservation easement to the Grantee or to the Virginia Outdoors Foundation; and
  - C. the Conversion, Diversion or Extinguishment is approved by the Circuit Court for the jurisdiction in which the Property is located at the time of the proposed Conversion, Diversion or Extinguishment.

In any sale or exchange of the Property subsequent to such Conversion, Diversion or Extinguishment, the Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of the perpetual conservation restriction computed as set forth in Paragraph V.12 of this Easement, but not to be less than the proportionate value that the perpetual conservation restriction at the time of the Conversion, Diversion or Extinguishment bears to the then value of the Property as a whole. The Grantee shall use all of its share of the proceeds from the sale or exchange of the Property in a manner consistent with the conservation Purposes of this Easement and of the Virginia Conservation Easement Act.

14. **AMENDMENT:** Grantee and the owner of the Property may amend or modify the Easement to enhance protection of the Property's Conservation Values and natural resources, or add to the restricted Property, provided that no amendment shall be allowed which affects the Easement's perpetual duration or reduces the protection of the Conservation Values of the Property. No amendment or modification shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded among the land records of the County of Loudoun, Virginia.
15. **SEVERABILITY:** If any provision of this deed or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Easement shall not be affected thereby.
16. **ENTIRE AGREEMENT:** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement.
17. **CONTROLLING LAW:** The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Virginia.
18. **RECORDING:** This Easement shall be recorded in the land records office of the County of Loudoun, Virginia, and Grantee may re-record it any time as may be required to preserve its rights under this Easement.
19. **COUNTERPARTS:** This Easement may be executed in one or more counterpart copies, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same Easement. Execution of this Easement at different times and in different places by the parties hereto shall not affect the validity of the Easement.

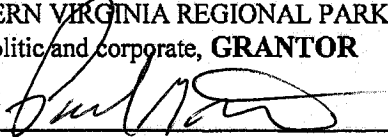
WITNESS the following signatures and seals:

[Counterpart signature pages follow.]

[Counterpart signature page 1 of 2]

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY,  
a body politic and corporate, **GRANTOR**

By:

  
Paul Gilbert, Executive Director

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Fairfax, TO WIT:

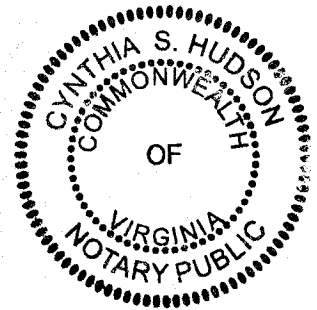
The foregoing Deed of Easement was acknowledged before me this 14<sup>th</sup> day of  
November, 2013, by Paul Gilbert, Executive Director of the Northern Virginia Regional  
Park Authority, a body politic and corporate, on behalf of the Authority, Grantor.

(SEAL)

  
NOTARY PUBLIC

Notary Registration No.: 122012

My commission expires: 12/31/16



[Counterpart signature page 2 of 2]

Accepted:

THE PIEDMONT ENVIRONMENTAL COUNCIL,  
a Virginia non-stock corporation, **GRANTEE**

By:

Christopher G. Miller  
Christopher G. Miller, President

COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF Fauquier, TO WIT:

The foregoing Deed of Easement was acknowledged before me <sup>on</sup> ~~this~~ 14<sup>th</sup> day of November, 2013 by CHRISTOPHER G. MILLER, President of The Piedmont Environmental Council, a Virginia non-stock corporation, on behalf of the corporation.



Dawn M. Wilman  
NOTARY PUBLIC

Notary Registration No.: 7096154

My commission expires: Aug. 31, 2015

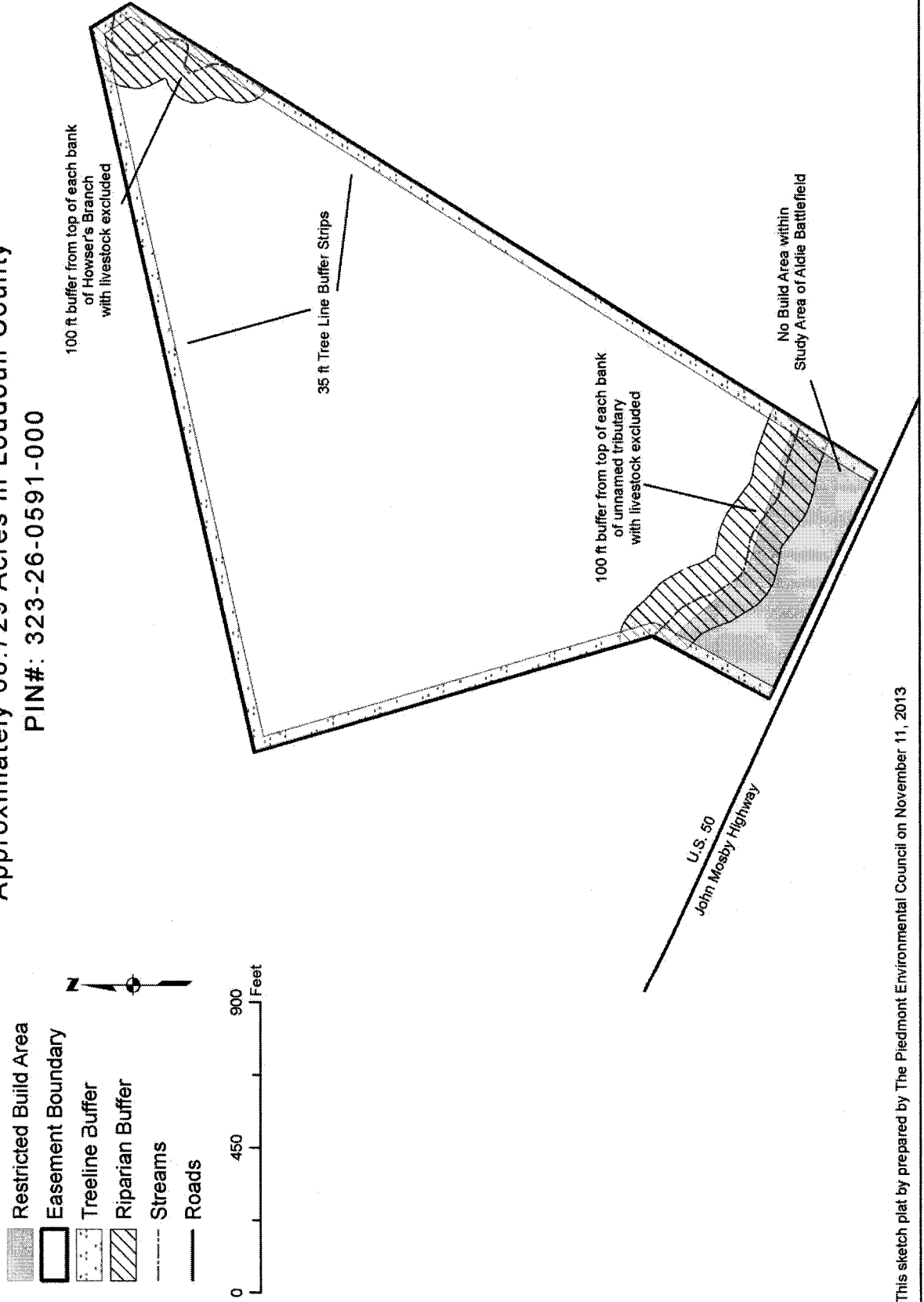


# Exhibit A

## Northern Virginia Regional Park Authority Conservation Easement Sketch Plat

Approximately 68.729 Acres in Loudoun County

PIN#: 323-26-0591-000



December 1, 2007

Prepared by: David H. Moyes  
 Moyes & Levay, P.L.L.C.  
 21 N. King Street  
 Leesburg, VA 20176



