

DIVISION OF CEMETERIES

STATE OF NEW YORK DEPARTMENT OF STATE

STATE OFFICE BUILDING
44 HAWLEY STREET
BINGHAMTON, NY 13901
TELEPHONE: (607) 721-8756
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WWW.DOS.NY.GOV

KATHY HOCHUL
GOVERNOR

CEMETERY BOARD
ROBERT J. RODRIGUEZ
ACTING SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL
MARY T. BASSETT, M.D.,
M.P.H.
COMMISSIONER OF HEALTH

TO: New York State Cemetery Board

FROM: Brendon Stanton, Investigator

SUBJECT: Abbott's Corners Cemetery Association, #15-001

RE: Application for Approval of a Columbarium

DATE: January 12, 2021

Exhibits

- A) Report from Division Senior Accountant Kathleen Richardson
- B) Application from Abbott's Corners Cemetery Association
- C) Map of the cemetery
- D) Sketch of the columbarium unit
- E) Board minutes approving the installation of the columbarium unit
- F) Copy of signage intended to satisfy 19 NYCRR Section 201.11(b)
- G) September 2021 letter from Terrence McCann regarding application
- H) Notice of Non-Compliance

Introduction

Abbott's Corners Cemetery Association of the towns of Hamburg and Orchard Park, Erie County, has submitted documents in connection with the installation of a columbarium unit. The cemetery originally submitted an incomplete application in January 2021. A revision to this application was received in June 2021; however, upon investigation it was discovered that the unit was installed on or about June 1, 2021, prior to approval having been granted by the State Cemetery Board. Therefore, the following is presented without recommendation in consideration of *nunc pro tunc* approval of this columbarium installation.

The Columbarium

The columbarium unit which was installed by the Abbott's Corners Cemetery Association is a pre-built 120-niche unit. —The cemetery association provided a map (Exhibit C) that did not indicate the location of the columbarium. Upon visiting the cemetery, it was noted that the columbarium is located between two mausolea at the rear of the cemetery.

The columbarium unit was constructed by Rock of Ages of Graniteville, Vermont. It arrived on site in a preassembled or mostly assembled condition. The concrete foundation for this unit had already been poured by the cemetery association. It is constructed of granite, with five columns of six companion niches each arranged on all four sides, for a total of 120 niches comprised of 240 inurnment spaces. It does not appear that the Division was provided with



Department
of State

stamped plans for the unit; however, it is reasonable to assume that stamped plans would be available from the manufacturer and there is no added concern with regard to the quality of the unit's construction.

Compliance with 19 NYCRR Section 201.11

The cemetery has demonstrated compliance with most points of 19 NYCRR Section 201.11(a). Specifically:

1. Whether the proposed construction has the approval of the corporation's lot owners, obtained at a special or regular meeting. If not, a description of the authorization or approval obtained. The cemetery's board of directors met in December 2020, and approved the construction of the columbarium. A copy of the meeting minutes is attached (Exhibit E).

2. (A) The name of the licensed architect or engineer and the estimated total costs of construction, including land to be appropriated, landscaping, embellishments and other features. This unit is preassembled by Rock of Ages of Graniteville, VT. The estimated total cost of construction is \$67,220.00. As noted above, the provided plans were not stamped by a licensed architect or engineer.

(B) A map or sketch indicating the location of the building, together with a general description including the number of crypts and niches. The cemetery provided a map; however, as described above, it did not indicate the location of the installation (Exhibit C). The described sketch is attached (Exhibit D).

(C) Whether the proposed construction is the complete structure or whether units are to be added later. If future units are contemplated, the extent of such commitment or plan. The cemetery has an existing columbarium section, with additional columbarium units installed previously. There are no further commitments to additional units at this time.

3. The source of funds to pay for the construction and the terms of payment. The cemetery will use general funds for the entirety of the project. The cemetery has indicated that the columbarium unit was paid for using general funds.

4. An estimate of the trust funds and the current maintenance funds required to maintain and preserve the facility, covering the year-to-year maintenance and long-term preservation. See attached report of Senior Accountant Kathleen Richardson (Exhibit A) for further financial analysis.

5. An estimate of the cumulative total revenues from sales based on the projected selling prices. See attached report of Senior Accountant Kathleen Richardson (Exhibit A) for further financial analysis.

6. A full disclosure to the extent outstanding certificates of indebtedness or land shares are to participate in the sales proceeds. The cemetery has no outstanding certificates of indebtedness or land shares.

7. The projected disposition of the total estimated sales revenues, including but not limited to the amounts to be allocated for: (A) permanent maintenance and current maintenance funds; (B) supplemental trust or special fund; (C) estimated selling expenses, including disclosure of promotional plans; (D) recovery of construction costs; (E) general fund use or retention; and (F) building operation. See attached report of Senior Accountant Kathleen Richardson (Exhibit A) for further financial analysis.

8. (A) *A copy of the drawing required by paragraph (B) of this subdivision along with an indication of the location of the proposed building, and a statement that the notices required by such paragraph have been posted in accordance with its provisions. A photo of signage intended to satisfy this requirement is attached (Exhibit F).*

Issues with Signage

I first visited the cemetery in connection with this application on March 18, 2021. The cemetery has multiple entrances on both the east and west sides of Abbott Rd. I was unable to locate signage at any entrance, nor was I able to locate signage when driving through either portion of the cemetery. Further correspondence from the cemetery association indicated that signage was posted on the office window and on both mausoleums in January 2021, and stated that the signage was removed on or about June 1, 2021, when the unit was installed. The cemetery association provided photographs intended to corroborate this. I cannot directly dispute that these signs may have been posted in these locations at the time of my visit on March 18, 2021. However, the photographs provided of this signage appear to have been taken after the columbarium was installed, not prior to approval and construction. As the construction has already occurred, it is not possible for the cemetery to post signs properly. The cemetery reports that it has received no adverse comments concerning the project.

