

**THIS DEED OF EASEMENT AND AGREEMENT**  
**Archaeological Resource Preservation Easement**

THIS DEED OF EASEMENT AND AGREEMENT (“Easement”), made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, 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 or develop the property, and has submitted to the County an application for subdivision, an application for site development, and/or a building or grading permit for the subject property; and

WHEREAS, the Planning & Zoning Officer has determined that the archaeological resource(s) on the property are significant and capable of yielding important information to the County’s history or prehistory, the location and boundaries of which are shown on the plat/ site development plans, more particularly described below, and detailed in Exhibit A attached hereto; and

WHEREAS, §17-6-502 of the Anne Arundel County Code (2005, as amended) requires that, development shall avoid disturbance of archaeological resources listed on the Maryland Inventory of Archeological Resources and that if an archaeological resource is significant, a developer shall plan development to preserve or mitigate adverse impacts to the archaeological resource and to provide a preservation easement to protect it; and

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 labeled as *[insert archaeology site number(s)]* as

indicated and shown on the plat or development plans titled [insert title], recorded or intended to be recorded among the plat records of Anne Arundel County Maryland (a copy of which is kept on file at the Office of Planning and Zoning), situated in the \_\_\_\_\_ 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”), and as shown in Exhibit A attached hereto, is subject to the following terms and conditions:

1. Without the express written consent of the County (through the Office of Planning and Zoning's Cultural Resources Division), Property Owner(s) shall not cause, permit or suffer any grading, excavation, plowing, subsoiling, drainage improvement, or other undertaking or action that would materially disturb the surface or subsurface of the ground in the Easement Area.
2. The consent required by paragraph 1 is within the sole discretion of the County (through the Office of Planning and Zoning's Cultural Resources Division), based on the County Code and based upon professionally accepted archaeological resource management standards which recognize archaeological resources as non-renewable resources, for which preservation in place either through avoidance or protection is the accepted best practice as articulated in the “Standards and Guidelines for Archeological Investigations in Maryland” (1994), and as per Standard #8 of the “Secretary of the Interior’s Standards for the Treatment of Historic Properties” (2017).
3. In consideration of any request to engage in any activity prohibited by Paragraph 1, the County (through the Office of Planning and Zoning's Cultural Resources Section) reserves the right to deny or approve the request, and shall evaluate any request based on best practices for archaeological resource management including the following considerations:
  - a. Preservation in place of the archaeological resource(s) protected by this Easement is presumed;
  - b. If the activity will result in an adverse effect or destruction of any portion of the protected archaeological resource, the County shall

evaluate the request, and approve or deny the request based on whether the Property Owner can demonstrate:

- i. that the activity, and resulting adverse effect to the protected archaeological resource is necessary, warranted, and unavoidable, and
- ii. that there are no other viable alternatives that will allow for the fair and reasonable use of the property, or it is the minimal action required to allow for a fair and reasonable use of the Property, and
- iii. that the adverse effect or destruction of all or part of the protected archaeological resource cannot be avoided or minimized through any redesign of the planned activity, and
- iv. the activity and resulting adverse effect or destruction of the protected archaeological resources is not warranted if the primary goal is to achieve the highest and best use of the property, when a lesser action will allow fair and reasonable use of the Property; and
- v. if the County finds that the activity is necessary, warranted and unavoidable, then a professional data mitigation plan, acceptable in form and substance to the County, shall be undertaken to mitigate the loss or adverse effect caused by the activity.
- vi. Other considerations:
  1. The County shall consider whether the activity will result in a contribution to the public good, and whether the proposed action results in a public benefit or purpose;
  2. The County shall consider an activity that is in pursuit of research-driven archaeological discovery so long as the investigations are to be conducted by a qualified archaeologist or accredited institution for academic purposes. If such activity is proposed, the Office of Planning and Zoning shall review and provide prior approval for said research design and the investigations must include measures to inform the general public and

interested parties about the results of the investigations and provide mechanisms to share the tangible research results.

4. 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.

5. 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:

- a. institute suit(s) to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction, and including civil penalties as authorized by State or County law;
- b. require that the Property be restored promptly to the condition required by the Easement; and
- c. enter upon the Property, correct any breach, and hold Property Owner responsible for the resulting costs and expenses, and the amount shall be subject to collection and enforcement in the same manner as County real property taxes and shall constitute a lien upon the Property, pursuant to section 1-8-101 of the Anne Arundel County Code.

6. The County's remedies upon breach 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 this Easement, Property Owner shall reimburse the County for any costs or expenses incurred by the County, including court costs and reasonable attorney's fees.

7. In addition to the provisions in the foregoing paragraphs, upon any breach of the terms of this Easement that result in the damage to, or destruction of the archeological resource(s) protected by this Easement without the approval of the County:

- a. the Easement shall continue to remain in place over the area protected regardless of the destruction of the archeological resource(s), and the Property Owner may not develop in the area of the Easement, and
- b. the Property Owner may be required by the County to conduct mitigation, data recovery, excavation, artifact curation, documentation, public dissemination of findings, and technical reporting related to the affected archaeological deposits.

8. 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.

9. 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 Deed of Easement and Agreement against the Property Owner, the Property Owner's purchaser, grantee, lessee and any other person or entity having any right, title or interest therein and upon their respective heirs, personal representatives, successors, and assigns.

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**

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[print name & title]

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[print name & title]

**GRANTOR**

\_\_\_\_\_ (SEAL)  
[signature]

\_\_\_\_\_  
[print name & title]

\_\_\_\_\_ (SEAL)  
[signature]

\_\_\_\_\_  
[print name & title]

**LIENHOLDER**

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[print name & title]

\_\_\_\_\_ (SEAL)  
[signature], Trustee

\_\_\_\_\_  
[print name & title]

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[print name & title]

\_\_\_\_\_ (SEAL)  
[signature], Trustee

\_\_\_\_\_  
[print name & title]

ATTEST: ANNE ARUNDEL COUNTY, MARYLAND

\_\_\_\_\_ (SEAL)  
Jenny Dempsey, Planning & Zoning Officer,  
for Steuart Pittman, County Executive

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.

\_\_\_\_\_  
Preparer Date \_\_\_\_\_

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_ 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: \_\_\_\_\_

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 Jenny Dempsey, Planning and Zoning Officer, on behalf of Steuart Pittman, County Executive of 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”**

**ARCHAEOLOGICAL RESOURCE PRESERVATION AREA  
SITE 18AN\_\_\_\_\_**

**PROPERTY DESCRIPTION**

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

**“EXHIBIT B”**

**ARCHAEOLOGICAL RESOURCE PRESERVATION AREA  
SITE 18AN\_\_\_\_\_**

*[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  
Office of Planning and Zoning  
2664 Riva Road, 4<sup>th</sup> Floor  
Annapolis, MD. 21401

**To facilitate execution of this easement, please note the following:**

- The Anne Arundel County Office of Law requires a title certificate to show which property owners are involved and any lienholders on the property.
- All property owners (grantors) and all lienholders must sign.
- All signatures must be notarized (grantors *and* lienholders).
- In the case of a corporation, the County's Office of Law can accept a signature from its President or Vice President.
  - In order to execute the easements, there needs to be some sort of document indicating who the signatory is and **proof of signing authority**, such as a *Certificate of Secretary* or an *Operating Agreement* that specifically names the President/Vice President of the corporation.
  - Electronic copies by email of any sort of documentation for proof of signing authority is sufficient.