

CONSERVATION DEED OF EASEMENT (“Easement”)
Category I

DEFINITIONS

Grantor: _____ (insert name), fee simple owner(s) of real property subject to the Memorandum of Understanding (MOU) per Exhibit A, as part of the Montgomery County Planning Department and Montgomery Countryside Alliance’s Re-Leaf the Reserve requiring recordation of a Category I conservation easement agreement.

Grantee: Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ("Commission").

Property: ___ acre(s) as per Exhibit B – _____ (address), Map ____, Parcel ____, Subdivision ____, Tax Account # ____, Deed # _____, Recorded among the Land Records of Montgomery County, Maryland.

Planning Board: Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission.

Planning Director: Director of the Montgomery County Planning Department of The Maryland-National Capital Park and Planning Commission, or the Director's designee.

Exhibit A: Memorandum of Understanding

Exhibit B: Description and sketch of the Easement over and across the Property.

WITNESSETH

The Easement reflects a grant of easement by Grantor to the Grantee.

WHEREAS Grantor (or Grantor's agent) has obtained approval of the reforestation site per an MOU as part of the Montgomery County Planning Department and Montgomery Countryside Alliance’s Re-Leaf the Reserve program; and

WHEREAS, per the MOU the Grantor must permanently protect the planted areas with a long-term protection agreement; and

WHEREAS, the location of this Easement is as shown and described on Exhibit B attached hereto and incorporated by reference into the terms of this Easement; and

WHEREAS, the purpose of this Easement is to protect existing and future forest cover,

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individual trees, streams and adjacent buffer areas, wetlands and other sensitive natural features, and to maintain existing natural conditions to protect plant habitats, water quality and wildlife; and

WHEREAS, the purpose includes preservation of the natural beauty of the portion of the Property subject to the Easement (“Easement area”) and prevention of any alteration, construction, or destruction that will tend to mar or detract from such natural beauty; and

WHEREAS, the purpose also includes the protection and preservation of natural features within the Easement area, which efforts are consistent with the terms and conditions of the approved MOU and applicable law; and

WHEREAS, the Grantor and Grantee (collectively referred to as the “Parties”) intend for the conditions and covenants contained in this Easement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the Property; and

WHEREAS, the Grantor intends that a servitude be placed upon the Property to create a conservation benefit in favor of the Planning Board.

NOW, THEREFORE, the Grantor has executed this Easement for no monetary consideration but for the purposes of ensuring long-term protection of the reforestation area and to achieve the goals of the Re-Leaf the Reserve program as stated in the MOU, including enhancing environmental resources through the creation of more forest in Montgomery County. The Grantor does hereby grant and convey unto the Planning Board, in perpetuity, an easement on the Property of the size and location described in Exhibit B attached hereto and incorporated by reference into the terms of this Easement, of the nature and character described herein. This Easement constitutes a covenant real running with the title of the land and is granted to preserve, protect, and maintain the general topography and natural character of the land. The Grantor does hereby waive any challenge to the validity of this Easement whether or not shown on a plat. Grantor, its heirs, successors and assigns covenant to abide by the following restrictions within the Easement:

1. The foregoing recitals are agreed to and incorporated herein and shall be binding upon the Grantor.

2. No living trees or shrubs (of any size or type) shall be cut down, removed, or destroyed without prior written consent from the Planning Director. Diseased or hazardous trees or limbs may be removed to prevent personal injury or property damage after reasonable notice to the Planning Director, unless such notice is not practical in an emergency situation or removal of trees is undertaken pursuant to a forest management plan approved by the Planning Director.

3. No plant materials (including, but not limited to brush, saplings, undergrowth, or non-woody vegetation) shall be mowed or cut down, dug up, removed or destroyed unless removed pursuant to the terms and conditions of an approved forest management plan. Noxious

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weeds (limited to those weeds defined as "noxious" under Maryland State or Montgomery County laws or regulations and "exotic or invasive plants" in the Montgomery County *Trees Technical Manual*) may be removed as required by law, but the method of removal must be consistent with the limitations contained within this Easement. Vegetation removal shall be limited to noxious weeds and exotic and invasive plants only, and protective measures must be taken to protect nearby trees and shrubs.

4. No mowing, agricultural activities, or cultivation shall occur. Grantor may replace dead trees or undergrowth provided that new plantings are characteristic of trees or undergrowth native to Maryland.

5. Nothing in this Easement precludes activities necessary to implement afforestation or reforestation efforts pursued pursuant to an approved forest conservation plan or maintenance agreement implemented under Chapters 19 or 22A of the Montgomery County Code.

