


EXHIBIT B


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Jackson County, NC
Joe Hamilton Register of Deeds
BK **2107** PG **276-296**

This instrument was prepared by
and should be returned to:

Highlands-Cashiers Land Trust, Inc.
P.O. Box 1703
Highlands, NC 28741

Parcel Identification Numbers: 7569-16-7443, 7569-37-0651, 7569-37-2279, 7569-37-9729,
7569-38-6297, 7569-47-3454, 7569-47-7860, 7569-48-8201, 7569-48-8682, 7569-49-4485,
7569-57-2672, 7569-58-1283, 7569-58-6718, 7569-58-8429, 7569-59-2166, 7569-59-3791,
7569-59-6091, 7660-40-0955, 7660-40-1213, 7660-41-3324, 7660-41-8002, 7660-50-0265,
7660-50-3493, 7660-51-9380, 7660-60-0879

**NORTH CAROLINA
JACKSON COUNTY**

December ~~18~~ **28** 2015

CONSERVATION EASEMENT

This Grant of Conservation Easement (hereinafter "Conservation Easement") is made this the ~~28th~~ **28th** day of December, 2015 by **Cullowhee Bluffs, LLC**, a North Carolina limited liability company whose address is 4108 Arkwright Road Suite 1, Macon, GA 31210 (hereinafter "Grantor"), to the **Highlands-Cashiers Land Trust**, a North Carolina nonprofit corporation, with its principal office located at 348 S. 5th Street, Highlands, North Carolina 28741 (hereinafter "Grantee").

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter pronouns as required by context.

RECITALS

A. Grantor is the sole owner in fee simple of the property ("Property"), legally described in Exhibit A, attached hereto and incorporated by this reference, which consists of approximately 215 acres located in Cullowhee Township, Jackson County, North Carolina, and is generally

known as Cullowhee Bluffs. Exhibit A is recorded at ~~Plat Care~~ ^{FK 21, PG 324} in the Office of the Jackson County Registry, and further depicted on a reduced-sized copy of the plat attached hereto as Exhibit A.

B. Grantee is a nonprofit corporation, operated primarily for conservation purposes, including protection of environmentally valuable and sensitive land for charitable, scientific, educational, and aesthetic purposes. Grantee is a tax exempt public charity under Section 501(c)(3) and 509(a)(2) of the Internal Revenue Code, is authorized by the laws of the State of North Carolina to accept, hold, and administer interests in land, including conservation easements, is willing to accept this Conservation Easement under the terms and conditions hereinafter described, and is a "qualified organization" and an "eligible donee" within the meaning of Section 170(h)(3) of the Internal Revenue Code and regulations promulgated thereunder.

C. The Property is a significant natural area and contains Conservation Values that qualifies in its present condition as a "... relatively natural habitat of fish, wildlife, or plants, or similar ecosystem," as that phrase is used in P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder. Specifically the Property's Conservation Values include but is not limited to habitat for seven Watch List Plant Species including American ginseng (*Panax quinquefolius*), Bloodroot (*Sanguinaria canadensis*), Black cohosh (*Actaea racemosa*), Eastern sweetshrub (*Calycanthus floridus*), Eastern hemlock (*Tsuga canadensis*), Galax (*Galax urceolata*), and Tinker's weed (*Triosteum aurantiacum* var. *aurantiacum*). In addition the Property is composed of intact forest including two rare forest types: Rich Montane Seep – Rare (S3/G3) and Montane Oak-Hickory Forest (Basic Subtype) – Rare (S3/G3). This site also conserves over 15,000 linear feet of streams in the headwaters of Wayehutta Creek.

The Property may further qualify in its present condition as land protected pursuant to any additional definition of "conservation purpose" within the meaning of Section 170(h)(4) of the Code.

Preservation of the Property is for the scenic enjoyment by the general public and will yield a significant public benefit, specifically protecting the view from several named peaks in the region including the Great Smokey Mountains and Blue Ridge Parkway.

Preservation of the Property is pursuant to federal, state, and local governmental conservation policy and will yield a significant public benefit, specifically

(1) the qualification of the Property for the special use ad valorem property tax assessment for lands used for silvicultural, agricultural or horticultural purposes, set forth in N.C. Gen. Stat. 105.277.3 *et seq.*;

(2) Article XIV Section 5 of the Constitution of the State of North Carolina which states "It shall be the policy of the State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common

heritage of this state its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty;”

(3) the Clean Water Management Trust Fund, N.C.G.S. 113-145.1 *et seq.*, which recognizes the importance of protecting riparian buffers in protecting and conserving clean surface water;

(4) North Carolina General Statute 139-2 *et seq.* which provides that “it is hereby declared ... that the farm, forest and grazing lands of the State of North Carolina are among the basic assets of the State and the preservation of these lands is necessary to protect and promote the health, safety and general welfare of its people ... it is hereby declared to be the policy of the legislature to provide for the conservation of the soil and resources of this State;”

(5) North Carolina General Statute 106-583 *et seq.* which states that “It is declared to be the policy of the State of North Carolina to promote the efficient production and utilization of the products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum prosperity;”

D. The characteristics of the Property, its current use and state of improvement, are described in a report entitled Cullowhee Bluffs Baseline Documentation Report (“Report”), dated October 9, 2015 prepared by Equinox on behalf of the Grantee for the Grantor, of which a summary is attached as Exhibit B to this Conservation Easement. The Grantor worked with the Grantee to ensure that the report is a complete and accurate description of the Property as of the date of this Conservation Easement. It will be used by the Grantor and Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Conservation Easement. However, the Baseline Report is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use.