20071206-0084868

Loudoun County, VA Pgs: 19  
 12/06/2007 3:56:52PM  
 Gary M. Clemens, Clerk

PIN: 077-36-5320

Exempted from recordation tax  
 under the Code of Virginia (1950), as amended,  
 Sections 58.1-811 (A) (3), 58.1-811 (D) and 10.1-1803  
 and from Circuit Court Clerk's fee under Section 17.1-266

THIS DEED OF GIFT OF EASEMENT (this "Easement"), made this 5<sup>th</sup> day of December, 2007, among ODP, LLC, a Virginia Limited Liability company ("Grantor"); the VIRGINIA OUTDOORS FOUNDATION, an agency of the COMMONWEALTH OF VIRGINIA, ("Grantee") (the designations "Grantor" and "Grantee" refer to the Grantor and Grantee and their respective successors and assigns); ACCESS NATIONAL BANK, (the "Bank") and EDMUND D. HARLLEE, Sole Acting Trustee (the "Trustee").

**WITNESSETH:**

WHEREAS, Grantor is the owner in fee simple of real property situated on Hibler Road in Loudoun County, Virginia, containing in the aggregate 294.5829 acres as further described below (the "Property"), and desires to give and convey to Grantee a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, Grantee is a governmental agency of the Commonwealth of Virginia and a "qualified organization" and "eligible donee" under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended (and corresponding provisions of any subsequent tax laws)(IRC) and Treasury Regulation §1.170A-14(c)(1), and is willing to accept a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, Chapter 461 of the Acts of 1966, codified in Chapter 17, Title 10.1, §§10.1-1700 through 10.1-1705 of the Code of Virginia, as amended (the "Open-Space Land Act"), declares that the preservation of open-space land serves a public purpose by curbing urban sprawl, preventing the spread of urban blight and deterioration and encouraging more economic and desirable urban development, helping provide or preserve necessary park, recreational, historic and scenic areas, and conserving land and other natural resources, and authorizes the acquisition of interests in real property, including easements in gross, as a means of preserving open-space land; and

WHEREAS, pursuant to Sections 10.1-1700 and 10.1-1703 of the Open-Space Land Act, the purposes of this Easement include retaining and protecting open-space and natural resource values of the Property, and the limitation on division, residential construction and commercial and industrial uses contained in Section II ensures that the Property will remain perpetually available for agriculture, livestock production, forest or open-space use, all as more particularly set forth below; and

WHEREAS, Chapter 525 of the Acts of 1966, Chapter 18, Title 10.1, §§10.1-1800 through 10.1-1804 of the Code of Virginia, declares it to be the public policy of the Commonwealth to encourage preservation of open-space land and authorizes the Virginia Outdoors Foundation to hold real property or any estate or interest therein for the purpose of preserving the natural, scenic, historic, scientific, open-space and recreational lands of the Commonwealth; and

WHEREAS, this Easement is granted "exclusively for conservation purposes" under IRC §170(h)(1)(C) because it effects "the preservation of open space (including farmland and forest land)" under IRC 170(h)(4)(A)(iii). Specifically, the preservation of open space on the Property is pursuant to clearly delineated state and local governmental conservation policies and will yield a significant public benefit; and

WHEREAS, this open-space easement in gross constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to the clearly delineated governmental policies set forth below:

(i) Land conservation policies of the Commonwealth of Virginia as set forth in:

a. Section 1 of Article XI of the Constitution of Virginia, which states that it is the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth;

b. The Open-Space Land Act cited above;

c. Chapter 18, of Title 10.1, §§10.1-1800 through 10.1-1804 of the Code of Virginia cited above;

d. The Virginia Land Conservation Incentives Act, Chapter 3 of Title 58.1, §§58.1-510 through 58.1-513 of the Code of Virginia, which supplements existing land conservation programs to further encourage the preservation and sustainability of the Commonwealth's unique natural resources, wildlife habitats, open spaces and forest resources;

e. Chapter 32, of Title 58.1, §§58.1-3230 through 58.1-3244 of the Code of Virginia, which authorizes special use-value tax assessments for real estate devoted to agricultural, forestal, horticultural and open-space use; and

(ii) Land use policies of the County of Loudoun as delineated in the 2001 Comprehensive Plan to which plan the restrictions set forth in this deed conform as follows:

a. the protection of the Property conforms with County policies, goals, objectives, and strategies to “promote the preservation of forested areas through the use of Agricultural and Forestal Districts, easements and other voluntary means” and to “continue to encourage the use of open space easements as a way to complement and enhance the Green Infrastructure and its elements”;

b. the protection of the Property conforms with the County policy to “proactively promote private, state and federal conservation programs and their allocated resources to advance conservation programs within the County through public and private means such as grants, voluntary easements, dedications, etc.”;

c. the protection of the Property conforms with the County policy to “establish a strategy to expand passive recreational use of Scenic Rivers and the Potomac River ... [and] the County will seek to complete its portion of the Potomac Heritage Trail through public and private efforts as proactively coordinated with County resources”;

d. Loudoun County has identified policies to protect stream corridors and scenic rivers, specifically the Potomac River, within the County by the creation of riparian buffers and has identified the Potomac River as a critical environmental area planned for special protection; and

e. the protection of the Property conforms with the County policy to “protect structures and other features of historic significance in the context of their natural settings and will work with landowners to convey the historic value of the resource to the community at large”; and

f. Loudoun County has recognized the importance of the continued preservation of the Property as real estate devoted to agricultural and forest use and has granted use value assessment and taxation to the Property; and

WHEREAS, the Property has approximately 0.6 miles of frontage on the Potomac River, including approximately 140 acres of floodplain along the Potomac River; and

WHEREAS, the Potomac River is recognized as a natural, scenic, and historical landscape of great significance by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia; and

WHEREAS, the Property is located across the river from the C & O Canal National Historic Park, located in Montgomery County, Maryland, and contributes to the scenic views enjoyed by the public therefrom; and

