

U. S. DEPARTMENT OF AGRICULTURE Forest Service	Holder No.   Issue Date	Expir. Date
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PRIVATE ROAD EASEMENT	Type   Size   AUTHORITY	Auth. Type
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Act of October 21, 1976 (PL 94-579): 36 CFR 251.50, et seq!	Region/Forest/District	State/County
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	Cong. Dist.   Latitude	Longitude
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THIS EASEMENT, dated this 6th day of February, 1998, from the United States of America, acting by and through the Forest Service, Department of Agriculture, hereinafter called Grantor, to the Chattooga -Ellicott Community Association, Inc., a Corporation of the State of North Carolina, hereinafter called Grantee.

WITNESSETH:

WHEREAS. Grantee has applied for a grant of an easement under the Act of October 21, 1976 (90 Stat. 2743: 43 U.S.C. 1761), for a road over certain lands or assignable easements owned by the United States in the County of Jackson, State of North Carolina, and administered by the Forest Service, Department of Agriculture.

NOW THEREFORE. Grantor, for and in consideration of the payment of an annual use fee paid by Grantee does hereby grant to Grantee, subject to existing easements and valid rights, a nonexclusive easement for use of a road, along and across a strip of land, over and across the following described lands in the County of Jackson, State of North Carolina:

The location of said easement is specifically described by a centerline description contained in exhibit A entitled "Plat for Chattooga -Ellicott Community Association, Inc" attached hereto.

Said easement shall be fifteen (15) feet on each side of the centerline with such additional width as required for accommodation and protection of cuts and fills. If the road is located substantially as described herein, the centerline of said road as constructed is hereby deemed accepted by Grantor and Grantee as the true centerline of the easement granted.

This grant is made subject to the following terms, provisions, and conditions applicable to Grantee, its permittees, contractors, assignees, and successors in interest.

A. Grantee shall comply with applicable Federal or State law and shall comply with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes, if those standards are more stringent than applicable Federal standards.

B. The rights herein conveyed do not include the right to use the road for access to developments for short- or long-term residential purposes, unless and until the Grantor and the Grantee agree upon traffic control regulations, rules, and other provisions to accommodate such use of the road.

C. Upon change in ownership of the land or facility served by this road, the rights granted under this easement may be transferred to the new owner upon written notification to the Regional Forester.

D. This easement shall continue for as long as the property served is used as a residential subdivision consisting of no more than 26 single-family residences (one house per five acres); Provided, That the Grantor shall review the terms and conditions of this easement at the end of each 30-year period from the date of issuance, and may incorporate in the easement such new terms, conditions, and stipulations as existing or prospective conditions may warrant. These shall have the same force and effect in the future as if incorporated in this grant.

E. All construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations approved by the Grantor prior to beginning such construction or reconstruction.

F. Grantee shall have the right to cut timber upon the easement area to the extent necessary for maintaining the road. Timber so cut shall, unless otherwise agreed to, be cut into standard log lengths or other products as specified by the authorized officer and decked along the road for disposal by the owner of such timber.

G. The Grantee shall maintain the right-of-way clearing by means of chemicals only after the Grantor has given specific written approval. Application for such approval must be in writing and must specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.

H. The Grantee shall provide maintenance so that there is no damage on adjacent National Forest land. The Grantee shall construct and maintain lead-off drainage and water barriers as necessary to prevent erosion.

I. Grantee shall pay annually in advance a sum determined by the Forest Service to be the fair market value of the use authorized by this easement. The initial payment is set at \$135.00 for the remainder of the calendar year. Payments for each subsequent calendar year shall be the amount of \$162.00 adjusted using the Implicit Price Deflator-Gross National Product index (IPD-GNP), or other factor selected by the Forest Service, to reflect more nearly the current fair-market value of the use. At intervals to be determined by certain changes in the indexes used to establish the linear rights-of-way fee schedule, the fee shall be reviewed and adjusted as necessary to assure that it is commensurate with the value of the rights and privileges authorized. Failure of the Permittee to pay the annual payment, late charges, or other fees or charges shall cause the permit to terminate.

Grantee shall pay an interest charge on any fee amount not paid by the payment due date.

