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This document was prepared by
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Return to:
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Exempted from recordation taxes
under the Code of Virginia (1950), as amended,
sections 58.1-811(A)(3) and 58.1-811(C)(3)
and from Clerk's Fees under section 17.1-266

DEED OF EASEMENT

FAIRFIELD, HENRICO COUNTY

THIS DEED OF EASEMENT, made this 24th day of October, 2002, by **ALICE PRESTON SMITH** (married), and her heirs, successors and assigns, herein collectively called the Grantor, and the **COMMONWEALTH of VIRGINIA, BOARD OF HISTORIC RESOURCES**, herein called the Grantee,

WITNESSETH:

WHEREAS, Chapter 22, Title 10.1 of the Code of Virginia of 1950, as amended, was enacted to support the preservation and protection of the Commonwealth of Virginia's significant historic, architectural, archaeological, and cultural resources, and charges the Board of Historic Resources to designate as historic landmarks to be listed in the Virginia Landmarks Register such buildings, structures, districts, and sites which it determines to have local, statewide, or national significance, and to receive properties and easements in gross or other interests in properties for the purpose of, among other things, the preservation and protection of such designated landmarks; and

WHEREAS, Chapter 17, Title 10.1 of the Code of Virginia of 1950, as amended, entitled "Open-Space Land Act," was enacted to preserve open-space lands for historic or scenic purposes, and authorizes any public body to receive easements in gross or other interests in properties for the purpose of preserving such historic or scenic open-space lands; and

WHEREAS, the Grantor is the owner of a property known as FAIRFIELD consisting of a tract of land containing 7.782 acres, more or less, herein described, which includes a manor house of historic and architectural significance; which together with its surrounding acreage has historic, scenic, and open-space value, and is listed on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, both the Grantor and the Grantee desire to ensure the preservation of FAIRFIELD and the protection of the historic and architectural features that led it to be placed on such Registers;

NOW THEREFORE, in recognition of the foregoing and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby

Tax Map parcel #

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acknowledged, the Grantor does hereby grant and convey to the Grantee an easement in gross and right in perpetuity to restrict as herein provided the use of the property described in "Attachment A" (hereinafter called the Easement Property).

The restrictions hereby imposed on the use of the Easement Property are in accord with the policy of the Commonwealth of Virginia, as set forth in Chapters 22 and 17 of Title 10.1 of the Code of Virginia of 1950, as amended, to preserve the Commonwealth's designated historic landmarks, and to preserve historic and scenic open-space lands in the Commonwealth. The acts which the Grantor covenants to do and not to do upon the Easement Property, and the restrictions which the Grantee is hereby entitled to enforce, shall be as follows:

1. The parties agree that the photographs of the Easement Property taken by Calder Loth of the Department of Historic Resources on September 11, 2001 (Department of Historic Resources negative numbers 19009 and 19010) accurately document the appearance and condition of the Easement Property as of the date of this Easement. The negatives of the said photographs shall be stored permanently in the archives of the Virginia Department of Historic Resources or its successors. Hereafter, the Easement Property shall be maintained, preserved, and protected in its documented state as nearly as practicable, except for changes which are expressly permitted hereunder.
2. No building or structure shall be built or maintained on the Easement Property other than (i) the manor house, (ii) the following historic outbuildings and structures: the garage/servants' quarters and the pump house, (iii) other buildings or structures commonly or appropriately incidental to a suburban single-family residence, including but not limited to the existing gardener's cottage, the existing swimming pool, and garden structures.
3. The manor house, the garage/servants' quarters, and the pump house shall not be demolished or removed from the Easement Property, nor shall they be altered, restored, renovated, or extended, except in a way that would, in the opinion of the Grantee, be in keeping with the historic character of the Easement Property, and provided that the prior written approval of the Grantee to such actions shall have been obtained. No other permitted building or structure shall be constructed, altered, restored, renovated, extended, or demolished except in a way that would, in the opinion of the Grantee, be in keeping with the historic, architectural, and scenic character of the Easement Property, and provided that the prior written approval of the Grantee to such actions shall have been obtained. The location and design of any new building or structure is expressly made subject to the prior written approval of the Grantee.
4. In the event that the manor house or any other building or structure named in Paragraph 2 above is destroyed or damaged by causes beyond the Grantor's reasonable control including fire, flood, storm, earth movement, or other acts of God, to such an extent that in the opinion of the Grantee the building's historic integrity is irretrievably compromised, nothing herein shall obligate the Grantor to reconstruct the building or return it to its condition prior to such calamity.
5. No cleaning, repointing, waterproofing, or painting of the exterior brickwork and stone trim of the manor house shall be undertaken unless the prior written approval of the Grantee shall have been obtained.