E. The Grantor and Grantee have the common purpose of conserving the above-described conservation values of the Property in perpetuity, and the State of North Carolina has authorized the creation of Conservation Easements pursuant to the terms of the North Carolina Conservation and Historic Preservation Agreements Act, N.C.G.S. 121-34 *et seq.*, and G.S. 160A-266 to 279, which provide for the enforceability of restrictions, easements, covenants or conditions “appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming, or forest uses,” and which provides for tax assessment of lands subject to such agreements “on the basis of the true value of the land and improvements less any reduction in value caused by the agreement”; and the Grantor and Grantee wish to avail themselves of the provisions of that law.

F. The conservation values of the Property are of great importance to Grantor and Grantee and the people of Jackson County and the State of North Carolina

NOW, THEREFORE, the Grantor, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein and as an absolute and unconditional gift, hereby gives, grants and conveys unto the Grantee, its successors

and assigns, forever and in perpetuity for the benefit of the people of North Carolina, a Conservation Easement over the Property of the nature and character as follows:

1. PURPOSE. The principal purpose of this Conservation Easement is to provide a significant public benefit by protecting and preserving in perpetuity water quality and aquatic values, forest, wildlife, and natural heritage values, productive agricultural values, and scenic values of the Property.

Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the purposes of this Conservation Easement. However, unless otherwise specified below, nothing in this Conservation Easement shall require the **Grantor** to take any action to restore the condition of the Property after any act of God or other event over which **Grantor** had no control. **Grantor** understands that nothing in this Conservation Easement relieves them of any obligation or restriction on the use of the Property imposed by law.

To the extent one Conservation Value is in actual conflict with another Conservation Value, Grantor and Grantee agree to establish guidelines, cooperatively and utilizing good scientific and technical information, to avoid, reduce, or mitigate such conflict. If no such guidelines can be developed, resolution of such conflicts shall be based on protecting the open space, woodlands, rivers and creeks, and other wildlife habitat over protecting the Property for agricultural purposes.

2. PROPERTY USES. Any activity on or use of the Property inconsistent with the Purpose Statement is prohibited. The Property shall be maintained in its natural, scenic, and open condition and restricted from any development or resource extraction that would significantly impair or interfere with the Conservation Values of the Property.

All rights reserved by Grantor are considered to be consistent with the Purpose Statement of this Conservation Easement and, except as specifically stated otherwise herein, require no prior notification to or approval by Grantee. Notwithstanding the foregoing, Grantor and Grantee have no right to agree to any activity that would result in the termination of this Conservation Easement or would cause it to fail to qualify as a "qualified conservation contribution" as described in section 170(h) of the Internal Revenue Code, or any regulations promulgated thereunder.

All activities permitted in this Conservation Easement shall be conducted in a manner consistent with the terms of this Conservation Easement, which minimizes impairment of and interference with the Conservation Values, and is in accordance with applicable federal, state and local regulations.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, restricted, or reserved, as the case may be.

- 2.1 Subdivision. The Property may be subdivided once per the survey #330 (Exhibit A) by Danny Paris. If the subdivision right is exercised the cost will be borne by

the grantor and a one-time stewardship fee of two (2) percent of the value of the property will be paid to the land trust holding this easement.

- 2.2 Acceptable Development Area (ACA) –Non-commercial Structure or Residence area will consist of two (2) squares that encompass approximately one (1) acre apiece for a total area of approximately two (2) acres. There will be a total of two (2) non-commercial structures or residences on the entire property. The centers for each one (1) acre square of ACA will be located at GPS point 35.323953W, -83.141545N and 35.330302W, -83.140466N. The four (4) corners of each square residential plat will be determined as follows: Corner 1 - one hundred forty-nine feet (149') from each center point on a bearing of (e.g. 45) degrees; Corner 2 - one hundred forty-nine feet (149') from each center point on a bearing of (e.g. 135) degrees; Corner 3 - one hundred forty-nine feet (149') from each center point on a bearing of (e.g. 225) degrees; and Corner 4 - one hundred forty-nine feet (149') from each center point on a bearing of (e.g. 315) degrees. Said structure, accessory buildings and all improvements (including sanitary septic fields and wells for water) shall be located completely within the corresponding ACA. Accessory buildings and improvements associated with the residence may include one garage, carport and storage shed per home-site. The foregoing permissions include, to the minimum extent necessary, temporary easements and permission to access any area of the Property for the purpose of, including and without limitation, construction, repair and maintenance of the residence, accessory buildings and improvements, wells or septic fields or any other subservient utilities associated with these sites and structures. Any temporary easements and permission to access any area of the Property in connection with such permissions which is disturbed by activity must be revegetated and restored to a natural condition promptly after completion of extraction to ensure that the location of such activity does not substantially diminish or impair the Conservation Values.

