Prepared by: BELLINGHAM, ANDREW B. AND DACY C.
8000 BARRON FARM RD
CATLETT, VA 20119
Return to: Preparer
Tax Map #: 6022-84-1922-000
Exempt from Clerk's fee per *Code of Virginia* § 17.1-266

OPEN SPACE AGREEMENT

RENEWAL

THIS AGREEMENT, made this 17th day of August, 2016, between **Bellingham, Andrew B. and Bellingham, Dacy D.** hereinafter called the "Owner", and the County of Fauquier, a political subdivision of the Commonwealth of Virginia, hereinafter called the "County", recites and provides as follows:

RECITALS

1. The Owner is the owner of certain real estate, described below, hereinafter called the "Property"; and

2. The County is the local governing body having real estate tax jurisdiction over the Property; and

3. The County has determined:

   A. That it is in the public interest that the Property should be provided or preserved for one or more of the following uses: park or recreational purposes; conservation of land; conservation of other natural resources; an historic area; a scenic area; assisting in the shaping of the character, direction and timing of community development; or other use which serves the public interest by the preservation of open-space land as provided in the land-use plan; and

B. That the Property meets the applicable criteria for real estate devoted to open space use as prescribed in Article 4 (Section 58.1-3229 *et seq.*) of Chapter 32 of Title 58.1 of the Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Historic Resources; and

C. That the provisions of this Agreement meet the requirements and standards prescribed under Section 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open space use to a non-qualifying use; and

4. The Owner is willing to make a written recorded commitment to preserve and protect the open space uses of the Property during the term of this Agreement in order for the Property to be taxed on the basis of a use assessment and the Owner has submitted an application for such taxation to the assessing officer of the County pursuant to Section 58.1-3234 of the Code of Virginia and Section 8-10 of the Fauquier County Code.

5. The County is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this Agreement, in consideration of the Owner's commitment to preserve and protect the open space uses of the Property, and on the condition that the Owner's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and Section 8-11 of the Fauquier County Code are complied with.

NOW THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, the parties hereby covenant and agree as follows:

1. This Agreement shall apply to all of the following described real estate: see Attachment "A".

2. The Owner agrees that during the term of this Agreement:

A. There shall be no change in the use or uses of the Property that exist as of the date of this Agreement to any use that would not qualify as an open space use.

B. There shall be no display of billboards, signs or other advertisements on the property, except to (i) state solely the name of the Owner and the address of the Property; (ii) advertise the sale or lease of the Property; (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property; or (iv) provide warnings. No sign shall exceed four feet by four feet (4' x 4').

C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:

   1. on the Property as of the date of this Agreement; or

   2. related to and compatible with the open space uses of the property which this Agreement is intended to protect or provide for.

D. There shall be no accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.

E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this Agreement.

F. There shall be no construction or placement of fences, screens, hedges, walls, or other similar barriers which materially obstruct the public's view of scenic areas of the Property.

G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Owner may:

1. engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia By-Way or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and

2. remove vegetation which constitutes a safety, a health, or an ecological hazard.

H. On areas of the property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.

I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.

J. There shall be no industrial or commercial activities conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities, or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.

K. There shall be no separation or split-off lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of the Agreement only as the same entire parcel that is the subject of this Agreement; provided, however, that the Owner may grant to a public body or bodies open space, conservation or historic preservation easements which apply to all or part of the Property.

3. This Agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Owner for use assessment and taxation in accordance with the Fauquier County Code. Thereafter, this Agreement shall remain in effect for a term of eight (8) consecutive years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Owner may otherwise allow, consistent with the provisions of this Agreement.

5. The County shall have the right at all reasonable times to enter the Property to determine whether the Owner is complying with the provisions of this Agreement.

6. Nothing in this Agreement shall be construed to create in the public or any member thereof a right to maintain a suit for any damages against the Owner for any violation of this Agreement.

7. Nothing in the Agreement shall be construed to permit the Owner to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.

8. If any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby.

9. The provisions of this Agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.

10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whatever the sense requires.

11. This Agreement may be terminated in the manner provided in Section 15.2-4407 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

12. Upon termination of this Agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.

13. Upon execution of this Agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fauquier County, Virginia, at the Owner's expense.

14. **NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NON-QUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE OWNER, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLL-BACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE OWNER SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.**

ATTACHMENT "A"

ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 42.3325 ACRES, IN MARSHALL MAGISTERIAL DISTRICT, FAUQUIER COUNTY, VIRGINIA AS IS MORE PARTICULARLY DESCRIBED BY PLAT OF APPLE MANOR SUBDIVISION DATED JUNE 23, 1993 OF RECORD IN THE CLERKS OFFICE OF THE CIRCUIT COURT OF FAUQUIER COUNTY, VIRGINIA, IN DEED BOOK 696 AT PAGE 1568.

AND BEING THE SAME PROPERTY ACQUIRED BY THE OWNER HEREIN BY THAT CERTAIN DEED DATED MARCH 15, 1996 AND RECORDED IN DEED BOOK 752 AT PAGE 1546 AMONG THE LAND RECORDS OF FAUQUIER COUNTY, VIRGINIA.

PIN: 6022-84-1922-000

WITNESS the following signature this 17th day of August, 2016.

Dacy C. Bellingham
OWNER

STATE OF VIRGINIA,
COUNTY OF FAUQUIER, to wit:

The foregoing was acknowledged before me, a Notary Public in and for the State and County aforesaid, this 17th day of August, 2016 by: Dacy C. Bellingham, Owner.

Ashley Kathleen Ralph
NOTARY PUBLIC

My Commission Expires: 02-29-2020

ASHLEY KATHLEEN RALPH
COMMONWEALTH OF VIRGINIA
REG. NO. 7694850 EXP. 2-29-2020
NOTARY PUBLIC

WITNESS the following signature this 17th day of August, 2016

Andrew B. Bellingham

OWNER

STATE OF VIRGINIA,
COUNTY OF FAUQUIER, to wit:

The foregoing was acknowledged before me, a Notary Public in and for the State and County aforesaid, this 17th day of August, 2016 by: Andrew B Bellingham, Owner.

Ashley Kathleen Ralph

NOTARY PUBLIC

My Commission Expires: 02-29-2020

ASHLEY KATHLEEN RALPH
COMMONWEALTH OF VIRGINIA
REG. NO. 7084850 EXP. 2-29-2020
NOTARY PUBLIC

WITNESS the following signature this ____ day of _____, 20___.

COUNTY OF FAUQUIER, a political
Subdivision of the Commonwealth of Virginia

BY _____
CHAIRMAN
Fauquier County Board of Supervisors

STATE OF VIRGINIA
COUNTY OF FAUQUIER, TO WIT:

The foregoing was acknowledged before me, a Notary Public in and for the State and County aforesaid, this ___day of _____, 20___, by : _____, Chairman, Fauquier County Board of Supervisors.

_____
NOTARY PUBLIC

My Commission Expires:_____