WHEREAS, the Property is located within the Catoctin Rural Historic District, which is listed on the National Register of Historic Places and the Virginia Landmarks Register; and

WHEREAS, the Property contains an historic house, known as the Colonel White House (ca. 1880), which is eligible for listing on the National Register of Historic Places as a contributing resource to the Catoctin Rural Historic District, and several historic outbuildings; and

WHEREAS, local legend says that Colonel White watched the Potomac at White's Ford from a second floor porch on the historic house during the Civil War and, at low water, crossed his troops to fight at Antietam and Gettysburg; and

WHEREAS, a Phase I archeological investigation carried out in 2006 on the Property identified eighteen archeological sites, including one site associated with 19<sup>th</sup> century agriculture, two sites associated with late 18<sup>th</sup> century dwellings including a potential association with enslaved or tenant households, and one site that indicates occupation during the Late Archaic period (2500 – 1000 BC); and

WHEREAS, this Easement will yield significant public benefit to the citizens of the Commonwealth as set forth in Section I; and

WHEREAS, Grantor and Grantee desire to protect in perpetuity the conservation values of the Property as specified in Section I by restricting the use of the Property as set forth in Section II; and

WHEREAS, Grantee has determined that the restrictions set forth in Section II (the Restrictions) will preserve and protect in perpetuity the conservation values of the Property, which values are reflected in Section I; and

WHEREAS, Grantee has determined that the Restrictions will limit use of the Property to those uses consistent with, and not adversely affecting, the conservation values of the Property and the governmental conservation policies furthered by the Easement; and

WHEREAS, Grantee, by acceptance of this Easement, designates the Property as property to be retained and used in perpetuity for the preservation and provision of open-space land pursuant to the Open-Space Land Act.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein and their acceptance by Grantee, Grantor does hereby give, grant and

convey to Grantee a conservation and open-space easement in gross (Easement) over, and the right in perpetuity to restrict the use of, the Property, which is described below, and consists of 294.5829 acres located in Catoctin Magisterial District, Loudoun County, Virginia, near Leesburg, fronting on State Route 656 (Hibler Road) to-wit:

ALL of that certain tract or parcel of land lying and being in Catoctin Magisterial District of Loudoun County, Virginia, described in a "Certificate of Confirmation by Owner", recorded August 7, 2007 among the land records of Loudoun County, Virginia as Instrument Number 20070807-0058707, said parcel containing 294.5829 acres of land described in a boundary description made by Christopher Consultants, Ltd., dated July 13, 2007, and is comprised within the following metes and bounds:

Beginning at an iron pipe found in the northerly right-of-way line of State Route Number 656 – Hibler Road (30' prescriptive right-of-way). Said pipe being a corner common to the land of Tang and the land of Brassel. Thence, departing the land of Tang and running with said land of Brassel and the aforementioned right-of-way line of State Route 656 the following two (2) courses and distances: N 83 degrees 02' 46" E 70.36 feet to an iron pipe set, S 89 degrees 35' 34" E 159.67 feet to an iron pipe found in said right-of-way line of State Route 656 and a corner to the land of Brassel. Thence, departing said right-of-way line of State Route 656 and running with the land of Brassel the following two (2) courses and distances: N 02 degrees 41' 19" E 569.78 feet to an iron pipe found, S 88 degrees 13' 06" W 229.94 feet to an iron pipe found a corner to the land of Brassel and the aforementioned land of Tang. Thence, departing the land of Brassel and running with the land of Tang N 02 degrees 39' 12" E 450.86 feet to an iron pipe found, a corner to the land of Tang and the land of McKeever. Thence, departing the land of Tang and running with the land of McKeever N 02 degrees 35' 53" E 1,350.82 feet to an iron pipe found, a corner to the land of McKeever and the land of Judge. Thence, departing the land of McKeever and running with the land of Judge N 02 degrees 33' 23" E 855.42 feet to a stone found, a corner to the land of Judge and the land of Swaim. Thence, departing the land of Judge and running with the land of Swaim S 86 degrees 56' 15" E 607.19 feet to an iron pipe found, a corner to the land of Swaim and the land of Cox. Thence, departing the land of Swaim and running with the land of Cox the following two (2) courses and distances: S 86 degrees 49' 02" E 1,609.10 feet to a corner fence post found, S 02 degrees 32' 21" W 1,882.72 feet to an iron pipe found, a corner to the land of Cox and the land of Wood. Thence, departing the land of Cox and running with the land of Wood and continuing with the aforementioned land of Cox S 02 degrees 44' 12" W (passing over an iron pipe found at 518.91 feet) 738.99 feet to an iron pipe set. Thence, continuing with the land of Cox S 32 degrees 47' 51" E (passing over an iron pipe set at 195.37 feet in the aforementioned northerly right-of-way line of State Route 656; 228.73 feet to an iron pipe set in the southerly right-of-way line of State Route 656; 1,635.68 feet to a stone found) 1,714.39 feet to a point, a corner to the land

of Cox and the northerly bank of the Potomac River. Thence, departing the land of Cox and running with said bank of the Potomac River the following twelve (12) courses and distances: S 44 degrees 57' 00" 192.54 feet to a point, S 45 degrees 26' 59" W 403.27 feet to a point, S 51 degrees 39' 37" W 221.17 feet to a point, S 62 degrees 44' 26" W 516.16 feet to a point, S 59 degrees 28' 29" W 315.90 feet to a point, S 58 degrees 52' 58" W 160.52 feet to a point, S 55 degrees 38' 44" W 247.37 feet to a point, S 68 degrees 22' 52" W 107.72 feet to a point, S 75 degrees 32' 01' W 212.77 feet to a point, S 79 degrees 57' 10" W 518.15 feet to a point, S 82 degrees 25' 55" W 178.24 feet to a point, S 75 degrees 54' 09" W 176.80 feet to a point, a corner to the aforementioned land of Tang. Thence, departing the said bank of the Potomac River and running with the aforementioned land of Tang the following five (5) courses and distances: N 16 degrees 43' 19" W (passing over an iron pipe set at 30.00 feet, an iron pipe found at 2,354.59 feet) 2,369.59 feet to a point in the center line of the aforementioned State Route 656. Thence, continuing with the center line of State Route 656, N 73 degrees 13' 05" E 104.58 feet to a point, N 71 degrees 44' 27" E 126.16 feet to a point, 129.60 feet along the arc of a curve to the right; said curve having a radius of 753.38 feet, a central angle of 09 degrees 51' 23" and a chord which bears N 76 degrees 40' 08" E 129.44 feet to a point. Thence, departing said centerline of State Route 656 N 01 degrees 25' 55" E 14.74 feet to the point of beginning.