If necessary, due to topographic conditions or inadequate soil conditions within the ACA, Grantor may use the Property (conservation area) for the underground disposal of waste water. Grantor may use the Property (conservation area) for the underground disposal of waste water from either of the two residential lots with Grantee's permission if the design of the system of waste water treatment, the location of the area of disposal, and the standards of design, treatment, waste water quality, waste water quantity, loading, maintenance, operation and other relevant features of the proposed system will satisfy applicable governmental requirements. The installation and maintenance of the waste water disposal system and appurtenances, including underground transmission lines shall not harm the values of the conservation easement.

Similarly if drinking water wells within each of the residential areas are not sufficient to support normal household use, the Grantor may request permission from the Grantee to place drinking water wells on the Property (conservation area) suitable to support each residence. No single well and all above ground appurtenances for each well shall occupy a contiguous area of no more than 50

square feet. All appurtenances shall be below ground to the extent feasible. All disturbance to soil surfaces shall be returned to original conditions. Well installation shall not harm the values of the conservation easement.

Grantor may also, with Grantee's written approval, construct roads and driveways as necessary to gain access to the ACA's and may maintain, replace, construct and install underground utilities needed to service the Structures. Grantor agrees to provide Grantee with a graphic representation of the proposed location and building profile of potential construction, so that Grantee may determine that the conservation values of the site will not be adversely affected. Grantor may also place, construct, replace, repair, and maintain shielded outdoor lighting within the ACA and along the access roads and driveways described herein so long as said lighting does not diminish the scenic character of the Property or significantly impair or interfere with the Conservation Values of the Property.

No other structures may be placed or constructed on the Property except to protect a new or existing wellhead. Furthermore, there shall be no constructing or placing of any recreational court, airplane landing strip, billboard or other advertising display, utility pole (other than those necessary to service the Property's improvements), utility tower, conduit or line on or above the Property. Outdoor lighting shall be placed and shielded so as to minimize the impact on surrounding areas.

- 2.2.1 Notice to Grantee. Not less than sixty (60) days prior to commencement of site preparation, construction, substantial alteration, replacement, relocation, of any structure described in this paragraph 2.2, Grantor shall notify Grantee in writing in accordance with the provisions of paragraph 4, including at a minimum sufficient information to enable Grantee to determine whether the proposed plans are consistent with the terms of this Conservation Easement.
- 2.3 Existing Improvements. Grantor shall have the right to maintain, remodel, and repair existing structures, water tanks, water wells, fences, header dams, utilities, and other improvements, and in the event of their destruction, to reconstruct any such existing improvements with another of similar size, function, capacity, location and material.
- 2.4 Agricultural Use and [Intentionally Omitted]
- 2.5 Forest Management. Selective timber harvest, uneven-aged timber management and other management practices may continue on the Property for the following purposes, including the construction and maintenance of timber roads for management access thereto:
 1. Maintaining and restoring, insofar as possible, old-growth forest and preservation of same where it already exists;

2. Maintaining the Rich Montane Seep plant community, the Montane Oak Hickory Forest (Basic subtype) forest community, and the other forest types identified in the Cullowhee Bluffs Baseline Documentation Report;
3. Removal of dead wood or trees as necessary to control or prevent imminent hazard, disease, or fire; and
4. Prohibiting the spread of non-native plants and the disturbance of any plant community habitat except as otherwise allowed.

All forest management activities shall be conducted only in accordance with Best Management Practices guidelines for timber harvest and management as the same may be promulgated by law or regulation in the state of North Carolina and as adopted by the North Carolina organization of professional foresters, as amended from time-to-time and provided further that all such activities shall be specifically approved by the Grantee and shall be in accordance with a Forest Management Plan which shall be in writing and approved by Grantee, and may be amended from time-to-time and provided further that all forest roads shall be constructed of permeable materials and shall be no wider than twelve (12) feet.

Prior Written Notice of Timber Harvest. At least 45 (forty-five) days prior to commencement of any timber harvest activities, Grantor shall provide Grantee, and the County Ranger's Office of the N.C. Division of Forest Resources for the county in which the harvest will occur, with a written Notice of Timber Harvest, which notice shall reference the specific activities of the Forest Management Plan to be implemented.

Timber Harvest Supervision. Timber harvesting shall be supervised by a Registered NC Forester and conducted within the constraints of the Forest Management Plan (FMP) under a written contract, which shall specify relevant requirements for compliance with this Conservation Easement and shall require a performance bond in favor of the landowner with Grantee named as an additional insured party for compliance with the terms hereof. At the Grantee's discretion, the Grantee may waive the requirement of Registered NC Forester supervision or performance bond in certain cases of a small-scale harvest.

- 2.6 Home Business. Any business that is conducted by and in the home of a person residing on the Property is allowed as long as it does not damage the conservation values.
- 2.7 Recreational Use. Grantor shall have the right to engage in and permit others, whether or not for consideration, to engage in recreational uses of the Property, including hiking, camping, picnicking, horseback riding, non-motorized bicycling, lawful hunting and fishing, and other recreational uses that require no buildings, facilities, surface alteration or other development of the land. The Grantor must contact Grantee for permission to pursue recreation activities not listed above. Pursuit of wildlife by any form of motorized transportation is not

allowed. Grantor reserves the right to promulgate and enforce reasonable rules and regulations for all activities incident to recreational use of the Property, including but not limited to the right to prohibit any recreational use that would permit destruction of other significant conservation value of the Property. All Terrain Vehicles may be used only on roadways or designated trails.