Five niches are already inscribed, which strongly suggests that the cemetery has already sold units.

Recommendation

Because the cemetery did not post the required signs in all required places in a timely fashion, and appears to have sold units, it is now not realistically possible for it to comply with 19 NYCRR section 201.11(a)(8). The Division has issued a notice of non-compliance to the cemetery. However, it does not make sense to seek to require the cemetery to remove the columbarium and refund sales at this point, despite this non-compliance. The Division will determine what if any penalty to impose as a result of the cemetery's non-compliance after it receives and reviews the cemetery's response to the notice of non-compliance.

Exhibit A

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
TELEPHONE: (518) 474-6226
FAX: (518) 473-0876
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

CEMETERY BOARD

ROSSANA ROSADO
SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER
COMMISSIONER OF HEALTH

TO: New York State Cemetery Board

FROM: Kathleen Richardson, Senior Accountant

SUBJECT: Abbott's Corners Cemetery Association/DBA Hillcrest Cemetery, #15-001

DATE: March 22, 2021

Schedules:

1. Four-year Income and Expense Analysis and Asset Balance
2. Return on Investment Project #1
3. Other Disbursements
4. Conflict of Interest Policy

Summary:

Abbott's Corner Cemetery has submitted an application to build a new free standing 120 Niche Columbarium. Present inventory of their current columbarium will be exhausted by April 1, 2021.

Costs:

The total cost of the Niche Columbarium will be **\$67,220**. This includes the following:

- Drawings
- Foundation
- Unit
- Freight
- Installation
- Landscaping and side- walk repair

Return on Investment:

The cemetery is expected to experience an IRR on the 120 Niche Columbarium of 103%, resulting in overall profit of \$295,008.

Financing:

The project is being financed through monies from a General Fund account. There is over \$225,000 in a brokerage account that will be accessed to cover all costs.

Recommendation:

Based on the information provided by Abbott's Corners Cemetery, the requests should be granted.



15-001
Abbott's Corners Cemetery Association
Columbarium

Income & Expense Analysis

	Annual Financial Report 12/31/2016	Annual Financial Report 12/31/2017	Annual Financial Report 12/31/2018	Annual Financial Report 12/31/2019
Receipts:				
Lots, Graves & Columbarium	178,350.00	265,117.00	230,927.00	243,395.00
Interment Income	178,285.00	173,201.00	184,333.00	166,393.00
Foundations	39,174.00	31,830.00	28,250.00	37,594.00
Dividends and Interest	6,322.00	7,649.00	7,233.00	7,453.00
Sales of Investments		61,292.00	302,011.00	320,944.00
Sales of Equipment		1,000.00	800.00	1,710.00
Other Income	25,035.00	249.00	3,089.00	263.00
Donations and Bequests	140.00	0.00	0.00	2.00
Net Income:	427,306.00	540,338.00	756,643.00	777,754.00
Disbursements:				
Wages	223,432.00	230,027.00	226,516.00	237,083.00
Salaries of Officers and Directors	0.00	32,447.00	0.00	0.00
Supplies, repairs and equipment	25,351.00	32,447.00	42,095.00	26,000.00
Equipment	0.00	43,610.00	24,322.00	22,226.00
Insurances	25,334.00	28,621.00	31,264.00	29,205.00
Vandalism & Assessment Fee	1,371.00	1,238.00	1,195.00	1,219.00
Other Disbursements	199,303.00	213,550.00	390,089.00	529,382.00
Net Expenses:	474,791.00	581,940.00	715,481.00	845,115.00
Net income(loss)	-47,485.00	-41,602.00	41,162.00	-67,361.00
Fund Balances:	12/31/2016	12/31/2017	12/31/2018	12/31/2019
Permanent Maintenance	\$ 2,336,424.00	\$ 2,379,455.00	\$ 2,332,106.00	\$ 1,158,488.00
General Fund	\$ 1,185,935.00	\$ 1,214,597.00	\$ 1,178,662.00	\$ 2,386,572.00
	\$ 3,522,359.00	\$ 3,594,052.00	\$ 3,510,768.00	\$ 3,545,060.00

15-001
Abbott's Corners Cemetery Association
Columbarium

				2021 30	2022 30	2023 30	2024 30	Total 120
RECEIPTS:	120 Niches	Ave selling price \$2,780	2780 Projected 4 yr sell out	\$ 83,400.00	\$ 83,400.00	\$ 83,400.00	\$ 83,400.00	\$ 333,600.00
			10% unsold unit assumption	\$ (1,320.00)	\$ (1,320.00)	\$ (1,320.00)	\$ (1,320.00)	\$ (5,280.00)
			Gross Revenue equals sales of 90% of units at average selling price	\$ 82,080.00	\$ 82,080.00	\$ 82,080.00	\$ 82,080.00	\$ 328,320.00
EXPENSES:			Annual Estimated Selling Costs	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 400.00
			Permanent Maintenance allocation of 10% based on 90 % sellout of niches	\$ 8,208.00	\$ 8,208.00	\$ 8,208.00	\$ 8,208.00	\$ 32,832.00
				\$ 8,308.00	\$ 8,308.00	\$ 8,308.00	\$ 8,308.00	\$ 33,232.00
Net receipts:				\$ 73,772.00	\$ 73,772.00	\$ 73,772.00	\$ 73,772.00	\$ 295,088.00

Revenue:			
Single Niche	# of Niches	Niche Price	Total Revenue
	120	2780	333,600.00
10% anticipated not sold	12		33,360.00
90% anticipated sales	108		300,240.00

Cost of Columbarium:	
Total	67,220.00

Cost		\$ (67,220.00)
Income Yr	1	\$ 73,772.00
Yr	2	\$ 73,772.00
Yr	3	\$ 73,772.00
Yr	4	\$ 73,772.00
IRR		103%

