

CITY COUNCIL

READ FILE COVER SHEET

Subject: **Ordinance to Accept Deed of Easement for
MDANG Waterline**

(Public Hearing)

Date: **3/21/2023**

Notice: Any comments made after 5:00 p.m. on the Thursday before the Council Meeting will not be seen in the agenda packet.

Purpose:

- ☐ FYI
- ☒ **Read and Comment as Needed**
- ☒ **Action Required by April 3, 2023**
- ☐ In Confidential File Drawer

Approve:

Casi Boyer ☐ Yes ☐ No ☐ No Comment

Comment: _____

Dave Martin ☐ Yes ☐ No ☐ No Comment

Comment: _____

Jim Ringsaker ☐ Yes ☐ No ☐ No Comment

Comment: _____

Jason Robertson ☐ Yes ☐ No ☐ No Comment

Comment: _____

Tammy Lynn
Schneegas ☐ Yes ☐ No ☐ No Comment

Comment: _____

Carolyn Zinner ☐ Yes ☐ No ☐ No Comment

Comment: _____

Note: N/A

CITY COUNCIL
OF
HAVRE DE GRACE, MARYLAND

ORDINANCE NO. 1101

Introduced by _____ Council Member Zinner

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF
HAVRE DE GRACE ADOPTED PURSUANT TO THE AUTHORITY
OF ARTICLE XI-E OF THE MARYLAND CONSTITUTION, THE
LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE
OF MARYLAND AND SECTIONS 33 AND 34 OF THE HAVRE DE
GRACE CITY CHARTER, FOR THE PURPOSE OF ACCEPTING A
DEED OF EASEMENT WITH RESPECT TO A WATERLINE
LOCATED ON PROPERTY OF THE MARYLAND NATIONAL
GUARD**

On: March 20, 2023

at: 7:00 p.m.

Ordinance introduced, read first time, ordered posted and public hearing scheduled.

PUBLIC HEARING

A Public Hearing is scheduled for April 3, 2023 at 7:00 p.m.

EXPLANATION

Underlining indicates matter
added to existing law.

[Bold Brackets] indicate matter
deleted from existing law.

Amendments proposed prior to
final adoption will be noted on a
separate page with line
references or by handwritten
changes on the draft legislation.

34 **WHEREAS**, State of Maryland, Department of Militia, otherwise known as the Maryland
35 Army National Guard (“MDANG”) desires to execute a deed of easement (substantially in the
36 form attached hereto) with respect to a municipal waterline on property identified as Tax Account
37 Number 06-034667 and more specifically shown on the attached Deed of Easement (Exhibit 1)
38 and Exhibits A and B attached thereto (“Easement Area”); and
39

40 **WHEREAS**, the Mayor and City of Council of Havre de Grace (“City”) desires to accept
41 the Deed of Easement to provide the City with access for ongoing maintenance and repair and
42 operation of the waterline located in the Easement Area; and
43

44 **WHEREAS**, the MDANG intends to execute a Deed of Easement in substantially the form
45 that is attached hereto as Exhibit 1; and
46

47 **WHEREAS**, the City’s acquisition of the easement is for a public purpose.
48

49 **NOW THEREFORE**, it is this ____ day of _____ 2023, determined,
50 decided, and ordained by a majority of the City Council members that:
51

52 The Mayor is authorized to sign a deed of easement in substantially similar form
53 that is attached hereto as Exhibit 1 and take such other action needed to acquire
54 the easement from the Maryland Army National Guard as set forth in this
55 ordinance.
56

57 The foregoing Ordinance is hereby approved by the City Council.
58

59 ADOPTED by the City Council of Havre de Grace, Maryland this ____ day of _____, 2023.
60

61 SIGNED by the Mayor and attested by the Director of Administration this ____ day of _____,
62 2023.
63

64
65 ATTEST:

65 MAYOR AND CITY COUNCIL
66 OF HAVRE DE GRACE
67

68
69 _____
70 Stephen J. Gamatoria
71 Director of Administration
72

68
69 _____
70 William T. Martin
71 Mayor
72

73 Introduced/First Reading: 3/20/2023

74 Public Hearing:

75 Second Reading/Adopted:

76
77 Effective Date:

EXHIBIT 1

DEED OF EASEMENT

THIS DEED OF EASEMENT AND AGREEMENT (this “**Agreement**”) is made this ____ day of _____, 2023, by and among **STATE OF MARYLAND**, to the use of **THE MARYLAND MILITARY DEPARTMENT**, formerly known as the Department of **Militia** (as “**Owner**”); and **THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE, MARYLAND**, a Maryland Municipal Corporation, (as “**City**”).