6. The character-defining historic interior architectural elements of the manor house, including the eighteenth-century paneling, and the eighteenth- and nineteenth-century trim including mantels, windows, window frames, doors, door frames, stairs, staircases, baseboards, entablatures, pilasters, cornices, chair rails, floorboards, wainscoting, and hardware shall not be altered or removed from the Easement Property without the prior written approval of the Grantee.
7. No permanent dumping of junk, trash, rubbish, or any other unsightly or offensive material shall be permitted on the Easement Property visible from a public right of way or from the manor house.
8. Management of trees, shrubbery, and vegetation on the Easement Property shall be in accordance with sound arboreal and horticultural practices and in such a way as to prevent damage to the manor house.
9. Grading and earth removal shall not alter the topographic aspect of the Easement Property except as required in the construction of permitted buildings, structures, or roads.
10. The location of any new roads or any new utility lines on the Easement Property (except over existing rights of way) shall be subject to the prior written approval of the Grantee. The present driveway leading from Ross Road to the front of the manor house shall not be altered or resurfaced without the prior written approval of the Grantee.
11. The Easement Property shall not be divided, subdivided, or conveyed in fee other than as a single tract.
12. No sign, billboard, or outdoor advertising structure shall be displayed on the Easement Property without the consent of the Grantee, other than signs not exceeding three square feet for any or an of the following purposes: (i) to state the name and address of the property or property owners, (ii) to provide information necessary for the normal conduct of any permitted business or activity on the Easement Property, (iii) to advertise the Easement Property for sale or rental, and (iv) to provide notice necessary for the protection of the Easement Property and for giving directions to visitors.
13. The Grantor agrees that the Easement Property may be opened to the public, which may be the public at large, or in smaller groups, as designated by the Grantee, for one day from 10 AM to 5 PM every year hereafter, provided that the Grantee makes a written request for such opening by no later than February 1 in any such year. The scheduling of the date for such opening shall be by mutual consent. Any such public admission may be subject to restrictions mutually agreed upon as reasonably designed for the protection of the property. Such admission may also be subject to a reasonable fee. The Grantor also agrees that the Easement Property may be opened by appointment with the Grantor to persons affiliated with educational organizations, professional architectural associations, and historical societies.
14. The Grantee and its representatives may enter the Easement Property from time to time, upon reasonable notice to the Grantor, for the sole purpose of inspections and enforcement of the terms of the easement granted herein.
15. The Grantee, in its discretion, and upon reasonable notice to the Grantor, may erect at a location acceptable to the Grantor, a single marker or sign, not exceeding two feet by two feet, which states the name of the Grantee and advises that the Grantee owns the easement granted herein.

16. In the event of a violation of this easement, the Grantee shall have the right to seek all appropriate legal and equitable relief, including but not limited to the right to restore the Easement Property to its present documented condition as shown in the photographs referenced in Paragraph 1 and assert the cost of such restoration as a lien against the Easement Property.
17. Whenever a written request for the Grantee's approval is submitted pursuant hereto and the Grantee fails to respond in writing within 30 days of receipt of such request, then the Grantee shall be deemed to have approved the request, and the Grantor may proceed with the action for which approval was requested. Nothing herein shall be construed, however, to require the Grantee to issue a final decision on such request within such 30-day period, provided that such final decisions are issued in as timely a fashion as is practicable under the circumstances. Such circumstances shall include the complexity of the request or proposed project, the amount of information submitted with the initial request, and the need for on-site inspections or consultations. No approval required hereunder shall be unreasonably withheld by the Grantee.
18. Prior to any inter vivos transfer of title to the Easement Property, excluding deeds of trust given for the purpose of securing loans, the Grantor shall notify the Grantee in writing.
19. The invalidity or unenforceability of any provision of this easement shall not affect the validity or enforceability of any other provision of this easement or any ancillary or supplementary agreement relating to the subject matter hereof

Although this easement in gross will benefit the public in the ways recited above, nothing herein shall be construed to convey a right to the public of access to or use of the Easement Property, and the Grantor shall retain exclusive right to such access and use, subject only to the provisions herein recited.

Acceptance by the Board of Historic Resources of this conveyance is authorized by sections 10.1-2204 and 10.1-1701 of the Code of Virginia of 1950, as amended.

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SIGNATURES APPEAR ON THE FOLLOWING PAGES.]