- 2.8 Excavation. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner except as necessary to allow the construction of the improvements allowed above, the maintenance of existing roads, hiking and horseback trails and for the purpose of combating erosion or flooding.
- 2.9 Destruction of Plants. Grantor shall have the right to cut and remove diseased trees, shrubs, or other plants, and to cut firebreaks, subject to prior approval by the Grantee, except that such approval shall not be required in case of emergency firebreaks. Grantor shall also have the right to cut and remove trees, shrubs, or other plants to accommodate the activities expressly allowed under this easement. There shall be no additional removal, harvesting, destruction or cutting of native trees, shrubs or other plants. Except for use around improvements in 2.2 there shall be no planting of non-native trees, shrubs, and in no instance shall there be any establishment of plant species recognized as non-native invasives (as defined by the USDA Invasive species list for North Carolina available at www.usda.plants). Furthermore, except to accommodate the activities expressly permitted in this easement, there shall be no use of fertilizers, plowing, introduction of non-native animals, or disturbance or change in the natural habitat in any manner.
- 2.10 Water Quality and Drainage Patterns. There shall be no pollution of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies, nor shall activities be conducted on the Property that would be detrimental to water purity or that could alter the natural water level or flow in or over the Property. Other than the construction of a well to serve allowed improvements, there shall be no alteration, depletion or extraction of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies on the Property. Diking, draining, filling or removal of wetlands is prohibited. The Grantor reserves the right to drill wells on the protected Property to provide water incident to the exercise on any reserved rights set forth.
- 2.11 Signage. No signs or billboards or other advertising displays are allowed on the Property, except that signs whose placement, number and design do not significantly diminish the scenic character of the Property may be displayed to identify trails and the conservation values and status of the Property, to identify the name and address of the Property and the names of persons living on the Property, to give directions, to advertise or regulate permitted uses on the Property and prescribe rules and regulations for recreational use of the protected

Property, to advertise the Property for sale or rent, and to post the Property against trespassers.

- 2.12 No Biocides. There shall be no use of pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides, except as approved by Grantee to control invasive species detrimental to the conservation values of the Property, and except as needed around improvements on the Property.
- 2.13 No Dumping. There shall be no storage or dumping of trash, garbage abandoned vehicles, appliances, or machinery, or other unsightly or offensive material, hazardous substance, or toxic waste on the Property (except the short term storage of household garbage and waste). There shall be no changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall activities be conducted on the Property or on adjacent property owned by Grantor, that could cause erosion or siltation on the Property.
- 2.14 Predator Control. Grantor shall have the right to control, destroy, or trap predatory and problem animals which pose a material threat to livestock and/or humans by means and methods approved by the Grantee. The method employed shall be selective and specific to individuals, rather than broadcast, nonselective techniques.
- 2.15 Commercial Development. Any commercial or industrial use of or activity on the Property is prohibited.
- 2.16 Development Rights. With the exception of buildings permitted above, Grantor conveys to Grantee all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, are terminated and extinguished, and may not be used on or transmitted to any portion of the Property, as it now or hereafter may be bounded or described, or to any other property.

3. ADDITIONAL RIGHTS RETAINED BY GRANTOR. Any activity on or use of the Property inconsistent with the Purpose Statement is prohibited. The Property shall be maintained in its natural, scenic, and open condition and restricted from any development or resource extraction that would significantly impair or interfere with the Conservation Values of the Property.

All rights reserved by Grantor are considered to be consistent with the Purpose Statement of this Conservation Easement and, except as specifically stated otherwise herein, require no prior notification to or approval by Grantee. Notwithstanding the foregoing, Grantor and Grantee have no right to agree to any activity that would result in the termination of this Conservation Easement or would cause it to fail to qualify as a "qualified conservation contribution" as described in section 170(h) of the Internal Revenue Code, or any regulations promulgated thereunder.

Grantor retains the following additional rights:

- 3.1 Existing Uses. The right to undertake or continue any activity or use of the Property not prohibited by this Conservation Easement, providing that such activity does not cause an adverse effect in any material way to the conservation values of the property. Prior to making any change in use of the Property, Grantor shall notify Grantee in writing 45 days to allow Grantee a reasonable opportunity to determine whether such change would violate the terms of this Conservation Easement.
- 3.2 Transfer. The right to sell, give, mortgage, lease, or otherwise convey the Property subject to the terms of this Conservation Easement.
- 3.3 Quiet Enjoyment. The Grantor reserves to itself, its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited or restricted herein and not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, the Grantor expressly reserve for itself, its successors and assigns, invitees and licensees the right of access to the Property, and the right of quiet enjoyment of the Property.

