

*Prepared by and after
recording return to:*
Valerie W. Long, Esq.
Williams Mullen
321 E. Main Street
Suite 400
Charlottesville, VA 22902

Tax Map Parcel Nos.093A1-00-00-00200
07900-00-00-025A0
08000-00-00-04600
08000-00-00-046A0
08000-00-00-046C0
08000-00-00-046D0
08000-00-00-046E0
08000-00-00-05000
08000-00-00-05100
08000-00-00-05200
08000-00-00-052A0
08000-00-00-055A0
093A1-00-00-00300
093A1-00-00-00400

EASEMENT AGREEMENT

This EASEMENT AGREEMENT (this “Agreement”) is made and entered into as of _____, 2016, by and is made and entered into by and among the COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the “County”), EAST RIVANNA VOLUNTEER FIRE CO., INCORPORATED, a Virginia corporation (the “ERVFC”); and collectively with the County, the “Owner”) and RIVANNA VILLAGE LLC, a Virginia limited liability company (the “Developer”), and, and recites and provides as follows:

RECITALS:

A. Owner is the owner of a parcel of land (the “ERVFC Property”) located in the Scottsville Magisterial District, Albemarle County, Virginia, identified on the current Albemarle County tax maps as Tax Map Parcel No. 093A1-00-00-00200, as further shown on a Plat of Roudabush, Gale & Associates, Inc., entitled “Easement Plat TMP 093A1-00-00-00-00200 Property of East Rivanna Volunteer Fire Co., Incorporated Scottsville District Albemarle County, Virginia,” dated July 30, 2015, last revised February 2, 2016 (the “Plat”), which Plat is attached hereto, incorporated herein and recorded herewith.

B. Developer is the owner of thirteen parcels of land (collectively, the “Rivanna Village Property”) located in the Scottsville Magisterial District, Albemarle County, Virginia, in the vicinity of the ERVFC Property, and currently identified on the current Albemarle County tax maps as Tax Map Parcel Nos. 07900-00-00-025A0, 08000-00-00-04600, 08000-00-00-046A0, 08000-00-00-046C0, 08000-00-00-046D0, 08000-00-00-046E0, 08000-00-00-05000, 08000-00-00-05100, 08000-00-00-05200, 08000-00-00-052A0, 08000-00-00-055A0, 093A1-00-00-00300, and 093A1-00-00-00400, as shown in part on the Plat.

C. In connection with Developer's plans to develop the Rivanna Village Property as a mixed use community known as "Rivanna Village" (the "Development"), Developer has asked, and Owner has agreed, to grant certain easements, subject to the terms and conditions of this Agreement.

AGREEMENT:

Now therefore, for and in consideration of the above-referenced premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto agree as follows:

1. Recitals Incorporated. The Recitals above are hereby incorporated into the terms of this Agreement.

2. Grant of Easements. Owner hereby grants and conveys to and for the benefit of Developer, its successors and assigns, as an appurtenance to the Rivanna Village Property, the following easements across the ERVFC Property:

(a) a temporary, non-exclusive easement for construction, and a permanent, non-exclusive easement for grading, drainage and landscaping, in the area shown on the Plat as "New 20' Construction, Grading, Drainage, Landscaping Easement" (the "Twenty Foot Easement Area").

(b) a temporary, non-exclusive easement for construction, and a permanent, non-exclusive easement for grading, drainage, stormwater management, trails and landscaping, in the area shown on the Plat as "New 60 Construction, Grading, Drainage, SWM/BMP, Trails and Landscaping Easement" (the "Sixty Foot Easement Area", and, collectively with the Twenty-Foot Easement Area, the "Easement Area").

3. Scope of Easements Granted. The foregoing easements shall only be for the purposes of:

(a) grading the Easement Area in accordance with an approved site plan for the Development (the "Site Plan");

(b) installing, maintaining, adding to, or replacing present or future landscaping within the Easement Area;

(c) establishing a new and permanent slope in the Easement Area (which slope Developer shall thereafter maintain at its sole cost and expense);

(d) constructing such other site improvements within the Easement Area as are reasonably necessary to comply with the approved site plan;

(e) constructing, operating, maintaining, adding to, or replacing present or future storm drainage pipes, necessary structures, and appurtenances necessary for the collection

of storm water and its transmission through and across the Easement Areas;

(f) solely with respect to the Sixty-Foot Easement Area, installing, operating, maintaining, replacing, and adding to a storm water management facility; and

(g) solely with respect to the Sixty-Foot Easement Area, constructing, maintaining, adding to, or replacing present or future multi-use trails.

