

FOREST RESOURCE DEED OF EASEMENT

This Forest Resource Deed of Easement/Maintenance Covenants and Agreement, made this _____ day of _____, 2024 by and between **Rowland, LLC**, a Maryland limited liability company ("Grantor") and the **Town of Myersville**, a body corporate and politic of the State of Maryland ("Grantee" or "Town"),

Whereas, the Grantor is the owner of a certain tract of land located in the Town of Myersville, Frederick County, Maryland, over and across which it is necessary to provide an area for the conservation, protection and, where applicable, the planting of trees to produce forested areas as provided for in the Town of Myersville Forest Resource Ordinance, (hereinafter "Forest Conservation Area"), and

Whereas, it is necessary to provide for the future protection, maintenance, and inspection of this Forest Conservation Area.

WITNESSETH that for and in consideration of the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant and convey unto the Town of Myersville, its successors and assigns, the perpetual Forest Conservation Easement Areas more particularly described on **EXHIBIT "A"**, attached hereto and incorporated herein by reference, through and across the real estate located in Frederick County, Maryland, being part of the parcel of land which was conveyed unto Rowland, LLC, a Maryland limited liability company, by a Deed from W.L. Waters, Inc., a Maryland corporation, dated January 25, 2024 and recorded in Liber 16772, folio 311, among the land records for Frederick County, Maryland.

To have and to hold said easements and rights of way together with the rights and privileges appurtenant to their proper use and benefits forever by the Grantee, its successors and assigns.

FIRST: That the Grantee, its successors and assigns, shall at all times have a right to enter said easement and right of way areas for the purpose of inspecting and/or maintaining, or replacing vegetation within the said Forest Conservation Areas, the right of entry to be along the

easement areas herein designated and along such other lines as the Grantees may deem necessary;

SECOND: The responsibilities for the maintenance of, and the restrictions on the activities within, the Forest Conservation Areas shall be as set forth in the Maintenance Covenant and Agreement attached hereto as Exhibit B and incorporated herein by reference as if fully set forth;

THIRD: The Grantor further covenants and agrees that the easements contained herein shall run with the land and shall bind the Grantor and its successors and assignees and shall bind all present and subsequent owners of the property identified herein;

FOURTH: The Grantor covenants and agrees that all parties having an interest in the property which is subject to this Deed of Easement have executed this document and agreed to the terms hereof; and

FIFTH: The Grantor will warrant specially said easements and shall execute such further assurances thereof as may be requisite.

IN WITNESS WHEREOF, the parties have caused these presents to be executed, as of the day and year first hereinabove set forth.

(SIGNATURES ON THE FOLLOWING PAGES)

WITNESS:

Gardyn Thomas

ROWLAND, LLC, a Maryland limited liability company

By: [Signature] (SEAL)
Name: Amos James Rowland
Title: Member

STATE OF Maryland, COUNTY OF Washington TO WIT:

I HEREBY CERTIFY that on this 9th day of May, 2024, before me, the subscriber, a Notary Public in and for the State of Maryland and Washington County, personally appeared Amos James Rowland, the Member of Rowland, LLC, a Maryland limited liability company, and he did acknowledge the foregoing instrument to be the act and deed of Rowland, LLC, and that he is duly authorized to make this acknowledgement on its behalf.

In witness whereof, I hereunto set my hand and official seal.

Jennifer L. Buhrman
Notary Public

My Commission Expires: August 6, 2024

JENNIFER L. BUHRMAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 6, 2024

ATTEST

TOWN OF MYERSVILLE, a body
corporate and politic of the State of Maryland

By:

Mark Hinkle, Mayor

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2024, before me, the subscriber, a Notary Public in and for the State of _____ and _____ County, personally appeared Mark Hinkle, Mayor of the Town of Myersville, a body corporate and politic of the State of Maryland, and acknowledged the foregoing instrument to be the act of the Town of Myersville, and that he is duly authorized to make this acknowledgment on its behalf.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

This instrument has been prepared by or under the supervision of the undersigned, and attorney duly admitted to practice before the Court of Appeals of Maryland.



Tracie L. Clabaugh, Esq.

EXHIBIT B

FOREST RESOURCE

INSPECTION AND MAINTENANCE COVENANTS AND AGREEMENT

(CATEGORY A)

1. **Grantor Obligations:** The Granters, their successors, heirs and assigns, covenant and agree to provide for all the planting, maintenance, and protection of Forests in the Forest Conservation Area(s) to ensure that the Forest Conservation Area is and remains in compliance with the approved Forest Conservation Plan on file with the Myersville Planning Office, and all applicable standards, rules, regulations, and laws.