4. **GRANTEE'S RIGHTS.** To accomplish the purpose of this Conservation Easement, the following rights are granted to Grantee by this Conservation Easement:

- 4.1 Right to Protect. The right to preserve and protect the conservation values of the Property and enforce the terms of this Conservation Easement.
- 4.2. Right of Notification: Grantee has the right to be notified prior to the exercising of a reserved right by the Grantor. Notification of Grantee must be made in writing by the Grantor at least 45 days prior to Grantor beginning to exercise a reserved right.
- 4.3 Right of Review and Approve Exercising Reserved Right: Grantee has the right to review plans concerning exercising of the reserved right to ensure it will not reduce or jeopardize the conservation value of the property. From the time of notification Grantee will have 30 days to review such plans before exercising of the reserved right can begin.
- 4.4 Right to Disallow Exercise of Reserved Right: Grantee has the right to not allow the exercising of a reserved right if Grantee concludes that the plans for exercising a reserved right will reduce or jeopardize the conservation value of the easement.
- 4.5 Right of Entry. Grantee, its employees, representatives, and agents and its successors and assigns, have the right, after prior written notice to Grantor, to enter the protected Property at reasonable times for the purposes of: (a) inspecting the protected Property to determine whether the Grantor, its representatives, assigns, heirs and successors are complying with the covenants and purposes of this Conservation Easement; and (b) monitoring and research as described below. The Grantee has the right to access the property without prior

notice in the event of an emergency or if the holder believes a potential violation is occurring.

- 4.6 Monitoring and Research. Grantee has the right, but not the obligation, to monitor the native plant and wildlife populations, plant communities and natural habitats on the Property. Grantor agrees that all monitoring activity, inventory and assessment work or other natural resource research conducted by the Grantor or others shall be reported to the Grantee.
- 4.7 Management of Exotics and Invasive Species. Grantee has the right, but not the obligation, to control, manage or destroy exotic non-native species or invasive species of plants and animals that threaten the conservation values of the Property. Grantee will consult with Grantor prior to implementing control activities.

5. RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED. Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the Grantor, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:

- 5.1 Taxes. The Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property.
- 5.2 Upkeep and Maintenance. The Grantor shall be solely responsible for the upkeep and maintenance of the Property, to the extent it may be required by law.
- 5.3 The Grantee shall have no obligation for the upkeep or maintenance of the Property.

6. ACCESS. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement. However, the public has the right to view the Property from adjacent publicly accessible areas such as public roads and waterways.

7. ENFORCEMENT. The Grantee shall have the right to prevent and correct violations of the terms of this Conservation Easement.

- 7.1 With advance written notice the Grantee may enter the Property for the purpose of inspecting for violations. If the Grantee finds a violation, it may at its discretion take appropriate legal action. Except when an ongoing or imminent violation could substantially diminish or impair the conservation values of the Property, the Grantee shall give the Grantor written notice of the violation and sixty (60) days to correct it (or begin good faith efforts to correct in the event the violation is something which cannot be reasonably corrected in sixty (60) days), before filing any legal actions. If a court with jurisdiction determines that a violation may exist or has occurred, the Grantee may obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring the Grantor to restore the Property to its condition prior to the violation. The failure of the Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time.

7.2 Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury or change in the Property caused by third parties, resulting from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Property resulting from such action.

8. **TRANSFER OF EASEMENT.** The parties recognize and agree that the benefits of this easement are in gross and assignable. The Grantee shall have the right to transfer or assign this Conservation Easement to any qualified organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, and under N.C.G.S. 121-34 *et seq.*, and that expressly agrees to assume the responsibility imposed on the Grantee by this Conservation Easement. If the Grantee ever ceases to exist or no longer qualifies under Sec. 170(h) or applicable state law, a court with jurisdiction shall transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility.

9. **TRANSFER OF PROPERTY.** Any time the Property, or any interest therein, is transferred by the Grantor to any third party, the Grantor shall notify the Grantee in writing at least thirty (30) days prior to the transfer of the Property, and the document of conveyance shall expressly refer to this Conservation Easement.

10. **RIGHT OF FIRST REFUSAL.** In case of any contemplated sale of the subject property or any portion thereof by the Grantor or any successor in title thereto, first refusal as to any bona fide offer of purchase must be given to the Grantee, its successors or assigns. If Grantee so decides to purchase, it shall notify the then owner of its willingness to buy upon the same terms within thirty (30) days of receipt of written notice of such bona fide offer. Failure of Grantee to notify the then owner of its intention to exercise this right of first refusal within such thirty (30) day period shall free the owner to sell pursuant to the bona fide offer. If there are any outstanding deeds of trust or other encumbrances against the property, any right to repurchase shall be subject to said deeds of trust or encumbrances, and they shall either be satisfied or assumed as part of the purchase price.

11. **AMENDMENT OF EASEMENT.** This Conservation Easement may be amended only with the written consent of Grantor and Grantee. Any such amendment shall be consistent with the purposes of this Conservation Easement and shall comply with Sec. 170(h) of the Internal Revenue Code, or any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with the Uniform Conservation and Historic Preservation Agreements Act, N.C.G.S. Section 121-34 *et seq.*, or any regulations promulgated pursuant to that law. The Grantor and Grantee have no right or power to agree to any amendment that would affect the enforceability of this Conservation Easement.