	2016	2017	2018	2019	Total
Director's Fees/expenses	\$7,284	\$4,958	\$7,248	\$6,827	\$26,317
Payroll Taxes	\$25,435	\$26,867	\$19,915	\$19,782	\$91,999
Insurance-health	\$31,147	\$32,182	\$42,036	\$46,099	\$151,464
Retirement Plan	\$1,110	\$1,719	\$2,395	\$2,165	\$7,389
Employee Welfare	\$701	\$778	\$1,290	\$540	\$3,309
Inscriptions	\$7,379	\$8,845	\$3,710	\$4,710	\$24,644
Vehicles-gas, oil, etc.	\$5,491	\$6,608	\$7,746	\$5,854	\$25,699
Utilities	\$9,103	\$9,126	\$11,033	\$11,512	\$40,774
Telephone and internet	\$5,193	\$6,044	\$5,271	\$4,607	\$21,115
Security	\$658	\$658	\$1,236	\$812	\$3,364
Advertising and promotion	\$2,395	\$6,180	\$10,145	\$2,681	\$21,401
Office expenses	\$3,042	\$1,921	\$2,219	\$1,991	\$9,173
Postage and delivery	\$581	\$496	\$394	\$426	\$1,897
Bank service charges	\$2,246	\$1,602	\$2,067	\$3,913	\$9,828
Dues and subscriptions	\$525	\$553	\$488	\$699	\$2,265
Professional fees	\$12,173	\$13,074	\$13,263	\$14,626	\$53,136
Contributions	\$260	\$160	\$100	\$0	\$520
Miscellaneous	\$0	\$227	\$0	\$0	\$227
Depreciation	\$28,965	\$0	\$0	\$0	\$0
Total	\$145,704	\$121,998	\$130,556	\$127,244	\$494,521

Other Expenses

Investment management fees	\$4,143	\$4,257	\$4,247	\$4,291	\$16,938
Purchases of investments	\$40,507	\$87,295	\$245,226	\$394,397	\$767,425
Inventory Repurchases	\$10,965	\$0	\$10,060	\$3,450	\$24,475
Total	\$55,615	\$91,552	\$259,533	\$402,138	\$808,838

Total Other Disbursements	\$201,319	\$213,550	\$390,089	\$529,382	\$1,303,359
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CONFLICTS OF INTEREST POLICY

The Abbott's Corners Cemetery Association Board of Directors has adopted the following policy regarding conflicts of interest:

1. Any conflict of interest on the part of any Board member should be disclosed to the other Board of Directors and made a matter of record when the interest is related to a matter of Board action.
2. Any Board member having a possible conflict of interest on any matter should not vote or use his/her personal influence on the matter, and he/she should not be counted in determining the quorum for the meeting, even when permitted by law. The minutes of the meeting should reflect that a disclosure was made, the abstention from voting, and quorum situation.
3. No Board member shall engage, directly or indirectly, in conduct that is disloyal, disruptive, or damaging to the Abbott's Corners Cemetery Assoc.
4. No Board member shall at any time disclose to others or use to that individual's benefit or the benefit of others any confidential or proprietary information owned, possessed or used by the Abbott's Corners Cemetery Assoc. except as authorized by the Association and for its benefit. This does not include information that is publicly available or received from other non-Association sources.
5. By majority vote of the Board of Directors, any individual with an actual or potential conflict of interest may, in addition to being excluded from voting on the matter in question, be also excluded from any participation in the matter and/or may be excluded from the meeting during consideration and voting upon the matter in question.
6. In the event a Board member is involved in activities or organizations which constitute either a real or apparent conflict of interest that significantly affects his/her continued service as a member of the Board of Directors, he/she shall take prompt action to resolve the conflict by (a) terminating the conflicting activity or organizational association; or (b) by resigning from the Board of Directors.
7. If any question shall arise as to whether a particular activity or organization association constitutes a conflict of interest for a Board member, the question shall be submitted to the Board for a decision. A majority vote of the Board shall decide such questions. In cases where the Board feels the conflict is a problem relative to continued service on the Board, the Board member shall take the action required under #6 of this policy statement. If the Board member fails to take the action required under #6, the Board of Directors may dismiss the Board member by a majority vote.
8. The forgoing requirements should not be construed as preventing the Board member from briefly stating his/her position in the matter, nor from answering pertinent questions of other Board members since his/her knowledge may be of great assistance.

Exhibit B

ABBOTT'S CORNERS CEMETERY ASSOCIATION

DBA HILLCREST CEMETERY 716-649-8338

5223 Abbott Rd.

Hamburg, NY 14075

January 6, 2021

Mr. Lewis Polishook, Director

Dept. State Division of Cemeteries

One Commerce Plaza

99 Washington Ave.

Albany, NY 12231-6226

RE: Erie 21-001

15001
RECEIVED
DIV. OF CEMETERIES

JUN 07 2021

ALBANY OFFICE
DEPARTMENT OF STATE

Dear Mr. Polishook,

The Directors' of Abbott's Corners Cemetery Assoc. would like to request your approval for the following:

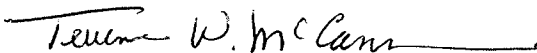
- 1.) To build a new free standing 120 niche columbarium according to our site expansion plan in the Spring of 2021, as we will have exhausted our present inventory.

Enclosed is an application as stated in Section 202.11 of the State Cemetery Board's Rules of Procedure.

We trust this will meet with your approval. If any further information is required, please do not hesitate to contact me. Thank you in advance for your prompt attention to this application. especially in these unprecedented times.

This was approved unanimously at our special Board of Directors meeting in December, 2020.

Sincerely,



Terrence W. McCann, President of the Board of Directors 716-662-5723

Cc: Dean Messing, Vice President of the Board of Directors 716-983-5695

ABBOTT'S CORNER CEMETERY ASSOCIATION

DBA/ HILLCREST CEMETERY 716-649-8338

5223 Abbott Rd.

Hamburg , NY 14075

January 6,2021

RE: Erie 21-001

Item # 1

To build a new free standing 120 Niche Columbarium to our site expansion.
Because of Need.

