

SPACE ABOVE RESERVED FOR RECORDING PURPOSES

UPON RECORDING, PLEASE RETURN TO:
FINGER, MELNICK, BROOKS & LABRUCE, P.A.
Attn: Brittany L. Ward
Post Office Box 24005
Hilton Head Island, South Carolina 29925

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **TEMPORARY ACCESS EASEMENT AND
PERMANENT CROSSWALK EASEMENT
AGREEMENT**

THIS TEMPORARY ACCESS EASEMENT AND PERMANENT CROSSWALK EASEMENT AGREEMENT (the “*Agreement*”) is made effective as of this ____ day of _____, 2025 (the “*Effective Date*”), by and between **HERITAGE AT NEW RIVERSIDE COMMUNITY ASSOCIATION, INC.**, (the “*Grantor*”), and **THE TOWN OF BLUFFTON**, a South Carolina municipal corporation (the “*Grantee*”).

WITNESSETH

WHEREAS, the Grantor affirms, acknowledges and represents that Grantor is the record owner of a parcel of real property, commonly known as Heritage Parkway, located in the Town of Bluffton with a mailing address of 2850 Ashley Phosphate Rd. Ste B, North Charleston, SC 29418 with Tax Map Nos. R614-035-000-0440-0000 and R614 035 000 0587 0000 and is more specifically described as:

All that certain piece, parcel or lot of land, lying and being in Beaufort County, South Carolina and being shown and described as "Open Space" totaling 43.614 Acres, "Common Area" totaling 1.090 Acres, "Amenity Area" totaling 6.766 Acres, "Access Easement" totaling .115 Acres and "Right of Way" totaling 6.592 Acres described as "50' R/W", "Heritage Parkway, "Spirit Way", "Horizon Trail," "Sandy Stream Drive," Pioneer Point," "Founders Walk," "Prominence Point," Heritage at New Riverside, on a plat thereof entitled "A Plat of Phase 1B Heritage at New Riverside, Town of Bluffton, Beaufort County, South Carolina" said plat being prepared by Thomas & Hutton Engineering Co., Savannah, Georgia, Boyce L. Young. S.C.R.L.S No. 11079, said plat being dated June 13, 2005, and recorded in the Beaufort County Records for Beaufort County, South Carolina in Plat Book 121 at Page 196. For a more detailed description as to the courses, metes and bounds of the above mentioned lot, reference is had to said plat of record.

All that certain piece, parcel or lot of land, lying and being in Beaufort County, South Carolina and being shown and described as "Open Space" totaling 17.963 acres and "Right of Way" totaling 3.113 acres described as "50' R/W", "Stepping Stone Way,"

“Cherry Orchard Lane,” “Heritage Parkway,” “Old Mill Crossing” Phase 1C, Heritage at New Riverside, on a plat thereof entitled “A Plat of Phase 1C Heritage at New Riverside, Town of Bluffton, Beaufort County, South Carolina” said plat being prepared by Thomas & Hutton Engineering Co., Savannah, Georgia, Boyce L. Young, S.C.R.L.S. No. 11079, said plat being dated August 8, 2006 and recorded in the Beaufort County Records for Beaufort County, South Carolina in Plat Book 116 at Page 79. For a more detailed description as to the courses, metes and bounds of the above mentioned lot, reference is had to said plat of record.

This being the same property conveyed to the Grantor by deed of Riverwalk Property Development, Inc., dated April 20, 2010 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina on May 10, 2010 in Record Book 2955 at Page 996.

Collectively hereinafter referred to as the “*Property*”; and,

WHEREAS, on or about the 21st day of June, 2000, Grantor’s predecessor in title, New River Farms, L.P., Holly Branch Farms, LLLP, Jones and Associates Limited Partnership, the Barbara J. Bailey Limited Partnership, Dorothy R. Zetterower, Lillian R. Stephenson and Christopher C. Ryals, their successors and assigns (hereinafter collectively, “*Former Grantor*”), entered into that certain Development Agreement with the Town of Bluffton; and

WHEREAS, pursuant to that Development Agreement, Former Grantor executed and delivered a Deed to the Town of Bluffton conveying certain real property now known as the New River Linear Park Trail (hereinafter “*Trail*”), said Deed being dated December 4, 2000, and recorded on December 28, 2000, in the Office of the Register of Deeds for Beaufort County in Record Book 1367 at Page 1632; and

WHEREAS, in the Deed, Former Grantor reserved a general perpetual, non-exclusive right for ingress and egress in, on, over and through the Trail; and

WHEREAS, Former Grantor executed a Road Construction, Maintenance, Access and Use Easement Agreement (hereafter “*Access Easement*”) with the Town of Bluffton dated July 27, 2001, and recorded on August 1, 2001 in the Office of the Register of Deeds for Beaufort County in Record Book 1453 at Page 817 which granted Former Grantor, the right to construct and maintain a paved road over the Trail to provide access to and from their properties and to allow vehicles and pedestrian access over the road right-of-way between their properties; and