6. The following activities may not occur at any time within the Easement area:

- a. Construction, excavation or grading (except for afforestation and reforestation efforts conducted in compliance with an approved forest conservation plan).
- b. Erection of any building or structural improvements on or above ground, including (but not limited to) sheds, dog pens, play equipment, and retaining walls.
- c. Construction of any roadway or private drive.
- d. Activities which in any way could alter or interfere with the natural ground cover or drainage (including alteration of stream channels, stream currents or stream flow).
- e. Industrial or commercial activities.
- f. Timber cutting, unless conducted pursuant to an approved forest management plan approved by the Planning Director and the Department of Natural Resources for the State of Maryland.
- g. Location of any component of a septic system or wells.
- h. Excavation, dredging, or removal of loam, gravel, soil, rock, sand, and other materials.
- i. Diking, dredging, filling, or removal of wetlands.

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- j. Pasturing of livestock (including horses) and storage of manure or any other effluent.
- k. Stream alteration.

7. Nothing in this Easement shall prevent construction or maintenance of stormwater structures and/or facilities or other utilities, including, but not limited to water and sewer lines, on, over, or under the Easement area, if said structures, facilities, or utilities are (i) shown on an approved Forest Conservation Plan and (ii) approved by the appropriate governing bodies or agencies in accordance with applicable laws and regulations.

8. No dumping of unsightly or offensive material, including trash, ashes, sawdust, or grass clippings shall occur within the Easement area. Natural biodegradable materials may be allowed in a properly located, designed, managed, and maintained compost pile, provided the activity does not damage adjacent trees. Upon prior written approval of the Planning Director, suitable heavy fill and other stabilization measures may be placed to control and prevent erosion, provided that the fill is covered by arable soil or humus and properly stabilized.

9. Fences consistent with the purposes of the Easement may be erected within the Easement area only after written approval from the Planning Director.

10. Unpaved paths or trails consistent with the purposes of the Easement may be created only after written approval from the Planning Director.

11. All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the land within the Easement area.

12. Grantor authorizes Planning Board representatives to enter the Property and Easement area at their own risk and at reasonable hours for the purpose of making periodic inspections to ascertain whether the Grantor, its heirs, successors, or assigns, have complied with the restrictions, conditions, and easements established herein. This Easement does not convey to the general public the right to enter the Property or Easement area for any purpose. This Easement does not restrict or enlarge access to the general public in common open space held under community or homeowner association control beyond any access rights created by applicable community or homeowner association covenants and by-laws.

13. The Grantor does hereby waive any challenge to the validity of this Easement in the event it is not shown on a plat, and Grantor agrees to make specific reference to this Easement in a separate paragraph of any subsequent deed, sales contract, mortgage, lease or other legal instrument by which any possessory or equitable interest in the Property is conveyed.

14. No failure on the part of the Planning Board to enforce any covenant or provision

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herein shall waive the Planning Board's right to enforce any covenant within this Easement.

15. Upon finding a violation of any of the restrictions, conditions, covenants, and easements established by this Easement, the Planning Director and the Planning Board shall have the right to enforce such provisions in accordance with any statutory authority (including, if applicable, the imposition of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time). The Planning Board also may seek injunctive or other appropriate relief in any court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the property to its original natural state, and Grantor agrees to pay for court costs and reasonable attorney fees if the Planning Board successfully seeks judicial relief.

16. All written notices required by this Easement shall be sent to the Planning Director, M-NCPPC, 8787 Georgia Avenue, Silver Spring, Maryland 20910. After January 1, 2021 all written notices required by this Easement shall be sent to the Planning Director, M-NCPPC, 2425 Reddie Drive, Wheaton, Maryland 20902.

TO HAVE AND TO HOLD unto the Planning Board, its successors and assigns forever, this Grant shall be binding upon the heirs, successors and assigns of the Grantor in perpetuity and shall constitute a covenant real running with the title of the Property.

[SIGNATURE PAGE FOLLOWS]

Grantor Initials _____

Approved for legal sufficiency
Office of the General Counsel, MNCPPC

Grantor Initials _____

IN WITNESS WHEREOF, Grantor has caused to be executed this Easement to be signed by itself or its duly authorized officer as of this ____ day of _____, 20__.

WITNESS:

GRANTOR:

Type: Name

Type: Name

Organization (if applicable)

Address

Contact phone number

NOTARY STATEMENT

STATE OF MARYLAND

COUNTY OF _____ to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20__, before me, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing and annexed instrument and acknowledged that said individual executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: _____

[NOTARIAL SEAL]

ATTORNEY OR GRANTOR CERTIFICATION

In accordance with Section 3-104(f)(1) of the Real Property Article of the Annotated Code of Maryland, I certify that this instrument was prepared by the undersigned, the Grantor or an attorney admitted to practice before the Court of Appeals of Maryland.

Grantor Signature