Vendor Stone Art Memorial Company ,Inc. Lackawanna , NY.

Rock of Ages Provider

Description Attached.

Cost: \$62,220.00

Includes the following Drawings, Foundation, Freight and Installation

Terms : no deposit required, payment in full upon completion and client Approval.

Funds : have been put aside for this addition no Loans needed.

Abbott's Corners has no outstanding certificates of indebtedness or land shares.

Projected sales revenues will be deposited in general funds and thereafter allocated to ,current expenses and Permanent Maintenance Fund I in the manner required by statute. There will be no pre-construction sales .

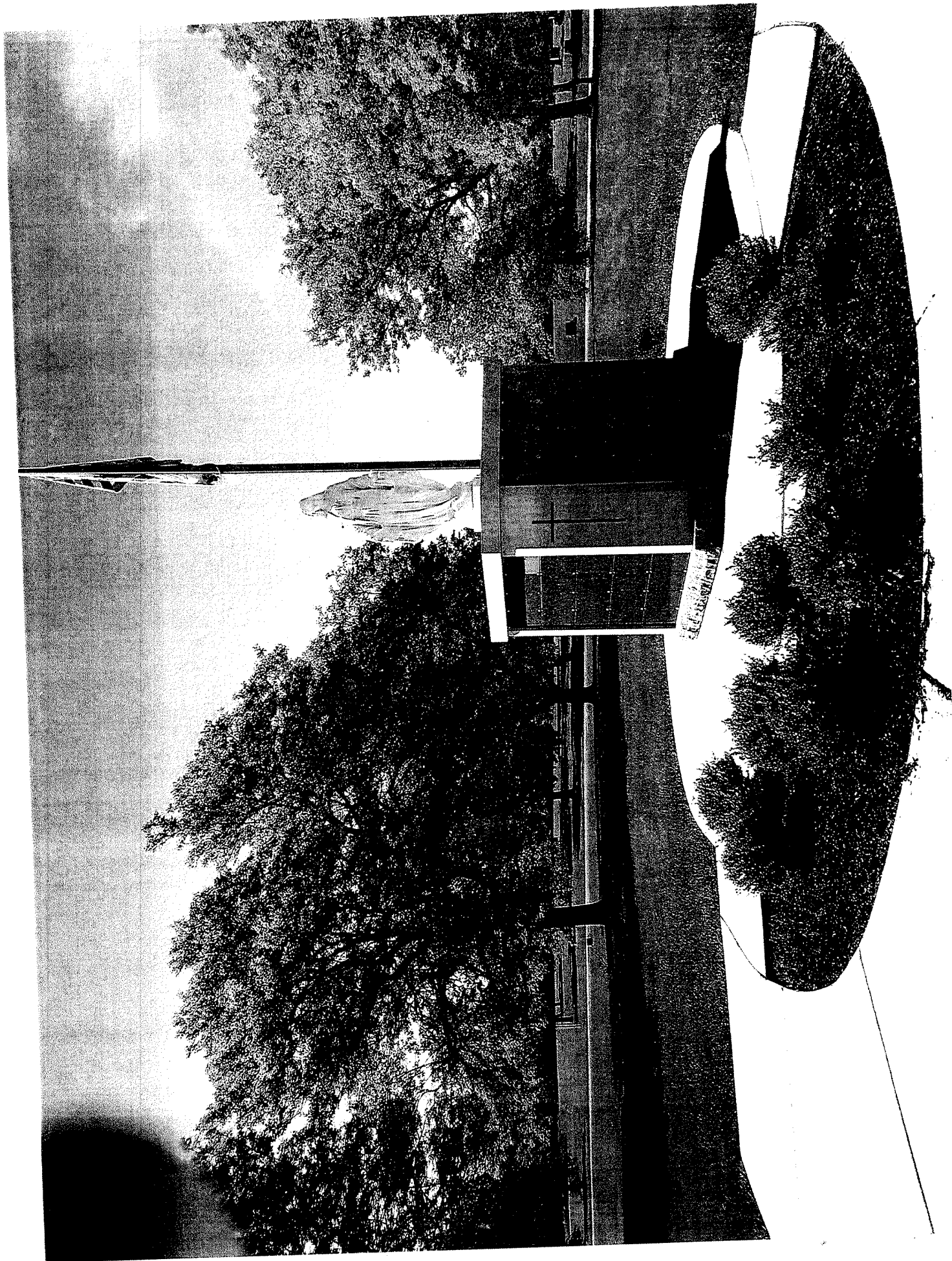
Construction notices will be posted accordingly.

Some additional landscaping and side walk repair will be done by Cemetery.

Estimated Cost at \$5,000.00 to cemetery.

Terrence W. McCann, President of The Board of Directors

CONSULTANT
 Lawrence W. McCann - President
 CLIENT





Stone Art Memorial Company, Inc.

November 10, 2020

Board of Directors
Hillcrest Cemetery
5223 Abbott Rd.
Hamburg, NY 14075

Thank you for the opportunity to propose the following quotation in two sizes for a new columbarium. Both of these include the following along with detail drawings of the construction.