2. **Maintenance and Protection Responsibility:** Unless otherwise provided, the person(s) or (entity) having legal title to the particular section of property where any Forest Conservation Area is located is responsible for the maintenance and protection of that area. In the event a facility is located in one or more parcels under different ownerships, the owners of the parcels are responsible for their pro rata share of the maintenance.

3. **Correcting Deficiencies:** Upon receipt of notice from the Town of Myersville of any problems or deficiencies in the Forest Conservation Area, the Grantor or other responsible party will correct problems as directed by the Town of Myersville. If the requested corrections are not made within thirty (30) days, the Town of Myersville may, at its discretion, perform all the necessary work to bring the facility into compliance with statutory requirements, and the Owner(s) of the land(s) upon which the facility is located shall be assessed for the cost of the work. If not paid within thirty (30) days, the assessment shall create a lien on the property and may be included in the tax bill for the property on which the facilities are located and collected as taxes by Frederick County.

4. **Indemnification:** The Grantor shall indemnify and save the Town of Myersville harmless from any and all claims for damages to persons or property arising from the construction, maintenance, and use of the facilities.

5. Individual Tree Removal: Non-commercial, selective clearing of individual trees may occur, however, the forest easement area(s) shall not be cleared below the "forest threshold density" of at least 100 trees per acre with at least 50 percent of those trees having a 2 inch or greater diameter at 4.5 feet above the ground. Diseased or hazardous trees or tree limbs may be removed to prevent personal injury or property damage.

6. Removal of Noxious Weeds and Exotics: noxious weeds, as listed in Maryland State Law; and exotic or invasive trees and shrubs, listed in the State Forest Conservation Technical Manual, may be removed without regard to the "Forest Threshold Density" described in section #5 above, but the method of removal must be consistent with the limitations contained in this agreement.

7. Mowing and Brush Removal Restrictions:

A) Floodplain and buffer areas described in the Myersville Municipal Code, as it may be amended, shall not be mowed. No native plant material (including, but not limited to brush, saplings, undergrowth, or non-woody vegetation) shall be cut down, dug up, removed or destroyed unless removed pursuant to the terms and conditions of an approved Forest Management Plan.

B) Areas outside of 70' from a residential dwelling structure; and outside of 35' from principle structures of a commercial, institutional or industrial use, shall not be mowed unless removed pursuant to the terms and conditions of an approved Forest Management Plan. However, brush, vines, and undergrowth, that are not in floodplain and buffer areas as listed in subsection #7A above, may be removed subject to the restrictions listed in sections #9 and #10 below.

C) Provided that they are not in floodplain and buffer areas as listed in subsection #7A above, areas within 70' of a residential dwelling structure; and within 35' of principle structures of a commercial, institutional or industrial use, may be mowed, subject to the restrictions listed in sections #9 and #10 below.

8. Conditions of Permitted Brush Removal: Fore areas that exceed the forest threshold density, understory plant materials (including, but not limited to brush, shrubs, saplings, seedlings, undergrowth, or vines) may be cut down, removed or destroyed, provided that:

- A) their removal does not damage, injure, or kill trees having a 6 inch or greater diameter at 4.5 feet above the ground;
- B) their removal does not create erosion or slope stability problems;
- C) the removal of such understory does not cause forest easement area(s) to fall below the required forest threshold density as described in section #5; and
- D) the forest floor is allowed to continuously regenerate tree and shrub seedlings to create future forest growth, and to continuously support a biological community consistent with typical forest environments and habitats.

9. Sapling and Seedling Protection: However, for forest easement areas that are below the forest threshold density, (such as areas designated 'Natural Regeneration' on the signed forest conservation plans; or for forested areas that fall below the forest threshold density due to natural occurrences, such as fire, past damage, wind storm, etc.) saplings and seedlings may not be cut down, removed or destroyed until the forest easement area exceeds the forest threshold density.

10. Fences: Fences are permitted within the easement area provided their construction and maintenance can be executed in compliance with the restrictions of this agreement.

11. Supplemental Planting: Grantor may supplement existing (or replace dead) trees or undergrowth with new plantings provided that new plantings are characteristic of trees or undergrowth materials native to Maryland.

12. Accessory Appurtenances: Grantor may construct accessory appurtenances to a dwelling unit including but not limited to, play equipment, dog houses and pens, and sheds providing that such structures do not cause damage to the forested area.

13. Allowable Commercial Timber Cutting: Timber cutting for commercial purposes is permitted within forest easement areas provided that the area of timber cutting is subject to a:

- A) Forest (not timber) Management Plan that is:
 - (i) prepared by a licensed professional forester; and
 - (ii) approved by the forester assigned to Frederick County by the Maryland Department of Natural Resources; and

- B) Timber Harvest Plan that is:
- (i) consistent with the intent of the Forest Management Plan, and the intent and requirements of the forest conservation plan;
 - (ii) prepared by a licensed professional forester; and
 - (iii) submitted to the local Forest Conservancy Board for review and approval.