Developer shall have full and free use of the Easement Area for the purposes named only, and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the same, including the right of access to and from the Easement Area and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance. Developer shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in the Easement Area which interfere with the proper and efficient construction, grading, maintenance, or other permitted use of the Easement Area; provided, however, that Developer shall restore, as nearly as possible, the Easement Area to its original condition, such restoration to include the back filling of trenches, but not the reestablishment of the original grading of the Easement Area.

4. Duration of Temporary Construction Easements. The temporary construction easements granted hereunder shall automatically terminate and be of no further force or effect on the date that is sixty (60) days after the work necessary for such temporary construction easements are completed.

5. Indemnification. Developer hereby agrees to indemnify, defend and hold Owner, its agents, employees, successors and assigns, harmless from any and all costs, liabilities, damages, losses, claims, actions or proceedings including, for injury to persons which may be claimed to have arisen out of any damage, accident, injury or other similar occurrences in connection with the use and operation of trails within the Easement Area by Developer, and its tenants, employees, guests, invitees, agents, contractors, successors and assigns.

6. Future Action. The parties agree to do and take such further and additional acts and actions and to execute, acknowledge, and deliver such further and additional documents, instruments and writing which are not specifically referred to herein as may be necessary, required or appropriate for the purpose of fully effectuating the provisions of this Agreement.

7. Easements Run with the Land. The mutual obligations and rights exchanged herein shall run with the lands of and be binding upon the parties, and their successors and assigns such that any transfer of the Rivanna Village Property or the ERVFC Property (or any part of either the Rivanna Village Property or the ERVFC Property) shall be subject to the terms and conditions of this Agreement, with the successors in title being expressly responsible for all obligations of its predecessors in title.

8. Miscellaneous.

A. Binding Effect. The obligations of this Agreement shall be binding upon the parties hereto, their respective successors and permitted assigns. Nothing contained herein shall be construed or deemed to restrict the parties' right to sell or otherwise transfer the ERVFC Property and the improvements and appurtenances associated therewith, provided that any such sale or transfer shall be in accordance with and subject to the terms and conditions of this Agreement.

B. Notices. Notices under this Agreement shall be sent by (a) first class mail, postage prepaid, registered or certified mail, return receipt requested, (b) hand delivery, or (c) overnight mail service, addressed as follows:

Developer: Rivanna Village LLC
314 East Water Street
Charlottesville, VA 22902

With a copy to: Valerie W. Long, Esq.
Williams Mullen
321 East Main Street
Suite 400
Charlottesville, VA 22902

ERVFC: East Rivanna Volunteer Fire Co., Incorporated
c/o Board of Directors
3501 Steamer Drive
Keswick, Virginia 22947

With a copy to: Richard Carter, Esq.
Zunka, Milnor & Carter, Ltd.
PO Box 1567
Charlottesville, VA 22902

County: County of Albemarle, Virginia
Attn: Office of the County Attorney
401 McIntire Road
Charlottesville, Virginia 22902

Notices shall be deemed received upon receipt, or when delivery is refused. Any party to this Agreement may designate a substitute address by notice sent in writing in accordance with the provisions of this Section.

C. Waiver. The parties agree that the failure by any party to insist upon strict observance of any of the terms or conditions of this Agreement at any time shall not be deemed a waiver of such party's right to insist upon strict observance thereafter.

D. Modification. This Agreement may not be modified in any manner except by an instrument in writing executed by the party against which enforcement is sought.

E. Severability. The invalidity or unenforceability of any covenant, agreement term or condition of this Agreement or the application thereof, shall not affect the validity, enforceability or applicability of any other provision in this Agreement.

F. Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Virginia without regard to its conflict of laws or provisions.

G. Relationship of Parties. Nothing herein contained shall be construed to constitute a partnership or joint venture between or among any of the parties to this Agreement.

H. Headings. The headings of the sections of this Agreement are inserted for convenience only and do not comprise a part of this Agreement.

I. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURES PAGES IMMEDIATELY FOLLOW]

WITNESS the following signatures and seals:

DEVELOPER:

RIVANNA VILLAGE LLC

By: _____
Andrew Boninti, Manager

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF _____, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____,
2016, by Andrew Boninti, the Manager of Rivanna Village LLC, on behalf of the company.

My commission expires: _____

Notary Public

ERVFC:

**EAST RIVANNA VOLUNTEER FIRE CO.,
INCORPORATED**

By: _____

Printed Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF _____, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____,
2016, by _____, as _____ of East Rivanna
Volunteer Fire Co., Incorporated, on behalf of the corporation.

My commission expires: _____

Notary Public

COUNTY OF ALBEMARLE, VIRGINIA

By: _____
Thomas C. Foley, County Executive

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF _____, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Thomas C. Foley, as County Executive of the County of Albemarle, Virginia, on behalf of the County.

My commission expires: _____

Notary Public

Approved as to Form:

Albemarle County Attorney