1. Rock of Ages "full perpetual warranty" on all granite and engineering
2. Tiffany finish Rock of Ages Blue Gray granite with Canadian Mahogany panels
3. Rock of Ages aluminum/stainless steel interior with security panels
4. Foundation included
5. Freight and installation included

96 niche configuration per enclosed drawing \$ 51,352.00

120 niche configuration per enclosed drawing \$ 62,220.00 ✓ 05

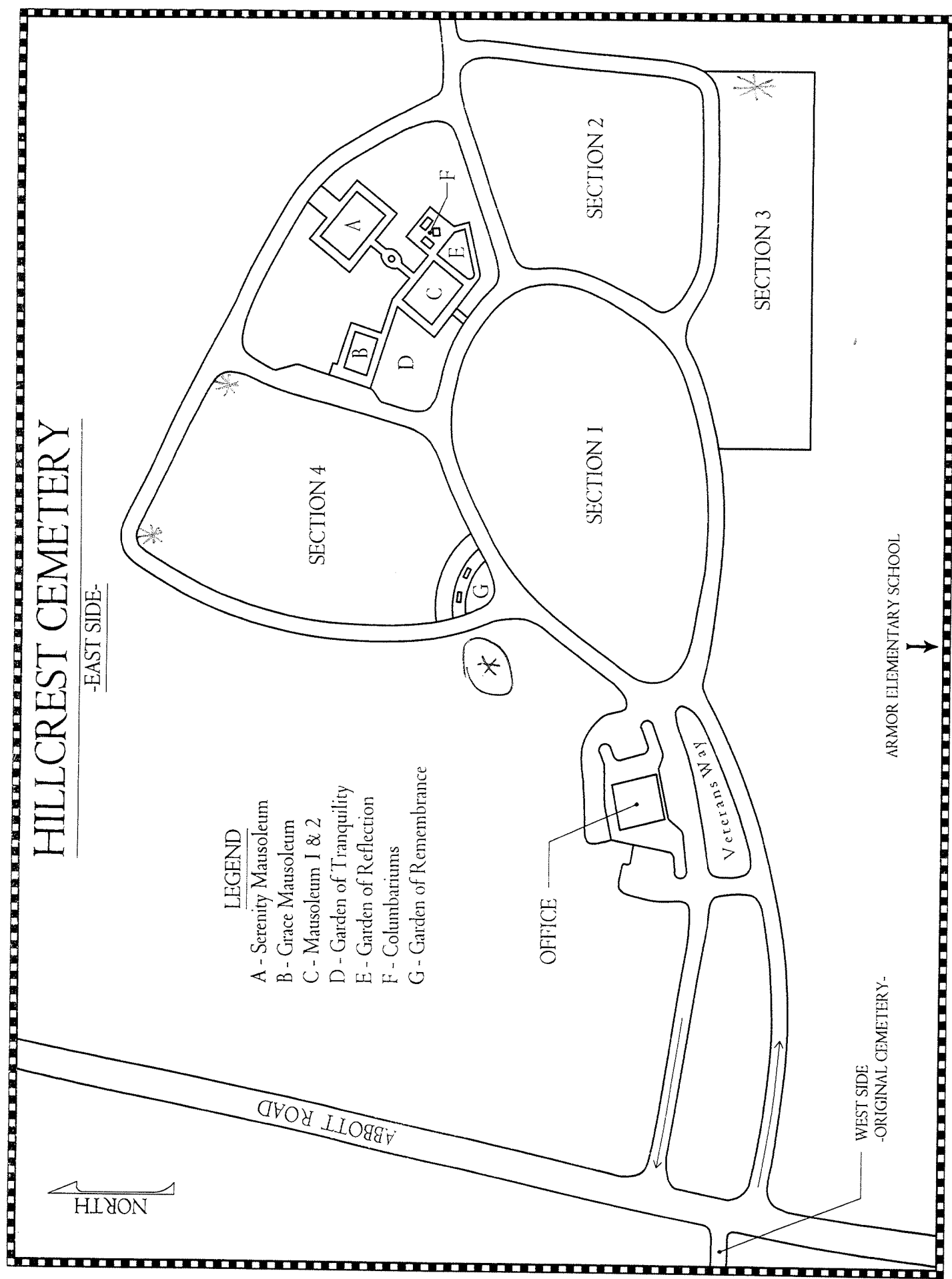
Terms: no deposit required, payment in full upon completion and client approval

If you have any questions or would like to stop in to discuss further don't hesitate to come in anytime.

John T. (Tom) Koch, Jr., President
Stone Art Memorial Company, Inc.



Exhibit C



HILLCREST CEMETERY

-EAST SIDE-

LEGEND

- A - Serenity Mausoleum
- B - Grace Mausoleum
- C - Mausoleum 1 & 2
- D - Garden of Tranquility
- E - Garden of Reflection
- F - Columbarium
- G - Garden of Remembrance