WHEREAS, Grantee desires to acquire certain temporary easement interests over portions of Grantor’s real property, known as Heritage Parkway, for a public purpose, more particularly, (i) to utilize Heritage Parkway to access the Trail to complete maintenance and repairs to the Trail; and to acquire certain permanent easement interests over Grantor’s Access Easement and right of way, for a public purpose, more particularly, (ii) to install and permanently maintain a crosswalk on Heritage Parkway at the Trail to ensure the safety of the public utilizing the Trail (the “*Project*”); and,

WHEREAS, in order to proceed with the Project, the Grantee will need to acquire the following easement interests on the Property, which are specifically shown and described on **Exhibit “A”**, attached hereto and incorporated herein by reference:

- a. A Temporary Access Easement on, over, and through Heritage Parkway to allow access to the

- Trail (hereinafter "*TAE Area*"); and
- b. A Permanent Crosswalk Easement (hereinafter "*PCE Area*") consisting of 642 square feet, more or less; and,

Collectively hereinafter referred as the "*Easement Area*"; and,

WHEREAS, the Grantor desires to show its support for the Project by conveying the requisite easements to the Grantee, as more fully set forth herein; and,

WHEREAS, the Parties desire to execute this Agreement in order to establish temporary and permanent easements over the Easement Area on the Property for the purposes of completing the Project, to allow for the continued maintenance and repair of any improvements associated with the Project, and as more fully set forth herein, (collectively hereinafter referred to as the "*Easement*").

AGREEMENT

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, subject to the terms and conditions set forth herein, in consideration of the premises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties do hereby agree as follows:

1. Incorporation of Recitals. The above recitals and attached exhibit(s) are hereby incorporated herein as if restated fully and are hereby made an integral part hereof so that their contents are a substantive part of this Agreement.

2. Consideration and Acknowledgement of Just Compensation. Grantor desires and agrees to donate and convey the easements over the Easement Areas to Grantee for charitable or public uses and purposes and for no monetary consideration. Further, Grantor acknowledges that Grantor has been fully informed of Grantor's right to receive just compensation for the easements, pursuant to the United States Constitution, the South Carolina Constitution and the South Carolina Eminent Domain Act (S.C. Code Ann. § 28-2-370). Grantor does acknowledge and agrees that Grantor willingly and voluntarily waives any right to receive just compensation for the easements over the Easement Areas granted to the Town herein and chooses to donate the same for the benefit of the Project.

3. Grant of a Permanent Easement. Subject to the provisions of this Easement Agreement, the Grantor hereby declares, grants, bargains, donates, aligns, conveys, imposes and confirms unto the Grantee, its successors, successors-in-title and assigns, and Grantee's contractors, tenants, invitees, customers, agents, lessees and employees (collectively the "*Grantee Parties*") a non-exclusive, perpetual, commercial, transmissible, and irrevocable easements in over and upon the Property in the PCE Area, which runs with the land and is further described as provided for in this Agreement. Specifically, the Permanent Easement is a non-exclusive, irrevocable easement, license and permission upon, over, along, across, through and under the PCE Area for the purposes of completing and maintaining the Project, including but not limited to: (i) to construct, operate and maintain certain crosswalk improvements, including but not limited to the right, privilege and authority, from time to time, to enter upon, construct, extend, inspect, operate, replace, relocate, repair, and perpetually maintain upon, over, along, across, through, and under the PCE Area (a) any sidewalk, paver, pathway, crosswalk, crosswalk signals, detectable warning system mats, emergency telephone or computer systems, walkway furniture, planters, irrigation lines, and/or other walkway improvements (the "*Crosswalk Improvements*"), and (b) the right of

ingress, egress, and access to and from and across and upon those portions of the Property immediately adjacent to the PCE Area as may be necessary or convenient for the purposes connected therewith.

Further, the Grantor shall grant and hereby grants and conveys to Grantee, its heirs, legal representatives, tenants, employees, agents, invitees, customers, successors and assigns, and any other persons whomsoever claiming under or through said parties, including but not limited to the general public (herein collectively, the “*Public*”), upon the completion of the Crosswalk Improvements in the PCE Area in accordance with the Project’s final construction plans, a perpetual, irrevocable, nonexclusive, ingress, egress, regress, pedestrian and bicycle access easement in, under, upon, about, over, across and through the Crosswalk Improvements now existing or hereafter constructed in the PCE Area. The Public may use the PCE Area for (i) ingress, egress, regress and access; (ii) the perpetual, non-exclusive and irrevocable right to use the Crosswalk Improvements now existing or hereafter constructed in the PCE Area for the purposes of pedestrian and bicycle circulation and, (iii) all other purposes reasonably necessary for the Public’s use and enjoyment of the Crosswalk Improvements; provided, however, the Town may, in its reasonable discretion, establish certain rules, restrictions and regulations over the Public’s use of and access to the PCE Area and Crosswalk Improvements as determined in the sole discretion of the Town.

4. Temporary Access Easement. The Grantor hereby grants and conveys to the Grantee Parties a two (2) year non-exclusive, irrevocable, temporary access easement, license and permission upon, over, along, across, through, and under the TAE Area, for the purposes of (i) access to the Trail for maintenance and repairs; and (ii) constructing any and all Crosswalk Improvements set forth in the Project’s final construction plans, including but not limited to: (a) ingress, egress, regress and access to the Property, and (b) any such other incidental uses reasonably necessary or desirable during the construction of the Project, as determined in the sole discretion of the Grantee.