**CONTAINING 294.5829 ACRES OF LAND MORE OR LESS  
- INCLUDING 140.8 ACRES WITHIN THE MAJOR  
FLOODPLAIN AND 0.7 ACRES WITHIN THE MINOR  
FLOODPLAIN FOR A TOTAL OF 140.8 ACRES OF  
FLOODPLAIN.**

AND BEING the same property, with inaccurate legal description, conveyed to QDP, L.L.C., by Deed dated April 1, 2005 and recorded April 4, 2005, among the land records of Loudoun County as Instrument Number 200504-040034294.

The Property is shown as PIN 077-36-5320 among the land records of the County of Loudoun, Virginia. Even if the Property consists of more than one parcel for real estate tax or any other purpose, it shall be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement shall apply to the Property as a whole.

#### **SECTION I - PURPOSE**

The conservation purpose of this Easement is to preserve land for agricultural use, watershed preservation, and preservation of scenic open space, and to protect the conservation values of the Property in perpetuity by imposing the restrictions on the use

of the Property set forth in Section II and providing for their enforcement in Section III. The conservation values of the Property are its open-space, scenic, natural, and historic values and its values as land preserved for open-space and rural uses including agriculture, livestock production and forestry. Grantor covenants that no acts or uses that are inconsistent with the purpose of this Easement or the conservation values herein protected shall be conducted on the Property.

## **SECTION II – RESTRICTIONS**

Restrictions are hereby imposed on the use of the Property pursuant to the public policies set forth above. The acts that Grantor covenants to do and not to do upon the Property, and the restrictions that Grantee is hereby entitled to enforce, are and shall be as follows:

1. **DIVISION.** The Property shall not be divided into, or separately conveyed as, more than three parcels. Grantor shall give Grantee written notice prior to making any division of the Property. In the event of a division of the Property as provided in this Paragraph 1, the grantor making the conveyance retains the right to make the further permitted division of the Property unless the permitted division is allocated by that grantor in the instrument creating the division or other recorded instrument. One of the permitted parcels must be less than 25 acres in size and must be located on the north side of Hibler Road.

Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered divisions of the Property, provided that Grantee is made party to the deed creating the boundary line adjustment and at least one of the following conditions is met:

- (i) The entire adjacent parcel is subject to a recorded open-space easement owned by Grantee; or
- (ii) The proposed boundary line adjustment shall have been reviewed and approved in advance by the Board of Trustees of Grantee.

2. **BUILDINGS AND STRUCTURES.** No buildings or structures other than the following are permitted on the Property:
  - (i) two single-family dwellings, which shall not individually exceed 4,500 square feet of above-ground enclosed living area without Grantee's prior review and written approval; and
  - (ii) one single-family dwelling, which shall not exceed 3,500 square feet of above-ground enclosed living area without Grantee's prior review and written approval; and
  - (iii) two secondary dwellings, or dwelling units such as barn or garage apartments, which shall not individually exceed 2,000 square feet of above-ground enclosed living area; and



(iv) non-residential outbuildings and structures commonly and appropriately incidental to the dwellings permitted in subsections (i), (ii) and (iii) of this paragraph, and sized appropriately to serve as an amenity to single-family residential use; and

(v) farm buildings or structures, except that a farm building or farm structure exceeding 4,500 square feet in ground area may not be constructed on the Property unless prior written approval for the building or structure shall have been obtained from Grantee, which approval shall be limited to consideration of the impact of the size, height and siting of the proposed structure on the conservation values of the Property. For purposes of this subparagraph, a farm building or structure shall mean a building or structure originally constructed and used for the activities specified in paragraph 3(i).

In the event of division of the Property as provided in paragraph 1, permitted dwellings shall be allocated among the parcels in the instrument creating the division or other recorded instrument.

Grantor shall give Grantee 30 days' written notice before beginning construction or enlargement of any dwelling on the Property.

The historic house ("Colonel White House"), the only existing house on the Property at the time of the Easement and containing approximately 2,673 square feet of enclosed living area based on the Loudoun County Real Estate Tax records, shall not be demolished or removed from the Property without the prior written approval of the Grantee. The historic house may be renovated or enlarged and shall be considered one of the dwellings permitted in Paragraph 2 (i), 2 (ii), or 2 (iii). In the event that any historic building or structure is destroyed or damaged by causes beyond the Grantor's reasonable control including but not limited to fire, flood, storm, or earth movement, to such an extent that in the opinion of the Grantee, in consultation with Virginia Department of Historic Resources, the building or structure's historic integrity is irremediably compromised, nothing herein shall obligate the Grantor to reconstruct the building or return it to its condition prior to such calamity.

To protect the scenic values of the Property and the view from the C & O Canal National Historic Park, no dwelling or other building shall be constructed within 600 feet of the Potomac River or in the two designated "No Build Zones" located north of Hibler Road. To protect the archeological resources identified on the Property, no dwelling or other building shall be constructed in the two designated "No Build Zones" south of Hibler Road. The "No Build Zones" are shown in the baseline documentation report. These prohibitions shall not apply to the construction or maintenance of fencing, livestock feeding or watering troughs, mailboxes, gate posts, or permitted signs.

Private roads and utilities to serve permitted buildings or structures, private roads and utilities to parcels created by permitted divisions of the

Property, and roads with permeable surfaces for other permitted uses, such as farming or forestry, may be constructed and maintained. The location of new roads or access ways, other than farm or forest roads, shall require review and written approval of Grantee prior to construction. Public or private utilities whose construction and maintenance Grantee determines will not impair the Property's conservation values may be constructed and maintained if Grantee gives its prior written approval.

The collective footprint of all buildings and structures on the Property, excluding roads, shall not exceed 1% the total area of the Property, provided that if Grantor can demonstrate that an increase in the collective footprint would result in increased protection of the conservation values protected herein, Grantee may approve such increase. For the purpose of this paragraph the collective footprint is the ground area measured in square feet of the structures set forth in subsections (i) through (v) above and all other impervious surfaces, excluding roads. In the event of division of the Property, the collective footprint of all structures and all other impervious surfaces on each parcel, excluding roads, shall not exceed 1% of the total area of such parcel unless otherwise allocated in the instrument of transfer or other recorded instrument.

3. **INDUSTRIAL OR COMMERCIAL ACTIVITIES.** Industrial or commercial activities other than the following are prohibited: (i) agriculture, livestock production (animal husbandry), equine activities and forestry, and related small-scale incidental commercial or industrial operations that Grantee approves in writing as being consistent with the conservation values of this Easement; (ii) processing and sale of products produced on the Property as long as no additional buildings are required; (iii) temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property and that do not diminish the conservation values herein protected; and (iv) activities that can be and in fact are conducted within permitted buildings without material alteration to their external appearance. Temporary outdoor activities involving 100 or more people shall not exceed 7 consecutive days in any 90-day period without prior written approval of the Grantee.
4. **MANAGEMENT OF FOREST AND AGRICULTURAL PRODUCTION.** Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality when any timber harvest or land-clearing activity is undertaken. All material timber harvest activities on the Property shall be guided by a Forest Stewardship Management Plan approved by Grantee. A pre-harvest plan consistent with the Forest Stewardship Management Plan shall be submitted to Grantee for approval 30 days before beginning any material timber harvest. Grantee shall be notified 30 days prior to the clearing of over 10 acres of forestland for grassland, crop land, or in association with the construction of permitted buildings.

