

062317

THIS DEED OF GIFT EASEMENT, made this 27 day of February, 1992, between RICHARD MULLER AND GERALDINE MULLER, husband and wife, Grantors, and the COUNTY OF ALBEMARLE, herein referred to as the County, and the PUBLIC RECREATIONAL FACILITIES AUTHORITY OF ALBEMARLE COUNTY, herein referred to as the Authority, both of which together are herein referred to as the Grantees.

WHEREAS, Chapter 17, Title 10.1 of the Code of Virginia Sections 1700 through 1705, entitled "Open Space Land Act," was enacted to preserve open-space land in the Commonwealth of Virginia, and authorizes, among others, any County or public recreational facilities authority to acquire perpetual easements for the purpose of preserving open-space land; and

WHEREAS, the Authority has been created under the provisions of Chapter 29, Title 15.1 of the Code of Virginia 1950, Sections 15.1-1271 through 15.1-1287 to accept, hold and administer open-space land and interests therein; and

WHEREAS, the Grantors are the owners of property to be developed under the Rural Areas District of the Albemarle County Zoning Ordinance, such property to contain an open-space tract together with developed lots, defined as such therein;

NOW THEREFORE, in recognition of the foregoing and in consideration of the mutual covenants herein and the acceptance by Grantees, the Grantors do hereby grant and convey to the Grantees an open-space easement in gross over, and the right in perpetuity to restrict the use of the real estate consisting of 30.71 acres, more or less, described below and hereinafter

referred to as the "Property": All that certain tract or parcel of land known as "The Riggory" situated on Stony Point Road in the Rivanna Magisterial District of Albemarle County, Virginia consisting of 22.46 acres, more or less, as shown on a plat of R. O. Randolph, C.L.S., dated August 2, 1966, recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 421, page 553 and of 8.25 acres, more or less, as shown on a plat of Roger W. Ray & Associates, Inc., dated 6-15-90 to be recorded prior hereto.

Restrictions are hereby imposed on the development and usage of the Property. The acts which the Grantors, their heirs, successors in interests and assigns, covenant to do and not to do upon the Property, and the restrictions which the Grantees are hereby entitled to enforce, are and shall be as follows:

1. The parties at the time of the execution of this Deed of Easement shall document the appearance of the Property and historic structures thereon through photographic or other means acceptable to both the Grantors and the Grantees and shall designate any structures on the Property which are to be protected as "historic structures" hereunder. The negatives of said documentary photographs shall be stored permanently in the offices of the Clerk of the Board of Supervisors of Albemarle County. Thereafter, the Property shall be maintained and preserved in its documented state provided, however, that such structural changes, alterations, additions, or improvements as would not, in the opinion of the Grantees, fundamentally alter the architectural significance or historic character of the historic structures located on the Property and their setting may be made thereto by the Grantors, but only upon prior written approval of the Grantees. In making such determination, the Grantees may consult with the Virginia Historic Resources Board, Albemarle County Architectural Review Board and other appropriate individuals, organizations and entities.

2. On historic structure shall be demolishes or removed from the Property and no other building or structure shall be constructed, altered, restored, renovated, extended, or demolished on the Property except in a way that would, in the opinion of the Grantees, be in keeping with the historic character of any historic structure located on the Property and

their setting, and provided that the prior written approval of the Grantees to such actions shall have been obtained.

3. No archaeological features or sites on the Property shall be disturbed or excavated unless approved by the Grantees upon review of a survey and documentation of the site prepared by a qualified archeologist. Archaeological artifacts found on the Property shall remain the property of the Grantors, but may, with the approval of the Grantees, be conserved, studied, and/or stored by the archaeological staff of the Division of Historic Landmarks, Department of Conservation and Historic Resources, or its successors.

4. Accumulation of trash, refuse, junk, or any other unsightly material is not permitted on the Property.

5. Display of bill boards, signs or other advertisement is not permitted on or over the Property except to state the name and/or address of the owners, to advertise the sale of the Property or the lease of a dwelling, to advertise the sale of goods or services produced incidental to a permitted use of the Property or to provide notice necessary for the protection of the Property and for giving directions to visitors. No such sign shall exceed three feet by three feet in size.

6. No open-space tract shall be diminished in size and the Property shall not be subdivided.

7. No timber cutting shall be permitted except in accordance with a plan subject to approval by the Grantees. Clearing of dead wood shall be permitted without a plan. Open land shall be maintained using sound conservation practices.

8. Grading, blasting, earth removal, fill or waste activity is prohibited except for purposes of timbering in accordance with a plan approved as per paragraph 7. above or for dam construction to create private ponds or lake on the Property pursuant to a plan approved by the Grantees or for construction of a swimming pool pursuant to a plan approved by the Grantees. Construction of permitted buildings and connecting private roads is exempt from these requirements. Mining and drilling of wells except as necessary for water is prohibited on the Property.