12. **PROCEDURE IN THE EVENT OF CONDEMNATION OR EMINENT DOMAIN.** Grantor and Grantee recognize that the donation of this Conservation Easement gives rise to a property right, immediately vested in the Grantee, with a fair market value equal

to the proportionate value that the Conservation Easement bears to the value of the Property prior to the restrictions imposed by the Conservation Easement. Accordingly, whenever all or part of the Property is taken by exercise of eminent domain by public, corporate or other authority, or by negotiated sale in lieu of condemnation, so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor shall immediately give notice to Grantee and shall take all appropriate actions at the time of such taking or sale to recover the full value of the taking and all incidental or direct damages resulting from the taking. The Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Such portion shall be equal to the fair market value of the interests of Grantee, its successors and assigns in the Property on the date of the recording of this Conservation Easement. Grantee shall use its share of the Proceeds of Sale in a manner consistent with the conservation purposes set forth herein.

13. **INTERPRETATION.** This Conservation Easement shall be interpreted under the laws of North Carolina, resolving any ambiguities and questions of the validity of specific provisions as to give maximum effect to its conservation purposes.

14. **INDEMNIFICATION.** Grantor agrees to indemnify and hold Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorneys' fees arising from any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof, unless due to the negligence of Grantee or its agents, in which case liability shall be apportioned accordingly. In addition, Grantor warrants that Grantee is a named insured on Grantors' property insurance policies covering the Property.

15. **TITLE.** The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Conservation Easement, and that the Grantee shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement. Grantor covenants and represents that, if any mortgages exist, they have been subordinated to this conservation easement prior to the conveyance of this Conservation Easement.

16. **NOTICES.** Any notices required by this Conservation Easement shall be in writing and shall be personally delivered or sent by first class mail, to Grantor and Grantee, respectively, at the following addresses, unless a party has been notified by the other of a change of address.

To the Grantor:
Cullowhee Bluffs, LLC
4108 Arkwright Road Suite 1
Macon, GA 31210

To the Grantee:
Highlands-Cashiers Land Trust
348 S. 5th Street
Highlands, NC 28741

17. **ENVIRONMENTAL CONDITION.** The Grantor warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property.

18. **SEVERABILITY.** If any provision of this Conservation Easement is found to be invalid, the remaining provisions shall not be altered thereby.

19. **PARTIES.** Every provision of this Conservation Easement that applies to the Grantor or Grantee shall also apply to their respective heirs, executors, administrators, assigns, and all other successors as their interest may appear.

20. **RE-RECORDING.** In order to ensure the perpetual enforceability of the Conservation Easement, the Grantee is authorized to re-record this instrument or any other appropriate notice or instrument.

21. **MERGER.** The parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

22. **SUBSEQUENT LIENS ON PROPERTY.** No provisions of this Conservation Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinate to this Conservation Easement.

23. **EXHIBIT AND DOCUMENTATION.**

- A. Legal Description. Exhibit A, Legal Description of the protected Property is attached hereto and made a part hereof by reference.
- B. Documentation Report. The parties acknowledge that the Conservation Easement Baseline Report dated October 9, 2015, a copy of which is on file at the offices of the Grantee, accurately establishes the uses, structures, conservation values and condition of the protected Property as of the date hereof.


24. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

25. **ACCEPTANCE AND EFFECTIVE DATE.** As attested by the Seal of the Grantee and the signature of its authorized representative affixed hereto, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement. This Conservation Easement is to be effective the date recorded in the Jackson County Registry of Deeds.

TO HAVE AND TO HOLD, this Grant of Conservation Easement unto the Highlands-Cashiers Land Trust, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor and Grantee, intending to legally bind themselves, have set their hands and seals on the date first written above.

GRANTOR:


_____ (Seal)

_____ (Seal)

Accepted:

GRANTEE:

Highlands-Cashiers Land Trust,
a North Carolina Nonprofit Corporation

Walter H. Wingfield
By: Walter Wingfield, President

Attest:



By: F. Carlton King, Secretary

Acknowledgements

STATE OF ~~NORTH CAROLINA~~ ^{Georgia}
COUNTY OF Bibb

I, Amy LeGrand, a Notary Public in and for said County and State do hereby certify that Patrick Hardie, Manager of Cullowhee Bluffs, LLC, personally appeared before me this day and duly acknowledged the execution of the foregoing Conservation Easement.

WITNESS my hand and notarial seal, this 28 Day of December, 2015.

 (Seal)
Notary Public

My commission expires:

10-8-14



NORTH CAROLINA
Macon COUNTY

I, Faviola Olvera, a Notary Public of Macon County, North Carolina do hereby certify that F. Carlton King personally appeared before me this day and acknowledged that he is the Secretary of Highlands-Cashiers Land Trust, a nonprofit corporation, and that by authority duly given and as act of the corporation the foregoing instrument was signed in its name by its President and attested by himself as its secretary.

Witness my hand and notarial seal this the 11 day of December, 2015.