Non-commercial *de minimis* harvest of trees for trail clearing, firewood or Grantor's domestic use, trees that pose an imminent hazard to human health or safety, or removal of invasive species shall not require a Forest Stewardship Management Plan.

As long as the Property has five (5) contiguous acres or more devoted to the production for sale of plants or animals under standards prescribed by the Commissioner of Agriculture and Consumer Services, or land devoted to a soil conservation program under an agreement with any agency of the federal government, the Grantor shall maintain a current written conservation plan concerning all such activities. The plan shall stipulate the use of Best Management Practices (BMP's), such as proper nutrient management, utilization of cover crops, and stabilization of highly erodible lands, and it shall be developed in consultation with the local Soil and Water Conservation District or the Natural Resources Conservation Services.

5. **RIPARIAN BUFFER.** To protect water quality, a 100-foot buffer strip along the edge of the Potomac River as measured from the top of the bank and a 35-foot buffer strip along each edge of the unnamed stream shall be maintained in forest or be permitted to revegetate naturally. Within this buffer strip there shall be (a) no buildings or other substantial structures constructed, (b) no storage of compost, manure, fertilizers, chemicals, machinery or equipment, (c) no removal of trees except removal of invasive species or removal of dead, diseased or dying trees or trees posing an imminent human health or safety hazard, and (d) no cultivation or other earth-disturbing activity, except as may be reasonably necessary for (i) wetland or stream bank restoration, or erosion control, pursuant to a government permit, (ii) fencing along or within the buffer area; (iii) construction and maintenance of stream crossings that do not obstruct water flow, (iv) creation and maintenance of foot or horse trails with unimproved surfaces, including the Potomac Heritage Trail, a special project identified in the Loudoun County Comprehensive Plan, and (v) dam construction to create ponds. Limited mowing to control non-native species or protect trees and other plants planted in forested buffers is permitted. There shall be no grazing of livestock in the buffer strip.
6. **GRADING, BLASTING, MINING.** Grading, blasting or earth removal shall not materially alter the topography of the Property except for (i) dam construction to create ponds, (ii) wetlands or stream bank restoration pursuant to a government permit, (iii) erosion and sediment control pursuant to a government-required erosion and sediment control plan, or (iv) as required in the construction of permitted buildings, structures, roads, and utilities. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in such construction. Grading, blasting or earth removal in excess of one acre for the purposes set forth in subparagraphs (i) through (iv) above require 30 days' prior notice to Grantee.

Generally accepted agricultural activities shall not constitute a material alteration. Surface mining, subsurface mining, dredging on or from the Property, or drilling for oil or gas on the Property is prohibited.

7. **ACCUMULATION OF TRASH.** Accumulation or dumping of trash, refuse, junk or toxic materials is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property.
8. **SIGNS.** Display of billboards, signs, or other advertisements is not permitted on or over the Property except to: (i) state the name and/or address of the owners of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property, (iv) provide notice necessary for the protection of the Property, (v) give directions to visitors, or (vi) recognize historic status or participation in a conservation program. Temporary political signs are allowed. No signs visible from outside the Property shall exceed nine square feet in size.

### **SECTION III – ENFORCEMENT**

1. **RIGHT OF INSPECTION.** Representatives of Grantee may enter the Property from time to time for purposes of inspection (including photographic documentation of the condition of the Property) and enforcement of the terms of this Easement after permission from or reasonable notice to Grantor or Grantor's representative, provided, however, that in the event of an emergency, entrance may be made to prevent, terminate or mitigate a potential violation of these restrictions with notice to Grantor or Grantor's representative being given at the earliest practicable time.
2. **ENFORCEMENT.** Grantee has the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the right to require restoration of the Property to a condition of compliance with the terms of this Easement as existed on the date of the gift of the Easement, except to the extent such condition thereafter changed in a manner consistent with the Restrictions; to recover any damages arising from non-compliance; and to enjoin non-compliance by *ex parte* temporary or permanent injunction. If the court determines that Grantor failed to comply with this Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and attorney's fees, in addition to any other payments ordered by the court. Grantee's delay shall not waive or forfeit its right to take such action as may be necessary to insure compliance with this Easement, and Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act by Grantee. Notwithstanding any other provision of this Easement, Grantor shall not be responsible or liable for any damage or change to

the condition of the Property caused by fire, flood, storm, Act of God, governmental act or other cause outside of Grantor's control or any prudent action taken by Grantor to avoid, abate, prevent or mitigate damage or changes to the Property from such causes.

#### **SECTION IV – DOCUMENTATION**

Documentation retained in the office of Grantee including, but not limited to, the Baseline Documentation Report ("Documentation Report"), describes the condition and character of the Property at the time of the gift. The Documentation Report may be used to determine compliance with and enforcement of the terms of this Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination. Grantor has made available to Grantee, prior to donating this Easement, documentation sufficient to establish the condition of the Property at the time of the gift. The parties hereby acknowledge that the Documentation Report contained in the files of Grantee is an accurate representation of the Property.

#### **SECTION V – GENERAL PROVISIONS**

1. **DURATION.** This Easement shall be perpetual. It is an easement in gross that runs with the land as an incorporeal interest in the Property. The covenants, terms, conditions and restrictions contained in this Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. Landowner's rights and obligations under this Easement terminate upon proper transfer of Landowner's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
2. **NO PUBLIC ACCESS.** Although this Easement will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to, or use of the Property. Grantor retains the exclusive right to such access and use, subject to the terms hereof.
3. **TITLE.** Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances (other than utility and access easements) including, but not limited to, any mortgages not subordinated to this Easement.
4. **ACCEPTANCE.** Acceptance of this conveyance by Grantee is authorized by Virginia Code Section 10.1-1801 and is evidenced by the signature of a Deputy Director, by authority granted by Grantee's Board of Trustees.

