

DEED OF EASEMENT AND AGREEMENT

Cemetery Preservation Easement

THIS DEED OF EASEMENT AND AGREEMENT (“Easement”), made this _____ day of _____, 20__, by and between _____, (hereinafter called “Property Owner(s)”), Grantor, Anne Arundel County, Maryland, a body corporate and politic of the State of Maryland (hereinafter called “County”), Grantee, and _____ and _____, Trustees by virtue of a Deed of Trust dated _____ and recorded among the Land Records of Anne Arundel County, Maryland in Liber _____, Folio _____, (hereinafter called “Lienholder”);

WHEREAS, Property Owner(s) is/are the owner(s) of property more particularly described below and Property Owner(s) wish to subdivide the property; and

WHEREAS, the property contains a cemetery as shown on the plat more particularly described below; and

WHEREAS, §17-6-503 of the Anne Arundel County Code (2005, as amended) requires that, if there is a cemetery onsite, a developer shall convey a preservation and maintenance easement and provide for the care, maintenance, and protection of the burial site;

NOW THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00), the receipt whereof is hereby acknowledged, the Property Owner hereby grants and conveys to the County, its successors and assigns, in perpetuity, an easement in gross, to run with the land of the Property Owner, as further described below, in, on, over, under, and through the following real property described in Exhibit A, attached hereto and labeled as [insert designation of easement area by name or number, as shown on plat] as indicated and shown on the plat titled [insert name of plat], [insert text “recorded among the plat records of Anne Arundel County Maryland in liber _____ folio _____” OR insert text “attached hereto as Exhibit B”], situated in the [insert district] Assessment District of Anne Arundel County, State of Maryland, (the “Easement Area”) and being a part of the property described in a deed from [insert name of Grantor in Deed to Property Owner] to the Property Owner, dated _____ and

recorded among the land records of Anne Arundel County, Maryland in liber _____ folio _____ (“the Property”), subject to the following terms and conditions:

1. Without the express written consent of the County, through the Cultural Resources Division, Property Owner(s) shall not cause, permit or suffer any grading, excavation, plowing, subsoil disturbance, drainage improvement, subsurface disturbance or other undertaking that would materially disturb the surface or subsurface of the ground in the Easement Area.

2. Property Owner(s) shall care for, maintain, and protect the Easement Area. “Maintenance” shall include but is not limited to: grounds maintenance; tree trimming/planting/removal; landscaping; maintenance of pathways, drives, curbs and parking areas; trash removal; maintenance of existing fencing, railing, benches, flag poles, monuments or statues; maintenance of irrigation systems, drainage and water features.

The raising, setting, aligning, and cleaning of headstones shall not be done without prior written approval of the County, through the Cultural Resources Division.

3. The County shall have the right to enter the Property on reasonable notice to Property Owner(s) for the purpose of inspecting the Easement Area to determine whether there is compliance by Property Owner(s) with the terms of this Easement.

4. Upon any breach of the terms of the Easement by Property Owner, The County may, after reasonable notice to Property Owner, exercise any or all of the following remedies:

(i) institute suit(s) to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction;

(ii) require that the Property be restored promptly to the condition required by the Easement; and

(iii) enter upon the Property, correct any breach, and hold Property Owner responsible for the resulting cost.

The County's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the County at law or equity. If Property Owner is found to have breached any of Property Owner's obligations under the Easement, Property Owner shall reimburse the County for any costs or expenses incurred by the County, including

court costs and reasonable attorney's fees.

5. Property Owner shall provide and maintain a minimum 15 feet wide right of way from the nearest public or private road to provide access to Person(s) in Interest as that term is defined in §14-121 of the Real Property Article of the Annotated Code of Maryland, as amended from time to time, in accordance with the terms and provisions of RP §14-121.

6. No waiver of any term or condition of this Deed of Easement and Agreement shall have any force or effect unless in writing and approved by the parties. Neither the failure on the part of the County to enforce any term or condition in this Deed of Easement and Agreement nor the waiver of any right by the County shall discharge or invalidate such term or condition or any other term or condition, or affect the right of the County to enforce the same in the event of a subsequent breach or default.

7. These terms and conditions are binding upon Property Owner, and Property Owner's purchaser, grantee, lessee and any other person or entity having any right, title or interest in the Easement Area and upon their respective heirs, personal representatives, successors, and assigns; and each reference to "Property Owner" in these terms and conditions shall refer to Property Owner and Property Owner's purchaser, grantee, lessee, and any other person or entity having any right, title or interest in the Easement Area and upon their respective heirs, personal representatives, successors, and assigns.

TO HAVE and to hold to the County, its successors, legal representatives and assigns, forever, together with the right to enforce the terms and conditions set forth in this Easement against the Property Owner, as aforesaid.

THE Lienholder joins in this conveyance solely for the purpose of consenting to and subordinating its Deed of Trust and lien on the Property to the operation and effect of this Deed of Easement and Agreement, and for that purpose only, fully retaining all other rights as Lienholder on the Property.

AS WITNESS the due execution hereof by the parties hereto.

WITNESS

GRANTOR

_____ (SEAL)

_____ (SEAL)

LIENHOLDER

_____ (SEAL)
, Trustee

_____ (SEAL)
, Trustee

ATTEST:

ANNE ARUNDEL COUNTY,
MARYLAND

_____(SEAL)
Benjamin J. Birge
Chief Administrative Officer

APPROVED FOR FORM AND LEGAL SUFFICIENCY
GREGORY SWAIN, COUNTY ATTORNEY:

By: _____
[Insert Attorney Name] Date
[Insert Attorney Title]

I HEREBY CERTIFY that this Deed was prepared by _____,
one of the parties to this instrument, or by the party's attorney.

Preparer Date

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____,
20__, before me, the subscriber, a notary public in and for the State and County
aforesaid, personally appeared _____
and acknowledged the foregoing Deed of Easement and Agreement to be the act of said
_____.

WITNESS my hand and notarial seal.

Notary Public

My commission expires: _____

Notary Public

STATE OF MARYLAND, ANNE ARUNDEL COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 20____, before the subscriber, a Notary Public of the State of Maryland, in and for Anne Arundel County, Maryland, personally appeared Benjamin J. Birge, Chief Administrative Officer Anne Arundel County, Maryland, a body corporate and public of the State of Maryland, and acknowledged the foregoing Deed of Easement and Agreement to be the act of said body corporate.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

**“EXHIBIT A”
CEMETERY PRESERVATION AREA
PROPERTY DESCRIPTION**

[This exhibit shall include a verbal description of the easement area metes and bounds.]

“EXHIBIT B”
CEMETERY PRESERVATION AREA
PLAT

[This exhibit shall include a graphic representation showing the easement boundaries and the locations of any known burials and gravestones. This graphic representation can be an 8.5 x 11 copy or an excerpt from the final development plan or plat.]

AFTER RECORDATION RETURN TO:

Cultural Resources Division
Planning and Zoning
2664 Riva Road, 4th Floor
Annapolis, MD. 21401