

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

In re Trust for: PROPERTY LOCATED
AT 850 EAST 3RD STREET,
CHATTANOOGA, TENNESSEE 37403

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CASE NO. 18-0065

Part _____

JOINT PETITION TO APPOINT VETERANS CEMETERY TRUST
AS SUCCESSOR TRUSTEE

The City of Chattanooga (the "City") and the Veterans Cemetery Trust, through counsel, respectfully submit this Joint Petition to the Court to Appoint Veterans Cemetery Trust as Successor Trustee (the "Petition") of the real property at 850 East 3rd Street, Chattanooga, Tennessee. In support of their Petition, the City and the Veterans Cemetery Trust would show the Court as follows:

1. On September 3, 1867, George W. Gardenhire conveyed by warranty deed to John W. Brown, J. L. M. French, and A. D. Taylor, and their successors, as trustees, certain land to be used as a cemetery for the dead of the Confederate army (the "Cemetery"). A true and accurate copy of the Warranty Deed is attached hereto as Exhibit A.


2. On April 11, 1901, an additional parcel of property bordering the Cemetery was conveyed, by warranty deed, from F. M. Gardenhire to Anna R. Van Dyke and Leona Gardenhire, as trustees, for the purpose of expanding the Cemetery and of allowing an entry to the Cemetery.

3. On May 25, 1942, the City, along with Maggie Lynn Peeples, C. E. Buek, George W. Gardenhire, and Dr. Battle McLester (collectively, the "Trustees"), were determined by decree of the First Division of the Circuit Court of Hamilton County, Tennessee (the "Decree") to be trustees for the Cemetery. A true and accurate copy of the Decree is attached hereto as Exhibit B.

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HAMILTON COUNTY CLERK MASTER

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4. The Decree provides that the Trustees were to serve for a period of five (5) years from the date of the decree, and until the successor Trustees are elected and qualified. See Exhibit B.

5. The Decree provides that if any of the Trustees were to resign, die, or remove their residence from Chattanooga, Tennessee, the remaining Trustees were empowered to elect a successor Trustee to serve for the remainder of the term. See Exhibit B.

6. No successor trustees were ever appointed after the expiration of the five (5) year term described in the Decree.

7. As of the filing of this Petition, the trust owns the Cemetery.

8. The City's term as trustee expired May 25, 1947, and no further appointments of successor co-trustees have occurred thereafter.

9. The Sons of Confederate Veterans, a local, State and National not-for-profit organization, currently maintain the Cemetery, and have maintained the Cemetery for many years.

10. The Sons of Confederate Veterans have sought the City's authorization to maintain the Cemetery for years.

11. The City believes it is in the best interest of the Cemetery to remove any bureaucratic barriers for the maintenance of the Cemetery.

12. The general assembly of the State of Tennessee recognizes that the proper maintenance of a cemetery or burial grounds, whether private or public, is in the interest of the public health and safety serving a valid public purpose. Tenn. Code Ann. § 46-7-101(a).

13. A trust created for the perpetual care or improvement of a cemetery or graves lessens the burden of government and, therefore, was found by the general assembly to be a charitable trust. To that end, the general assembly declared its support for the establishment and