WHEREAS, the City desires to install, construct, maintain, and use water pipes, meters, vaults, drains and other municipal water facilities that will service the Owner’s Military Installation. (the “**Water Facilities**”) under a 20-foot-wide strip of land hereinafter described, and the Owner is willing to grant such right (the “**Perpetual Easement**”); and

WHEREAS, the City also desires the grant of additional temporary construction easements (the “**Temporary Construction Easements**”) which run parallel with at a width of 20 feet, adjacent to and bind on the Perpetual Easement. The Temporary Construction Easements will terminate upon acceptance by the City of the Water Facilities or one (1) year from the date of this Agreement, whichever comes first (the “**Temporary Construction Easement Term**”).

NOW THEREFORE, in consideration of the premises, which are incorporated herein by reference, the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey unto the City, its successors and assigns, the Perpetual Easement with the right to install, construct, maintain, and use the Water Facilities located under Owner’s Tract (as defined below), situate within the boundaries of the City of Havre de Grace, **SIXTH ELECTION DISTRICT** of Harford County, Maryland, said Water Facilities to be installed sub-surface within the Perpetual Easement which is described as follows: See Exhibit A.

The Owner further grants to the City the Temporary Construction Easement for the duration of the Temporary Construction Easement Term.

Easements are shown on engineered surveys attached as B-1, B-2 and B-3 are intended to be recorded among the Land Records of Harford County herewith and are incorporated herein by reference.

BEING part of that tract or parcel of land conveyed by and described in a deed dated October 9, 1951, from the Harford Agricultural and Breeders' Association, Incorporated to the State of Maryland, for the use of the Department of Militia, its successors and assigns, in fee simple, and recorded among the Land Records of Harford County in Liber 363, folio 560 (the "Owner's Tract").

TO HAVE AND TO HOLD said Perpetual Easement unto the City, its successors and assigns, forever, subject to the following terms and conditions:

1. The Owner does hereby agree that the City, its successors and assigns, shall have the right and privilege of entering upon the Owner's Tract, whenever it may be necessary, to make openings and excavations and to install, construct, repair and maintain the Water Facilities; and it is further agreed that no concrete, buildings or similar structures of any kind shall be erected in, or over the said Perpetual Easement by any of the parties hereto, their successors, or assigns.
2. The City agrees to the following:
 - a. To install a stub from any manhole for future connection, as determined by the City;
 - b. If any fencing belonging to Owner is removed, to erect a temporary fence for security during hours when no actual work is in progress;
 - c. Replace any macadam removed or damaged.

- d. Substantially restore the land to its original condition except to the extent permanent alterations in the landscape are required to maintain the Water Facilities within the standards issued by Federal, State or local governments or agencies as determined by an engineer retained by the City, or as otherwise may be agreed by the parties in writing.
- e. Release the Temporary and/or Perpetual Easement when they are no longer needed.

AS WITNESS, the due execution hereof by the aforementioned parties:

ATTEST:

**THE MAYOR AND CITY COUNCIL OF
HAVRE DE GRACE**

Stephen J. Gamatoria
Director of Administration

By: _____(SEAL)
William T. Martin
Mayor

Approved for legal sufficiency:

Recommended for approval:

April C. Ishak
City Attorney

E.J. Millisor
Director of Department of Public Works

Recommended for approval:

Timothy Whittie, PE
City Engineer

SIGNATURES CONTINUE ON THE FOLLOWING PAGE

STATE OF MARYLAND TO THE USE
OF THE MARYLAND MILITARY
DEPARTMENT

Date

(SEAL)
MAJOR GENERAL, MDARNG
The Adjutant General

SIGNATURES CONTINUE ON THE FOLLOWING PAGE

BOARD OF PUBLIC WORKS OF
THE STATE OF MARYLAND

Attest:

_____(SEAL)
WESTLEY WATENDE OMARI MOORE
Governor

John T. Gontrum, Esq.
Executive Secretary

_____(SEAL)
DERECK E. DAVIS
Treasurer

_____(SEAL)
BROOKE ELIZABETH LIERMAN
Comptroller

Approved by the Board of Public Works of the State of Maryland at a meeting held on the
____th day of _____, 2023, as Item ____-RP, DGS.