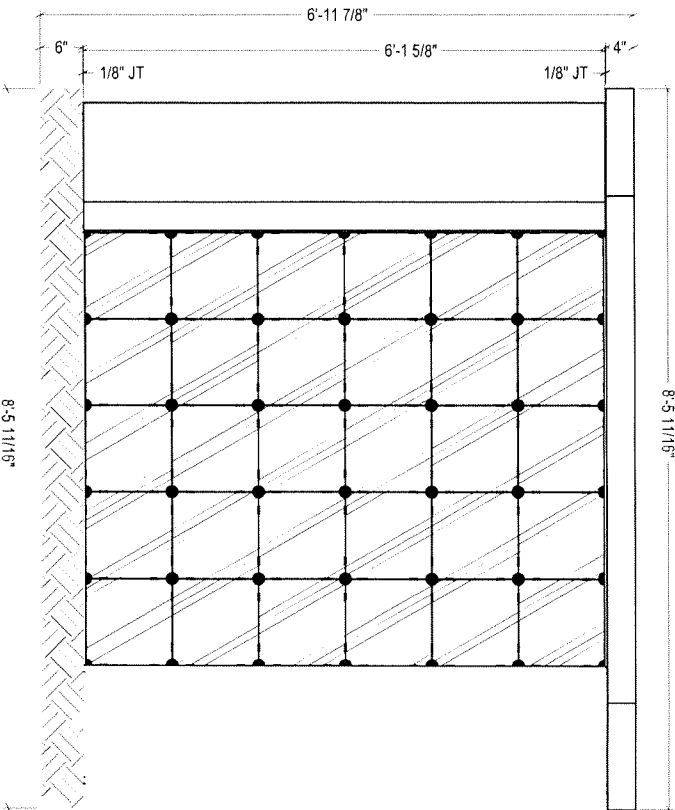
OFFICE

Veterans Way

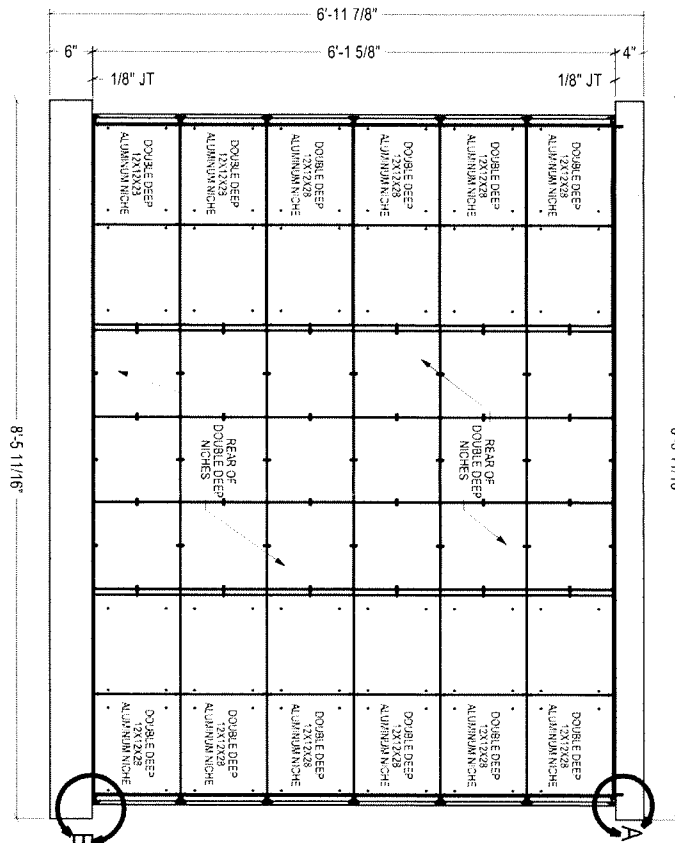
WEST SIDE
-ORIGINAL CEMETERY-

ARMOR ELEMENTARY SCHOOL

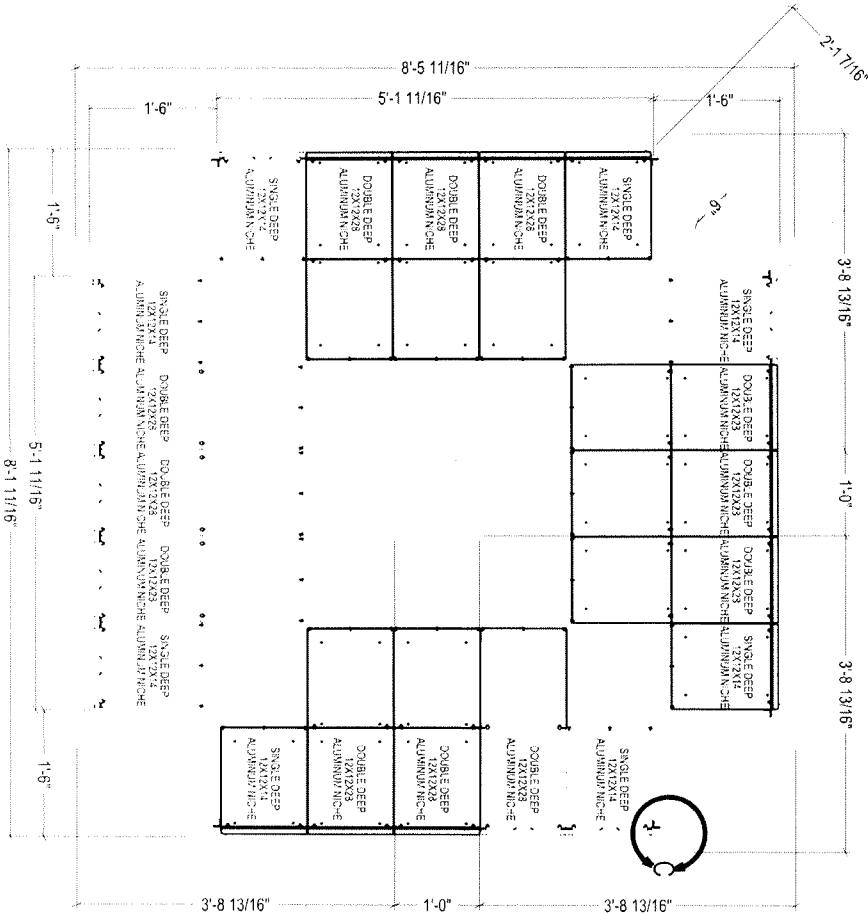
Exhibit D



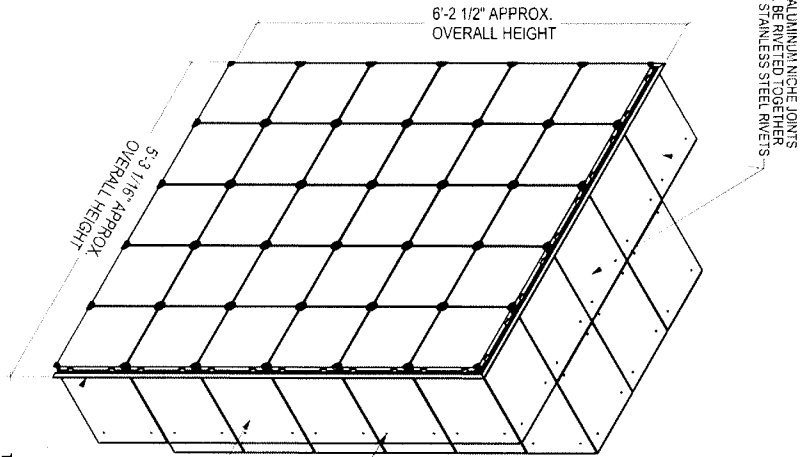
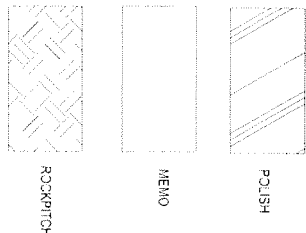