Notary Public (Seal)

My commission expires:

May 29, 2018

(Notary Seal)

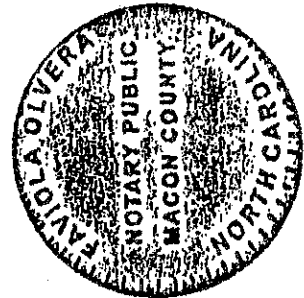


EXHIBIT A. CONSERVATION EASEMENT PLAN

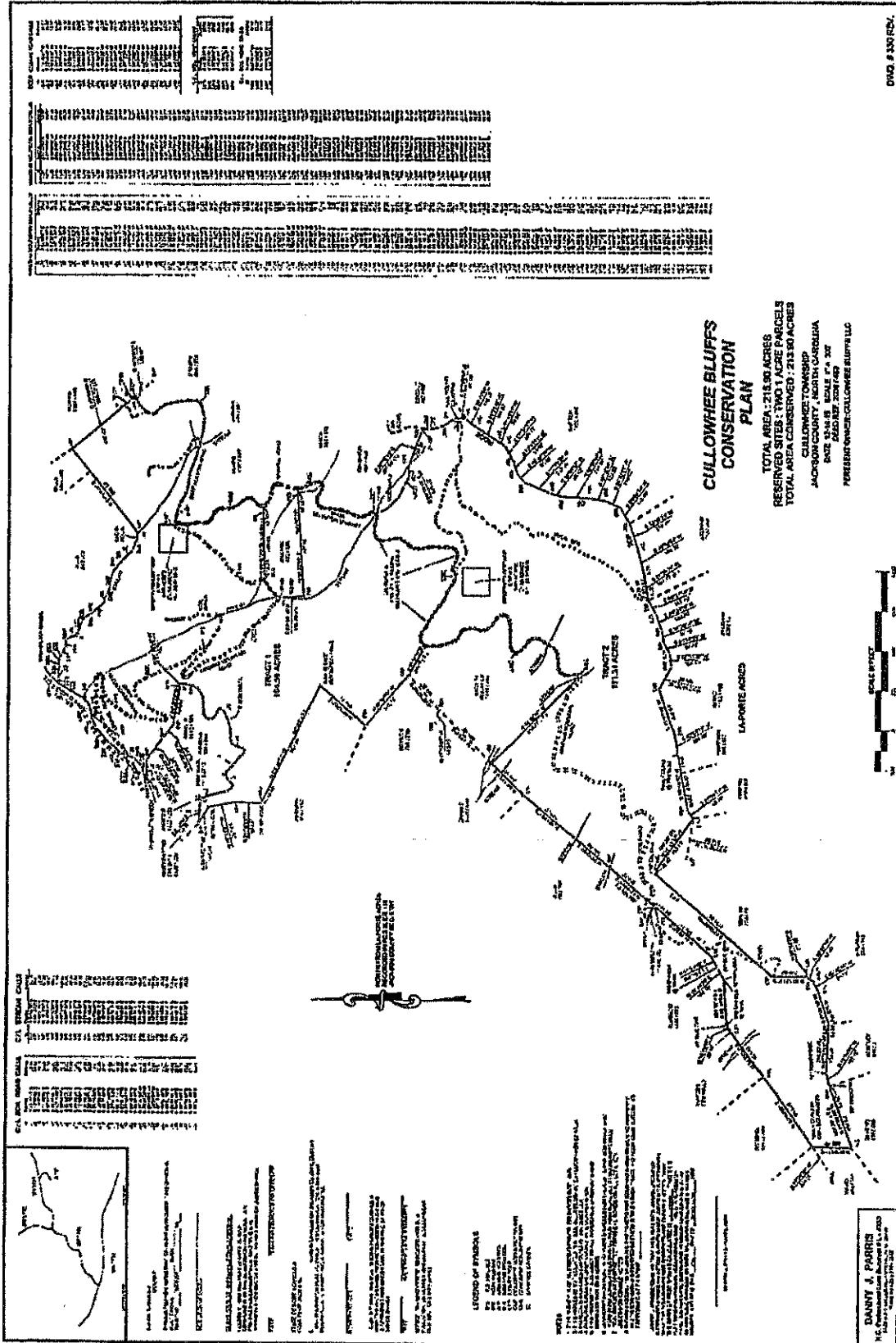


EXHIBIT B. BASELINE DESCRIPTION REPORT (SUMMARY)

The purpose of the Cullowhee Bluffs Conservation Easement Baseline Documentation Report is to document the existing conditions and conservation values on the +/- 215.9-acre Cullowhee Bluffs Conservation Easement Area, including recommendations on management of the property. Conservation values are the biological, physical, and cultural resources present on the Conservation Easement Area, including (but not limited to) water resources, soils, proximity to contiguous forested and protected lands, rare or significant natural communities, plants or animals, and historical features.

A summary of that report is found here in Exhibit B. The full report is maintained in the offices of the Highlands-Cashiers Land Trust. The field inventory and assessment revealed that the Cullowhee Bluffs Conservation Easement Area contains several features having conservation value. The features that contribute to the significance of the conservation easement area are as follows:

Connectivity to Protected Lands

- Significant Natural Areas within 2.5 Miles (Significance Rating)
 - Black Mountain/Parker Knob (B)
 - Coward Knob & Judaculla Cliffs (B)
 - Cullowhee Mafic Slope (B)
 - East Laport River Islands (C)
 - Shelton Mountain (B)
 - Tuckasegee River Aquatic Habitat (A)
 - Tuckasegee River Hornblende Ravine (C)
- Protected Land within 2.5 Miles
 - Nantahala National Forest
 - One Highlands-Cashiers Land Trust Conservation Easement
 - One Land Trust for the Little Tennessee Conservation Easement