Approved as to form.
and legal sufficiency:

Steven R. Brown
Assistant Attorney General
Department of General Services

STATE OF MARYLAND, CITY/COUNTY OF HARFORD, to wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2023, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared William T. Martin, who acknowledged himself to be the Mayor of the City of Havre de Grace, Maryland, a Maryland Municipal Corporation, duly authorized and empowered to act on behalf of the Mayor and City Council of Havre de Grace, and who acknowledged the foregoing to be the act and deed of **THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE**.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

[THIS SPACE INTENTIONALLY LEFT BLANK]

STATE OF MARYLAND, CITY/COUNTY OF _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 2023, before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared _____ of the **STATE OF MARYLAND DEPARTMENT OF THE MILITARY**, known to me (or satisfactorily proven) to be the person whose signature is subscribed to the within Deed of Easement and who signed the same in my presence and acknowledged that he executed the same for the purposes therein contained.

Witness my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

[THIS SPACE INTENTIONALLY LEFT BLANK]

STATE OF MARYLAND, CITY/COUNTY OF _____

I HEREBY CERTIFY that on this _____ day of _____, 2023, before me, the subscriber, a Notary Public of the State and City/County aforesaid, personally appeared Westley Watende Omari Moore, Governor of the State of Maryland, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who signed the same in my presence, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____

I HEREBY CERTIFY that on this _____ day of _____, 2023, before me, the subscriber, a Notary Public of the State and City/County aforesaid, personally appeared Dereck E. Davis, Treasurer of the State of Maryland, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument who signed the same in my presence, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____

I HEREBY CERTIFY that on this _____ day of _____, 2023,
before me, the subscriber, a Notary Public of the State and City/County aforesaid, personally
appeared Brooke Elizabeth Lierman, Comptroller of the State of Maryland, known to me (or
satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument who
signed the same in my presence, and acknowledged that she executed the same for the purposes
therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

CERTIFICATION

This is to certify that the within instrument was prepared by the undersigned Maryland attorney.

April Ishak, Esquire
224 N. Washington Street
Havre de Grace, Maryland 21078
(443) 502-5558

RETURN TO:
April Ishak, Esquire
224 N. Washington Street
Havre de Grace, Maryland 21078
(443) 502-5558

EXHIBIT A

EXHIBIT A
Description of
20-foot-wide Waterline easement
over and across the lands of
State of Maryland, Militia Department (owner)
Liber 353, Folio 560

Commencing at an iron rod found at the northwesterly corner of the lands of the city of Havre de Grace, point being found on the end of the N 47° 56' 26" W, 209.79 plat line, as shown on the plat titled Final Plat Maryland National Guard Property and recorded at Plat Book 103 at page 82 and recorded among the land records of Harford County Maryland, said point being on the eastern boundary line of the lands of the State of Maryland Militia Department, of which the lands are described Liber 363 at Folio 560, thence running reversely along and binding with the aforementioned plat line, the following course and distance:

(i) South 47°56'26" East 170.55 feet to the **Point of Beginning**, said point being located at the centerline of a proposed 20-foot wide easement for water line, thence running over and across the lands of the State of Maryland Militia Department, the following nine (9) bearings and distances;

- (1) South 44°10'35" West, 6.99 feet to a point, thence;
- (2) South 21°40'35" West, 146.91 feet to a point, thence;
- (3) South 67°45'30" West, 110.34 feet to a point, thence;
- (4) South 65°23'46" West, 85.63 feet to a point, thence;
- (5) South 21°40'35" West, 36.28 feet to a point, thence;
- (6) South 63°56'09" West, 55.11 feet to a point, thence;
- (7) South 45°07'03" West, 68.23 feet to a point, thence;
- (8) South 41°58'52" West, 63.12 feet to a point, thence;
- (9) South 41°38'13" West, 202.60 feet to a point on the approximate center line of old Bay Lane, a variable width private right-of-way, said 20-foot wide easement containing 15,522 square feet or 0.35633 acres more or less, as shown on Exhibits B-1 & B-2 & B-3 attached hereto and made part of this reference.

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation of this metes and bounds description, the accompanying sketch and the survey work reflected in it, and is in compliance with the requirements set forth in COMAR Title 09, Subtitle 13, Chapter 06, Regulation .12 of the Minimum Practice for Land Surveyors, as to the establishment of easement lines.

By: Tristan Stewart
Professional Land Surveyor
Maryland Registration No. 21306
License Renewal Date: 06/26/22
Bowman Consulting Group,
13461 Sunrise Valley Drive, Suite 500
Herndon, VA 20171

date: _____



EXHIBIT B-1