Interest shall be assessed using the most current rate prescribed by the United States Department of Treasury Financial Manual (CFM-6-8020). Interest shall accrue from the date the fee payment was due. In addition, certain processing

and handling administrative costs may be assessed in the event the account becomes delinquent and added to the amounts due.

A penalty of 6 percent per year shall be assessed on any fee amount overdue in excess of 90 days from the due date of the first billing.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments or fee calculation statements fall on a nonworkday, the charges shall not apply until the close of business of the next workday.

J. This easement shall terminate in the event an easement is granted subsequently by the United States to a public road agency for operation of this road as a public highway.

K. Grantee shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with existing Federal and State laws.

L. Grantee shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs the United States may suffer as a result of claims, demands, losses, or judgments caused by the Grantee's use or occupancy under this easement.

M. Upon termination of this easement, the Grantee shall remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the Grantor, unless otherwise waived in writing. If the Grantee fails to remove the structures or improvements within a reasonable period, as determined by the Grantor, the Grantor may remove and dispose of any improvements and restore the area and all costs shall be paid by the Grantee.

If the Grantor waives the removal of the improvements and restoration of the site, all improvements shall become the property of the United States.

The foregoing notwithstanding, this easement is granted subject to the following reservations by Grantor, for itself, its permittees, contractors, and assignees:

1. The right to cross and recross the road at any place by any reasonable means and for any purpose in such manner as will not interfere unreasonably with Grantee's use of the road.

2. The right to all timber now or hereafter growing on the right-of-way, subject to Grantee's right to cut such timber as herein provided.

3. The right alone to extend rights and privileges for use of the road constructed on the premises to other users, provided that nonfederal users shall bear a fair share of the current replacement cost less depreciation of the road and shall reconstruct the road as necessary to accommodate their use.

4. The Grantor reserves the right to use or authorize the use of the road by other Federal agencies, without cost other than the performance or payment, as it may elect, for its proportionate share of maintenance costs.


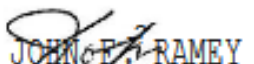
5. The Grantor retains the right to occupy and use the right-of-way, and to issue or grant rights-of-way for other land uses. for other than road purposes. upon, over, under, and through the easement area provided that the occupancy and use do not interfere unreasonably with the rights granted herein.

6. The right to terminate this easement if the Grantor assumes jurisdiction and control of the road as a Forest Development Road and issues a replacement easement providing only for use of the road. The replacement easement shall be in the current standard format, which provides the Grantee the right to use the road for the purposes and for the period authorized by this easement, subject to such traffic control regulations and rules as Grantor may impose reasonably upon or require of other users of the road without unreasonably reducing the rights herein granted.

The Grantor may take action to suspend, revoke, or terminate this easement under the Rules of Preictice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes in 7 CFR 1.130-1.151. An administrative proceeding is not required when the easement terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

IN WITNESS WHEREOF, the Grantor, by its Forest Supervisor, Forest Service, has executed this easement pursuant to the delegation of authority by the Secretary of Agriculture to the Assistant Secretary for Natural Resources and Conservation, the delegation of authority by the Assistant Secretary for Natural Resources and Conservation. to the Chief, Forest Service, 7 CFR 2.60, and the delegation of authority by the Chief, Forest Service. dated August 16, 1982, (47 FR 36465), on the day and year first above written.

UNITED STATES OF  
AMERICA



JOHN P. RAMEY  
Forest Supervisor  
National Forests in North Carolina  
Forest Service  
Department of Agriculture

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

I, Raymond M. Johns II, a Notary Public for said County and State, do hereby certify that JOHN F. RAMEY, Forest Supervisor, National Forests in North Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal, this the \_\_\_\_\_ day of February,

1998.

Raymond M. Johns II Notary Public

My commission expires: October 22, 2001



NOTARY PUBLIC  
STATE OF NORTH CAROLINA  
The foregoing certificate of \_\_\_\_\_ & \_\_\_\_\_  
Public is certified to be correct. The instrument was presented for  
recording in this office on \_\_\_\_\_ 988 \_\_\_\_\_ 98  
\_\_\_\_\_ 25th February 98 12:48 P.  
\_\_\_\_\_ Corinne Sumrell