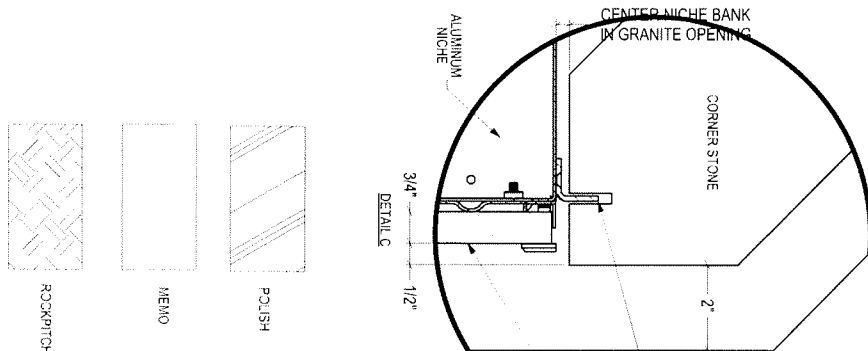
ELEVATION (ALL SIDES)
SCALE: 1" = 1'-0"



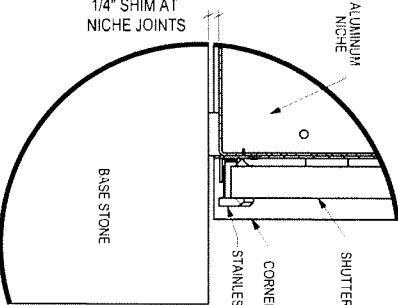
TRANSVERSE SECTION
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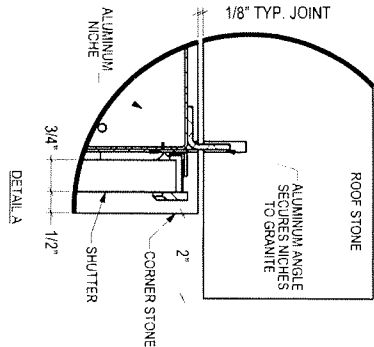
PLAN VIEW
SCALE: 1" = 1'-0"