5. Use of Easements. Grantor reserves the right to use the Property in any manner not inconsistent with the rights and terms of the Easement hereby granted. In no event shall the Grantee materially interfere with vehicular or pedestrian access to and from the Property and the public thoroughfare abutting thereto or the business operations being conducted on the Property or otherwise utilize any Property outside of the Easement Area, except as otherwise provided herein.

The Grantee Parties shall operate on the Easement Areas in a safe and workmanlike manner, in accordance with generally accepted construction practices in the State of South Carolina, in accordance with all applicable federal, State and local laws and regulations, and in compliance with all requisite permits. At all times the Grantee shall maintain all improvements, fixtures, and equipment in good condition and repair. The Parties agree that if there is damage to the Property, caused directly by a Grantee Party and in the performance of its rights or obligations hereunder, then said Grantee Party shall at its sole expense repair said damage, including but not limited to damage or disturbance of any asphalt, concrete, or other all-weather surface.

6. Acknowledgment. The Town acknowledges and agrees that no new boundary or property lines are created by the easements conveyed hereunder and therefore the setbacks and buffers, if any, required by applicable municipal zoning and development ordinances, including the Town’s Unified Development Ordinance shall continue to extend through the Easement Areas to the boundary line of the Property and adjacent rights-of-way. Further, that the grant of these easements and the improvements in the Easement Areas shall not serve to reduce any density available or existing on the Property prior to the date of this Agreement.

7. Continuation of Other Easements. Nothing within this Agreement shall be deemed to nor shall operate to extinguish any other easements held or possessed by the Grantee, either individually or collectively, on the Property.

8. Town Council Approval. Notwithstanding anything in this Easement Agreement to the contrary, pursuant to Section 5-7-260 of the South Carolina Code of Laws, 1976, as amended, and Sections 2-13 and 2-19 of the Code of Ordinances for the Town of Bluffton, South Carolina, the Grantor acknowledges and agrees that the Town, as a South Carolina municipal corporation, may only acquire interests in real property through the adoption of a written resolution of the Bluffton Town Council at a duly held public meeting of Town Council.

9. Other Provisions, Terms and Conditions.

- a. *Construction of Agreement.* Each party acknowledges that it has participated in the negotiation and drafting of this Agreement. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any Party hereto or thereto by any court by reason of such Party having or being deemed to have structured, dictated, or drafted any provision in the Agreement.
- b. *Modifications.* The terms of this Agreement may not be changed, modified, waived, discharged or terminated orally, but only by an instrument in writing, signed by each Party.
- c. *Successors and Assigns.* All provisions of this Agreement shall run with the land and bind and inure to the benefit of each Party and each Party's respective heirs, executors, legal representatives, successors, successors in title and assigns. The words "Grantor" and "Grantee" shall include their heirs, executors, administrators, successors, and assigns, as the case may be.
- d. *Merger Provision.* This Agreement contains the entire agreement between the Parties with respect to the issues set forth herein. All other discussions, proposals, agreements or offers are merged into this Agreement.
- e. *Captions.* The section headings appearing in this Agreement are for convenience of reference only and are not intended to any extent for the purpose, to limit or define the test of any section or any subsection hereof.

TO HAVE AND TO HOLD, subject to the conditions and limitations set forth above, all and singular, the rights, privileges and easements aforesaid unto the Grantee, its successors and assigns, forever.

GRANTOR HEREBY COVENANTS with the Grantee that Grantor is lawfully seized and possessed of the Property or, in the alternative, holds non-exclusive easement rights for the purposes of access, utilities and the like thereto, and that Grantor has good lawful right to convey the easements conveyed herein, or any part thereof, and that Grantor will forever warrant and forever defend the title thereto against the lawful claims of Grantor's successors, heirs and assigns.

(Signature Page to Follow)

WITNESS Grantor's Hand and Seal this ____ day of _____, 2025.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

GRANTOR:
**HERITAGE AT NEW RIVERSIDE COMMUNITY
ASSOCIATION, INC.**

Signature of First Witness

Name:

Printed Name of First Witness

Title:

Signature of Second Witness or Notary Public

Printed Name of Second Witness or Notary Public

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this ____ day of _____, 2025, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared _____ as _____ for HERITAGE AT NEW RIVERSIDE COMMUNITY ASSOCIATION, INC., known or satisfactorily proven to be the persons whose names are subscribed to the within instrument, who acknowledged the execution thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

_____(SEAL)
(Signature of Notary Public)

Notary Printed Name: _____
Notary Public for the State of South Carolina
My Commission Expires: _____

EXHIBIT “A”
(Easement Area Drawing)

STATE RECORDING FEE - S.C. CODE OF LAWS SECTION 12-24-40;
APPLICABLE COUNTY & MUNICIPAL TRANSFER FEE ORDINANCES

State Stamps Collected: \$ _____ Recording Date: _____
Transfer Fee Collected: \$ _____ Book: _____ Page: _____