9. No permanent or temporary building or structure shall be built or maintained on the Property other than (i) those buildings and structures presently on the Property, (ii) buildings or structures constructed or used in connection with the common or incidental residential use of the Property, (iii) farm buildings and structures.

10. Industrial or commercial activities other than farming, silviculture or horticulture are prohibited except those which can be and in fact are conducted from buildings permitted under paragraph 6. above, without alteration of the external

appearance of the same.

11. Representatives of the Grantees may enter the property from time to time for the purpose of inspection and enforcement of the terms of this easement after permission from or reasonable notice to the owner or the owner's representative.

12. Grantors, their heirs, successors and assigns shall notify the Grantees in writing within ten (10) days after closing of any transfer or sale of the Property. In any deed conveying the Property, this easement shall be referenced by Deed Book and Page Number in the deed of conveyance.

13. Whenever a written request for the Grantees' approval pursuant hereto is submitted by certified mail to the Clerk of the Board of Supervisors of the County and the Chairman of the Authority and both the County and the Authority fail to respond in writing within forty-five (45) days of receipt of such request, then the Grantees shall be deemed to have approved the request and the Grantor may proceed with the action for which approval was requested.

14. No consent or approval of the Grantees hereunder shall be deemed given, except as provided in paragraph 13. hereof, unless both the County and the Authority agree in writing.

Although this easement in gross will benefit the public as described above, nothing herein shall be construed to convey to the public a rights of access to or use of the Property. Grantors, their heirs, successors and assigns hereby retain right to such access and use of the Property, subject to the terms hereof.

Acceptance of this conveyance by the County of Albemarle and the Public Recreational Facilities Authority of Albemarle County is authorized by Section 10.1-1701 of the Code of Virginia, 1950, as amended.

If the Authority should (a) be dissolved or in any other way cease its corporate existence, or for any other reason be unable to act to enforce the restrictions provided for herein, or (b) acquire fee title to the land subject to this easement, then all

rights of the Authority in the foregoing easement shall automatically vest in the Virginia Outdoors Foundation, a body politic of the Commonwealth of Virginia.

WITNESS the following signatures and seals:

Richard E. Muller (SEAL)
RICHARD E. MULLER

Geraldine R. Muller (SEAL)
GERALDINE R. MULLER

Accepted:
COUNTY OF ALBEMARLE

by: V. Wayne Clineberry (SEAL)
Director of Planning and Community Development
Agent for the Albemarle County Board of Supervisors

PUBLIC RECREATIONAL FACILITIES AUTHORITY OF ALBEMARLE COUNTY

by: L. Timothy Lindstrom (SEAL)
Chairman

This transaction is exempt from recordation tax pursuant to Sections 58.1-811 (A) (3) and 58.1-811 (C) (4)

VIRGINIA
CITY/COUNTY OF Charlottesville, to-wit:

The foregoing deed of easement was acknowledged before me this 27th day of February, 1992 by Richard E. Muller and Geraldine R. Muller, Grantors herein.

William Marshall
Notary Public

My Commission expires: 11/30/94

VIRGINIA
CITY/COUNTY OF Charlottesville, to-wit:

The foregoing instrument was acknowledged before me this 27th day of February, 1992, by V. Wayne Clineberry Director of Planning and Community Development, Agent of the Albemarle County Board of Supervisors, Grantee herein.

William Marshall
NOTARY PUBLIC

My Commission expires: 11/30/94

VIRGINIA
CITY/COUNTY OF Charlottesville, to-wit:

The foregoing instrument was acknowledged before me this 27th day of February, 1992, by C. Timothy Sanderson, Chairman of the Public Recreational Facilities Authority of Albemarle County, Grantee herein.

Willie Marshall
NOTARY PUBLIC

My Commission expires: 11/30/94

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ALBEMARLE:
THIS DEED WAS PRESENTED, AND WITH CERTIFICATE ANNEXED, IS ADMITTED
TO RECORD ON Feb 28, 1992, AT 12:18 O'CLOCK p M.

STATE TAX	\$		(039)
LOCAL TAX	\$		(213)
TRANSFER FEE	\$	<u>1.00</u>	(212)
VSLF	\$	<u>1.00</u>	(145)
CLERK'S FEE	\$	<u>14.00</u>	(301)
PLAT	\$		
SEC. 58.1-802:			
STATE TAX	\$		(038)
LOCAL TAX	\$		(220)
LOCAL TAX	\$		(223)
TOTAL	\$	<u>16.00</u>	

TESTE:
Shelby J. Marshall, CLERK
BY: Karen P. Shifflett
DEPUTY CLERK