Community Types

- Approximately 215 acres of intact forested land
- Acidic Cove Forest
- Rich Cove Forest
- Chestnut Oak Forest
- White Pine Plantation
- Rich Montane Seep – Rare (S3/G3)
- Montane Oak-Hickory Forest (Basic Subtype) – Rare (S3/G3)

Observed Watch List Plant Species

- American ginseng (*Panax quinquefolius*)
- Bloodroot (*Sanguinaria canadensis*)
- Black cohosh (*Actaea racemosa*)
- Eastern sweetshrub (*Calycanthus floridus*)
- Eastern hemlock (*Tsuga canadensis*)
- Galax (*Galax urceolata*)

- Tinker's weed (*Triosteum aurantiacum* var. *aurantiacum*)

Potentially Occurring Rare Species

Scientific Name	Common Name	State Status	Federal Status	State Rank	Global Rank
Vascular Plants					
<i>Brachyelytrum aristosum</i>	Northern Shorthusk	SR-P		S3	G4G5
<i>Bromus latiglumis</i>	Riverbank Brome	SR-P		S1	G5
<i>Corallorhiza wisteriana</i>	Spring Coral-root	SR-O		S1S2	G5
<i>Delphinium exaltatum</i>	Tall Larkspur	E	FSC	S2	G3
<i>Echinacea purpurea</i>	Purple Coneflower	SC-V		S1	G4
<i>Geum lobatum</i>	Lobed Barren-strawberry	E	FSC	S1	G2G3
<i>Hexalectris spicata</i>	Crested Coralroot	SR-P		S2	G5
<i>Hydrastis canadensis</i>	Goldenseal	SR-O		S3	G3G4
<i>Jeffersonia diphylla</i>	Twinleaf	T		S1	G5
<i>Lysimachia fraseri</i>	Fraser's Loosetrife	E	FSC	S3	G3
<i>Monotropis odorata</i>	Sweet Pinesap	SC-V	FSC	S3	G3
<i>Packera millefolium</i>	Divided-leaf Ragwort	T	FSC	S2	G2
<i>Primula meadia</i>	Shooting-star	T		S2S3	G5
<i>Sceptridium jenmanii</i>	Alabama Grape-fern	SC-V		S2	G3G4
<i>Scutellaria nervosa</i>	Veined Skullcap	E		S1	G5
<i>Sedum glaucophyllum</i>	Cliff Stonecrop	SR-P		S2	G4
<i>Silene ovata</i>	Mountain Catchfly	SC-V	FSC	S3	G3
<i>Thaspium pinnatifidum</i>	Mountain Thaspium	T	FSC	S1	G2G3
Non-Vascular Plants					
<i>Cirriophyllum piliferum</i>	Long Leaf Mustache Moss	SR-P		S2	G3G5
<i>Macrocoma sullivantii</i>	Sullivant's Maned-moss	SR-D		S1	G5
<i>Tortula ammonsiana</i>	Ammons's Tortula	SR-O		S1	G1G3
<i>Usnea angulata</i>	Old Man's Beard	SR-P		S1	G3G5
Invertebrate Animals					
<i>Barbaetis benfieldi</i>	Benfield's Bearded Small Minnow Mayfly	SR		S1	G2G4
<i>Cambarus georgiae</i>	Little Tennessee Crayfish	SC	FSC	S2S3	G2G3
<i>Cambarus reburus</i>	French Broad River Crayfish	SR	FSC	S3	G3
<i>Cambarus tuckasegee</i>	Tuckasegee Stream Crayfish	SR		S1S2	G1G2
<i>Lampsilis fasciola</i>	Wavyrayed Lampmussel	SC		S1	G5
<i>Somatochloro elongata</i>	Ski-tipped Emerald	SR		S2S3	G5
<i>Stylurus scudderii</i>	Zebra Clubtail	SR		S27	G4
<i>Villosa iris</i>	Rainbow	SC		S1	G5Q
Vertebrate Animals					
<i>Clinostomus sp. 1</i>	Smoky Dace	SC	FSC	S3	G5T3Q
<i>Cryptobranchus alleganiensis</i>	Hellbender	SC	FSC	S3	G3G4
<i>Etheostoma vulneratum</i>	Wounded Darter	SC	FSC	S1	G3
<i>Moxostoma sp. 2</i>	Sicklefin Redhorse	T	C	S1	G2Q
<i>Myotis leibii</i>	Eastern Small-footed Myotis	SC	FSC	S2	G1G3
<i>Notropis micropteryx</i>	Highland Shiner	SR		S2	G5

Water Resources

- Approximately 15,380 linear feet of perennial and intermittent streams, including:
 - o A segment of Wayehutta Creek
 - o Numerous headwater tributaries to Wayehutta Creek
 - o Significant area of rare headwater seepage communities

Viewshed Protection

- The Conservation Easement Area contains several ridgetops and high knobs along the Balsam Mountain Range that can be seen from the surrounding viewshed, most notably is Hooper Knob. Furthermore, the Easement will protect views of surrounding high points, ranges, and valleys including:
 - o Rocky Face (West)
 - o Buck Knob (Northwest)
 - o Parker Knob (East)
 - o Coward Knob (East)
 - o Alum Knob (Southeast)
 - o Shelton Mountain Range (Southeast)
 - o Caney Fork Valley (Southeast)