5. **INTERACTION WITH OTHER LAWS.** This Easement does not permit any use of the Property which is otherwise prohibited by federal, state, or local law or regulation. Neither the Property, nor any portion of it, shall be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage or open-space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other property pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.
6. **CONSTRUCTION.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of the Easement and the policy and purposes of Grantee. If any provision of this Easement is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Notwithstanding the foregoing, lawful acts or uses not expressly prohibited by this Easement are permitted on the Property. Grantor and Grantee intend that the grant of this Easement qualify as a "qualified conservation contribution" as that term is defined in Section 170(h)(1) of the Internal Revenue Code and Treasury Regulations §1.170A-14, and the restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this Easement from being a qualified conservation contribution.
7. **REFERENCE TO EASEMENT IN SUBSEQUENT DEEDS.** This Easement shall be referenced by deed book and page number, instrument number or other appropriate reference in any deed or other instrument conveying any interest in the Property.
8. **NOTICE TO GRANTEE.** Grantor agrees to notify Grantee in writing (i) before exercising any reserved right that Grantor believes may have an adverse effect on the conservation or open-space values or interests associated with the Property; and (ii) at or prior to closing on any *inter vivos* transfer, other than a deed of trust or mortgage, of all or any part of the Property.
9. **TAX MATTERS.** The parties hereto agree and understand that any value of this Easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in IRS regulations (see Section 1.170A-13(c)(5)), and that the appraisal is subject to review and audit by all appropriate tax authorities. Grantee makes no express or implied warranties that any tax benefits will be available to Grantor from donation of this Easement, or that any such tax benefits might be transferable, or that there will be any market for any tax benefits that might be transferable. By its execution hereof, Grantee acknowledges and confirms receipt of the Easement and further acknowledges that Grantee has not provided any goods or services to Grantor in consideration of the grant of the Easement.

10. **MERGER.** Grantor and Grantee agree that in the event that Grantee acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.
11. **ASSIGNMENT BY GRANTEE.** Grantee may not transfer or convey this Easement unless Grantee conditions such transfer or conveyance on the requirement that (1) all restrictions and conservation purposes set forth in this Easement are to be continued in perpetuity and (2) the transferee then qualifies as an eligible donee as defined in Section 170(h)(3) of the IRC as amended and the applicable Treasury Regulations.
12. **GRANTEE'S PROPERTY RIGHT.** Grantor agrees that the donation of this Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time.
13. **EXTINGUISHMENT, CONVERSION, DIVERSION.** Grantor and Grantee intend that this Easement be perpetual and acknowledge that no part of the Property may be converted or diverted from its open-space use except in compliance with the provisions of Section 10.1-1704 of the Open-Space Land Act which does not permit extinguishment of open-space easements or loss of open space. Nevertheless, should an attempt be made to extinguish this Easement, such extinguishment can be made only by judicial proceedings and only if in compliance with Section 10.1-1704. In any sale or exchange of the Property subsequent to an extinguishment, Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of this Easement computed as set forth in Section 12 above, but not to be less than the proportion that the value of this Easement at the time of extinguishment bears to the then value of the Property as a whole. Grantee shall use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purpose of this easement and the Open-Space Land Act.
14. **AMENDMENT.** Grantee and Grantor may amend this Easement to enhance the Property's conservation values or add to the restricted property, provided that no amendment shall affect this Easement's perpetual duration or reduce the Property's conservation values. No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded among the land records of the County of Loudoun, Virginia.
15. **SEVERABILITY.** If any provision of this Easement or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Easement shall not be affected thereby.

16. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement.
17. **CONTROLLING LAW.** The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Virginia.
18. **RECORDING.** This Easement shall be recorded in the land records in the Circuit Court Clerk's Office of the County of Loudoun, Virginia, and Grantee may re-record it any time as may be required to preserve its rights under this Easement.

ACCESS NATIONAL BANK, herein the Bank, is the Note holder under a certain Deed of Trust dated 19 May 2006 and recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia in Instrument No. 20060530-0047463 which subjects the Property to the Bank's lien. The Bank hereby consents to the terms and intent of this Easement, and agrees that the lien represented by said Deed of Trust shall be held subject to this Easement and joins in this Deed to reflect its direction to the Trustee to execute this Easement to give effect to the subordination of such Deed of Trust to this Easement.

WITNESS the following signatures and seals:

[Counterpart signature pages follow]



4  
[Counterpart signature page 1 of 5]

QDP, LLC

By: [Signature]  
Manager

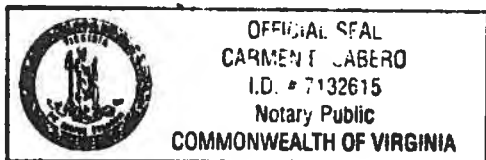
COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Fairfax, TO WIT:

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of  
December, 2007, by QDP through William J. Clougherty, Managing Member

[Signature]  
Notary Public, # 7132615

My commission expires: 2/28/2011

(SEAL)



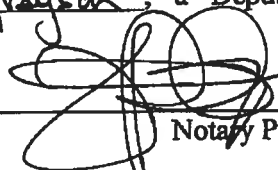
[Counterpart signature page 2 of 8]

Accepted:  
VIRGINIA OUTDOORS FOUNDATION,

By: Leslie H. Grayson

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Fauquier, TO WIT:

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of December 2007, by Leslie H. Grayson, a Deputy Director of the Virginia Outdoors Foundation.



Notary Public

My commission expires: 7.31.2008  
# 352290

(SEAL)



[Counterpart signature page 3 of <sup>4</sup>8]

Bank: **ACCESS NATIONAL BANK**

By: [Signature]

Its: Executive Vice President

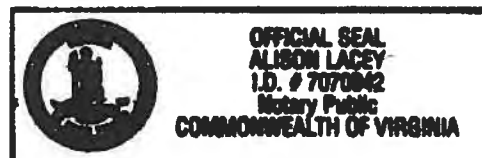
COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Fairfax, TO WIT:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 2007, by Joseph Humphries (name of officer), Executive Vice President (title of officer) of Access National Bank (name of corporation), a Virginia (state of incorporation) corporation, on behalf of the corporation.

[Signature]  
Notary Public

My commission expires: February 28, 2010

(SEAL)



[Counterpart signature page 4 of 5]

Edmund D. Harlee, Trustee, Trustee  
EDMUND D. HARLEE,  
Sole Acting Trustee

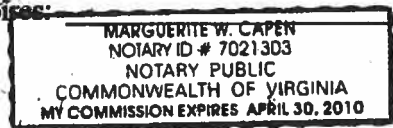
COMMONWEALTH OF VIRGINIA,  
~~CITY~~/COUNTY OF Fairfax, TO WIT:

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of  
December, 2007 by EDMUND D. HARLEE, Trustee.

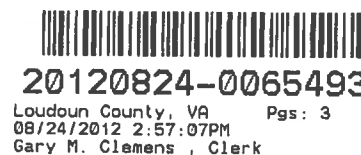


Marguerite W. Capen  
Notary Public

My commission expires:



Prepared by and return to: Virginia Outdoors Foundation  
1108 E. Main St., Suite 700  
Richmond, VA 23219



PIN #: 077-36-5320

Exempted from recordation tax  
under the Code of Virginia (1950), as amended,  
Sections 58.1-811 (A) (3), 58.1-811 (D) and 10.1-1803  
and from Circuit Court Clerk's fee under Section 17.1-266

THIS CORRECTED DEED OF GIFT OF EASEMENT, (this "Corrected Easement"), made this 9<sup>th</sup> day of July, 2012, between NORTHERN VIRGINIA REGIONAL PARK AUTHORITY, a Body Corporate and Politic (the "Grantor"); the VIRGINIA OUTDOORS FOUNDATION, an agency of the Commonwealth of Virginia, ("Grantee" or "VOF") (the designations "Grantor" and "Grantee" refer to the Grantor and Grantee and their respective successors and assigns).