14. Commercial Timber Cutting Restrictions: Timber cutting shall not be approved for harvest below the "forest threshold density" described in section #5, unless unusual circumstances require a clear cutting for the best regeneration potential of the subject forest, as determined by the review agencies mentioned in Section #13. If harvesting is performed below the forest threshold density, the applicant for cutting shall be responsible for reforestation if natural regeneration is inadequate to provide for the cut area to achieve forested conditions in a timely manner.

15. Advertising Restrictions: No posting of any advertisement sign or billboard is permitted.

16. Dumping Restrictions: No dumping of unsightly or offensive material, including

17. Fill and Grading Restrictions: Construction, excavation, placement of heavy fill, re-grading or the surface, or construction of retaining walls shall be done only for afforestation and/or reforestation purposes in accordance with an approved forest conservation plan, or with prior approval of the Town.

18. Utility Restrictions: The easement area shall not be used as a site for any major public utility installation including, but not limited to, electric generating plants, electric transmission lines, gas generating plants, gas storage tanks, radio or microwave relay stations, or telephone exchanges, except with prior written consent of the Town. Nothing in this section prevents the construction or maintenance of (on, over, or under, the easement area) facilities normally needed to serve a residential neighborhood that had been approved by the appropriate reviewing agencies. These facilities should be located to prevent or minimize loss of trees as is practicable.

19. Prevention of Damage: All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the forest conservation easement area.

20. Appropriate Access: Grantor will provide appropriate access to, and hereby authorizes the Town and/or County representatives to enter the property and easement area at reasonable hours for the purpose of making periodic inspections to ascertain compliance with the restriction, condition, and easements established herein, and as contained in the approved Final Forest Conservation Plan.

21. General Public Restrictions: This agreement does not convey to the general public the right to enter the property or easement for any purpose. The agreement does not restrict or enlarge access to the general public in common open space held under community or homeowner association control beyond any access rights created by the applicable community or homeowner association covenants and bylaws.

22. Violations: Upon finding a violation of any of the restrictions, conditions, covenants and easements established by this agreement, the Town shall have the right to enforce such provisions in accordance with any statutory authority (including, if applicable the imposition of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time). The Town may also seek injunctive or other appropriate relief in any Court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the property to its original state, the Grantor agrees to pay for Court costs and reasonable attorney's fees if the Town prevails any judicial proceedings.

23. Legal References: Grantor agrees to make specific reference to this agreement in a separate paragraph of any sales contract, mortgage, subsequent deed, lease or other legal instrument by which any possessory or equitable interest in the property is conveyed.

24. Enforcement Failure: Failure on the part of the Town to enforce any covenant or provision herein shall not constitute a waiver of the Town's right to enforce any covenant within this agreement.

25. Written Notices: All written notices required by this agreement shall be sent to the Town Planner, Myersville Town Hall, Planning Office, 301 Main Street, P.O. Box 295 Myersville, MD 21773.

26. **Binding Agreement:** The Agreement and covenants contained herein shall apply to and bind the Grantor and its heirs, executors, successors, and assigns, and shall bind all present and subsequent owners of the property served by the facility, and on which any facility is located.

27. **Transfer of Responsibility Notification:** The Grantor shall promptly notify Myersville if the Grantor transfers the maintenance responsibilities for the facilities, by providing a copy of the document of transfer signed by all parties.

The undersigned Lienholder does hereby agree and consent to this Deed of Easement and by the signature of its authorized person does hereby grant and convey the above-stated easement as legal title holder of the herein described property, and does hereby further agree that the terms contained herein shall survive and sale under its Indemnity Deed of Trust dated April 11, 2024 and recorded in Liber 16833, folio 97, one of the Land Records of Frederick County, Maryland, and Assignment of Rents dated April 11, 2024 and recorded in Liber 16833, folio 111.

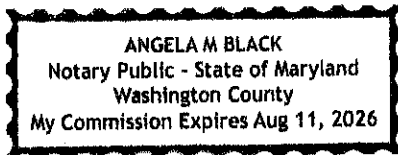
First United Bank and Trust

By: [Signature]
Name: Alan Mullendore
Title: Managing Director Commercial East Region

STATE OF Maryland, COUNTY OF Washington

On this 9th day of May, 2024, before me, the undersigned, personally appeared Alan Mullendore, who acknowledged that s/he is Managing Director of First United Bank and Trust, and that s/he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by her/himself as such officer.

In witness whereof, I hereunto set my hand and official seal.



[Signature]
Notary Public

My Commission Expires: 8/11/26