**WITNESSETH:**

**WHEREAS**, by Deed of Gift of Easement dated December 5, 2007 and recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, as Instrument No. 20071206-0084868, QDP, LLC conveyed an open-space easement on 294.5829 acres, more or less, to Grantee (the "Easement"); and

**WHEREAS**, by deed dated June 10, 2010 and recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia as Instrument No. 20100610-0033679, QDP, LLC conveyed the entire property to the Grantor, said parcel being the same property that was encumbered by the Easement; and

**WHEREAS**, the Easement includes a restriction prohibiting any dwelling or other building from being constructed within 600 feet of the Potomac River (the "600-foot setback"); and

**WHEREAS**, the Easement includes a restriction requiring a 100-ft. buffer strip along the edge of the Potomac River as measured from the top of the bank; and

**WHEREAS**, the parties hereto agree that the locations of the 600-foot setback area and buffer strip along the Potomac River do not reflect the actual ownership of the Grantor and should be corrected to conform with the property line; and

**NOW, THEREFORE**, by mutual agreement and in consideration of the foregoing Grantor and Grantee do hereby correct the Easement as follows:

- 1) The last full paragraph on page 8 of the Easement is hereby corrected to read (corrected language is italicized): "To protect the scenic values of the Property and the

view from the C & O Canal National Historic Park, no dwelling or other building shall be constructed within 600 feet of the *Property line adjacent to the Potomac River* or in the two designated "No Build Zones" located north of Hibler Road. To protect the archeological resources identified on the Property, no dwelling or other building shall be constructed in the two designated "No Build Zones" south of Hibler Road. The "No Build Zones" are shown in the baseline documentation and *the dwelling and building restriction area is shown on an updated special conditions map dated 8/21/12 and kept in the files of the Grantee....*"

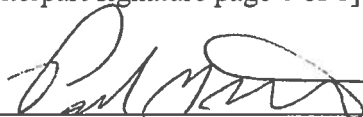
2) Paragraph 5 on page 10 of the Easement is hereby corrected to read (corrected language is italicized): "To protect water quality, a 100-foot buffer strip along the edge of the Potomac River as measured *from the property line adjacent to the Potomac River* and a 35-foot buffer strip...."

All of the other recitals, provisions, terms and conditions of the Easement are hereby confirmed as set forth therein, are incorporated herein by reference as if they were textually set forth herein, and shall continue in full force and effect.

WITNESS the following signatures and seals:

[Counterpart signature pages follow]

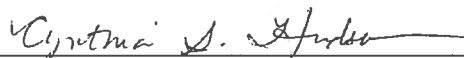
[Counterpart signature page 1 of 1]



Executive Director, Northern Virginia Regional Park Authority

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Fairfax, TO WIT:

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of July, 2012 by Paul Gilbert, the Executive Director of the Northern Virginia Regional Park Authority, Grantor.




Notary Public

(SEAL)



My commission expires: 12/31/12  
Registration No. 122012

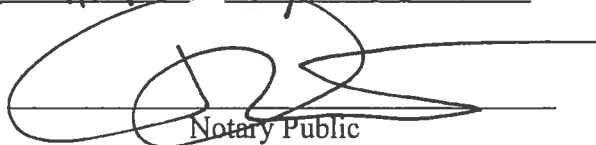
Accepted:  
VIRGINIA OUTDOORS FOUNDATION,



By: Martha Little  
Deputy Director of Stewardship

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Richmond, TO WIT:

The foregoing instrument was acknowledged before me this 14 day of August, 2012 by Martha Little Dep. Director of the Virginia Outdoors Foundation.



Notary Public

(SEAL)

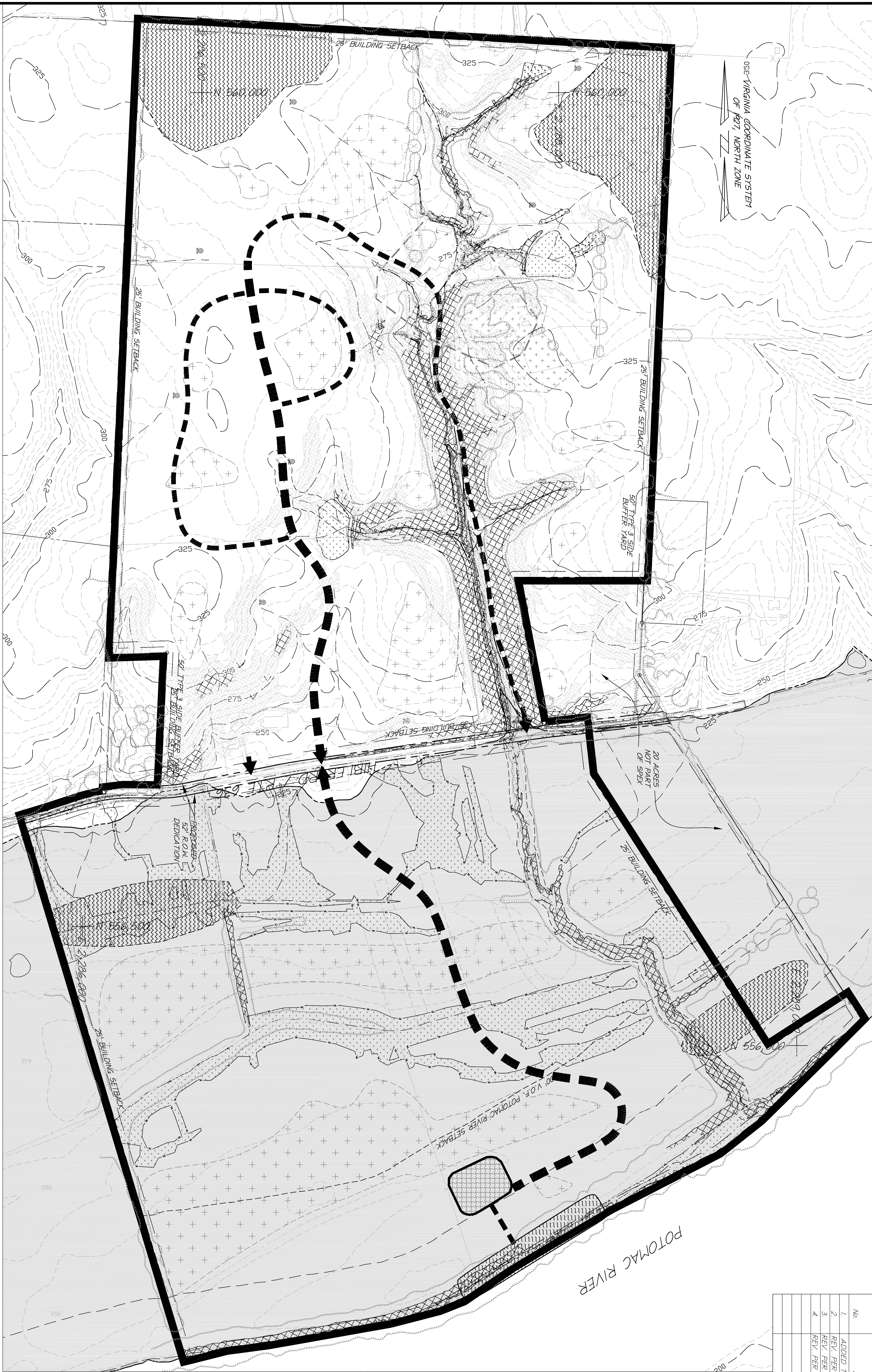


My commission expires: 31 May 2015  
Registration No. 7512401













No	DESCRIPTION	DATE
1	ADDED TREE CONSERVATION PLAN	1/30/09
2	REV. PER 1ST SUB. COUNTY COMMENTS	7/10/09
3	REV. PER 2ND SUB. COUNTY COMMENTS	9/10/09
4	REV. PER 3RD SUB. COUNTY COMMENTS	9/28/09



LEGEND

	Moderate Slopes
	Very Steep Slopes
	Architectural Resource
	Potential Wetland
	Major Flood Plain / FOD
	Minor Flood Plain / FOD
	Archaeological Resource
	Virginia Outdoor Foundation No-Build Area

PROPOSED  
ACCESS POINT \*

PROPOSED INTERNAL  
PRIMARY ROAD  
NETWORK

PROPOSED INTERNAL  
SECONDARY ROAD  
NETWORK \*

THE LOCATIONS OF THESE ITEMS  
ARE MEANT TO BE CONCEPTUAL.  
FINAL LOCATION ARE TO BE  
DETERMINED AT THE TIME OF FINAL  
ENGINEERING.

BOAT LAUNCH  
SPECIAL EXCEPTION PLAT

WHITE'S FORD PARK  
SPECIAL EXCEPTION PLAT

SPEX 2008-0061 SPEX 2008-0062  
CATOCTIN ELECTION DISTRICT      LOUDOUN COUNTY, VIRGINIA

**christopher consultants**  
engineering · surveying · land planning  
christopher consultants, ltd.  
20110 ashbrook place (suite 160) · ashburn, virginia 20146  
571.209.5950 · fax 571.209.5951



<b>ZONING REQUIREMENTS</b>					
<b>SECTION 2-100 AR-1 AGRICULTURAL, RURAL-1</b>					
<b>BASE DENSITY DIVISION OPTION:</b>	<b>SECTION 4-1500 FOD - FLOODPLAIN OVERLAY DISTRICT</b>				
<b>USE:</b> REGIONAL PARK, CAMPGROUND, BOAT LAUNCH	<b>4.1505 PERMITTED USES:</b>				
<b>LOT YIELD:</b>	1 LOT PER 20 ACRES	<b>USE:</b> PUBLIC OR PRIVATE RECREATION USES,			
<b>LOT SIZE:</b>	20 ACRES MINIMUM	<b>PARKING, INCIDENTAL STRUCTURES, PICNIC GROUNDS, PLAY AREAS OF A NATURAL, PLEASANT NATURE, AND TRAILS</b>			
<b>LOT WIDTH:</b>	175 FEET MINIMUM	<b>4.1508(A) SPECIAL EXCEPTION USES:</b>			
<b>YARDS:</b>	NO STRUCTURE SHALL BE LOCATED WITHIN 25 FEET OF ANY EXISTING LINE OR WITHIN 10 FEET FROM THE RIGHT-OF-WAY OF ANY COLLECTOR ROAD AND 35 FEET FROM ANY OTHER ROAD RIGHT-OF-WAY. PRIVATE ACCESS EASEMENT, AND/OR ANY PRESERVATIVE EASEMENT.	<b>USE:</b> BOAT LAUNCH, BOAT RENTALS AND INCIDENTAL STRUCTURES ASSOCIATED WITH SUCH USES, SUCH AS BATH HOUSES			
<b>LOT COVERAGE:</b>	MIN MAXIMUM	<b>ACCESSIBLE SPACE REQUIRED:</b> AS REQUIRED PER ADA STANDARDS FOR ACCESSIBLE DESIGN			
<b>BUILDING HEIGHT:</b>	MAXIMUM 35 FEET, EXCLUDING AGRICULTURAL, HORTICULTURAL, AND ANIMAL HOUSANDRY STRUCTURES.	<b>ACCESSIBLE SPACE PROVIDED:</b> SPACES TO BE PROVIDED IN CONFORMANCE WITH ADA REQUIREMENTS			
		<b>LOADING SPACE REQUIRED:</b> NONE			
		<b>LOADING SPACE PROVIDED:</b> LOADING SPACES TO BE PROVIDED IN CONFORMANCE WITH SECTION 5-100 OF THE REVISED 1993 LANDOWN COUNTY ZONING ORDINANCE. FINAL LOADING REQUIREMENTS TO BE DETERMINED AT THE TIME OF FINAL SITE PLAN APPROVAL.			
		<b>PROPOSED ZONING TABULATIONS</b>			
		<b>SPECIAL EXCEPTION AREA</b>			
		<b>GROSS SITE AREA = 294.59 AC +/-</b>			
		<b>SPEX SITE AREA= 274.59 AC +/-</b>			
		<b>BUILDABLE AREA= 258.92 AC</b>			
		<b>PARKING REQUIRED:</b> .33 SPACE / PERSON IN PERMITTED OCCUPANCY APPROVED BY THE FIRE MARSHAL PLUS 1 SPACE / EMPLOYEE			
		<b>PARKING PROVIDED:</b> PARKING TO BE PROVIDED IN CONFORMANCE WITH SECTION 5-100 OF THE REVISED 1993 LANDOWN COUNTY ZONING ORDINANCE. FINAL PARKING REQUIREMENTS TO BE DETERMINED AT THE TIME OF FINAL SITE PLAN APPROVAL.			
<b>PROJECT NO:</b> 08790100					
<b>SCALE:</b> 1"=200'					
<b>DATE:</b> NOVEMBER 26, 2008					
<b>DESIGN BY:</b> [Signature]					
<b>DRAWN BY:</b> [Signature]					
<b>CHECKED BY:</b> [Signature]					
<b>SHEET No.</b> 4 of 5					