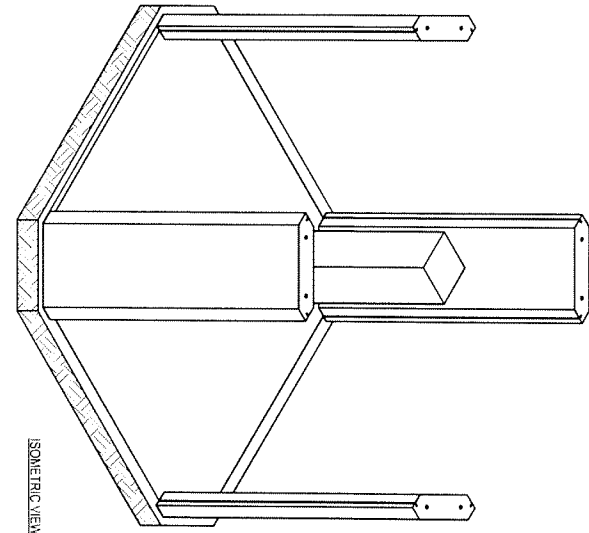
ALL ALUMINUM NICHE JOINTS
WILL BE RIVETED TOGETHER
WITH STAINLESS STEEL RIVETS



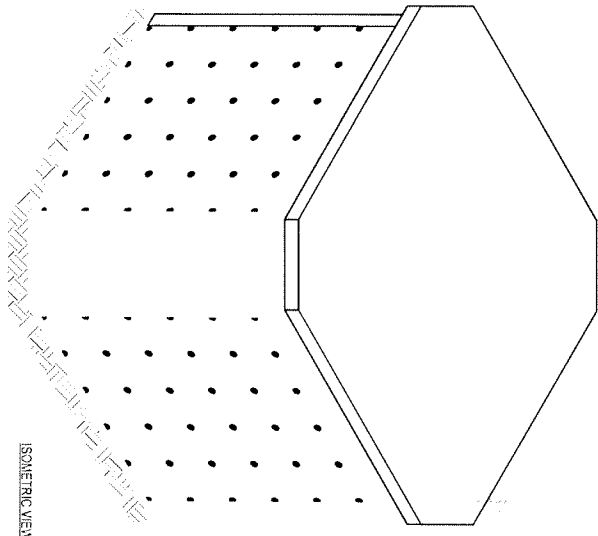
DETAIL B



DETAIL A



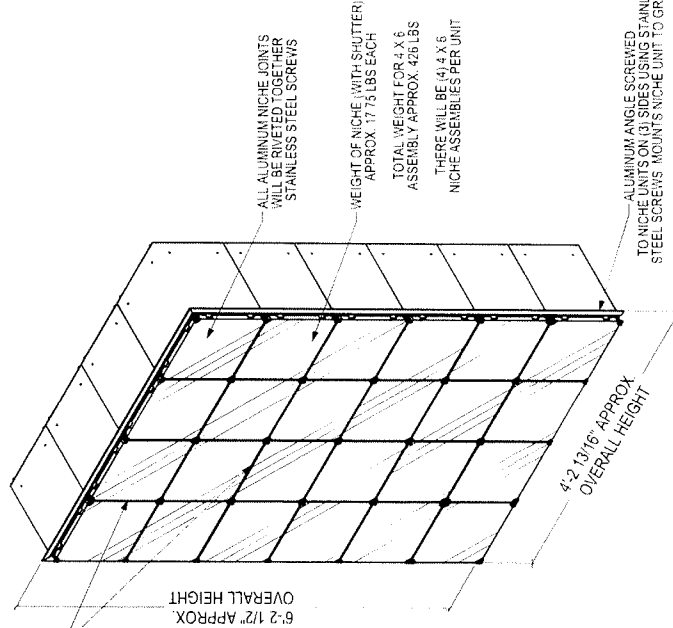
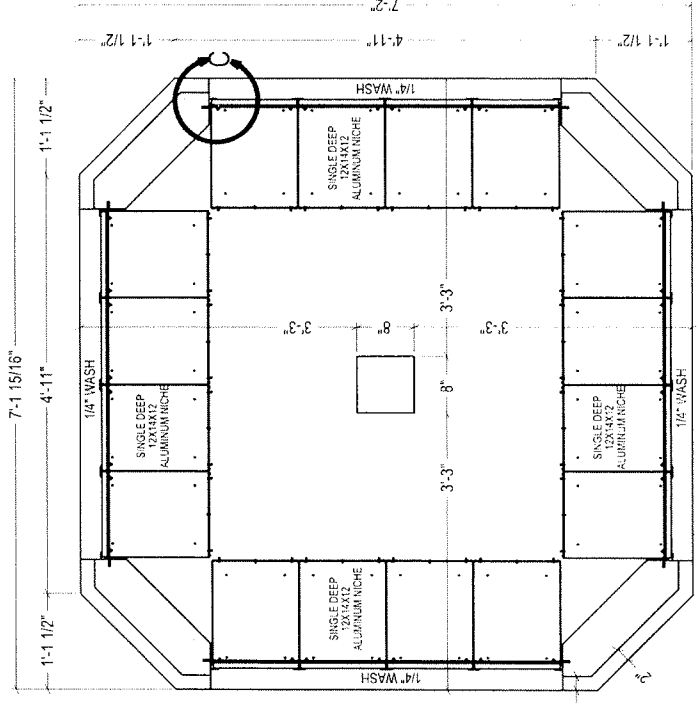
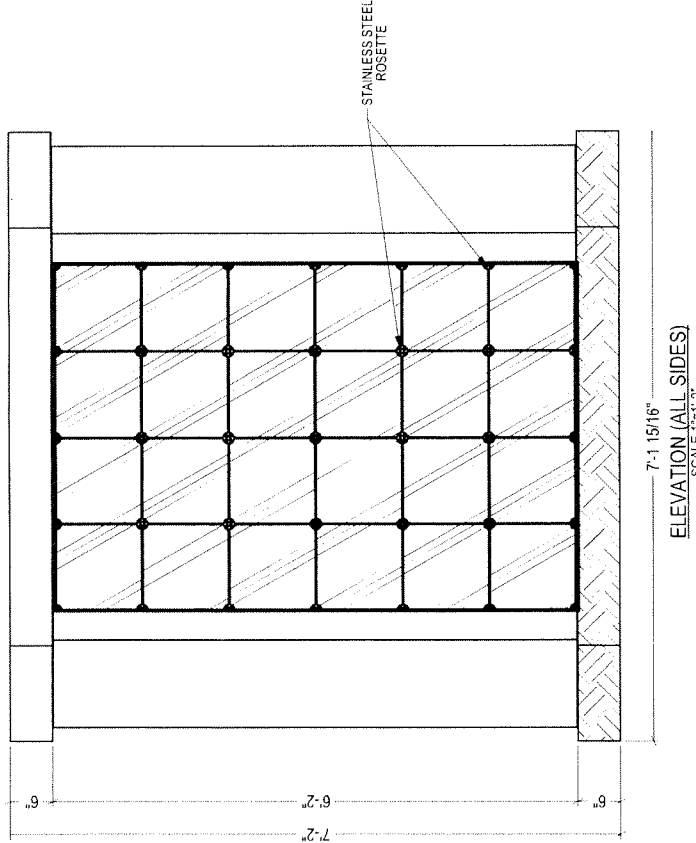
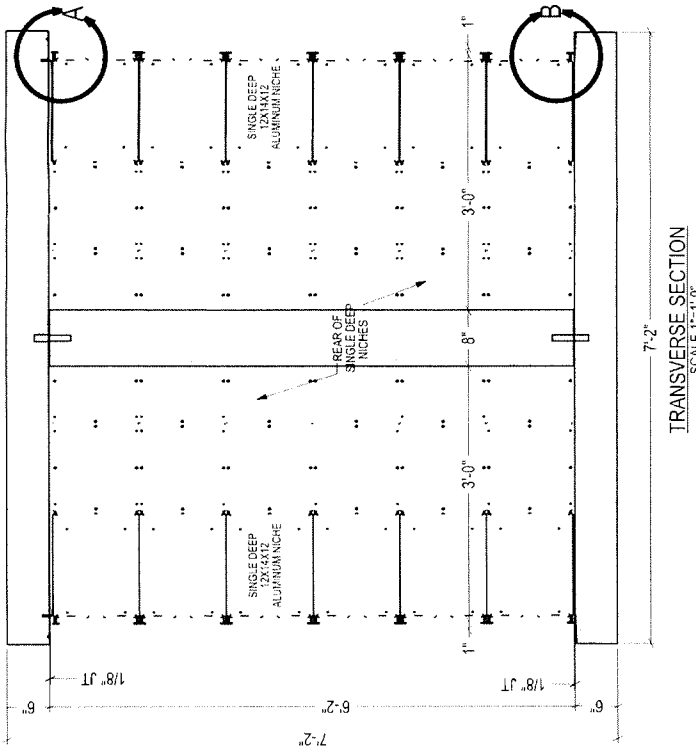
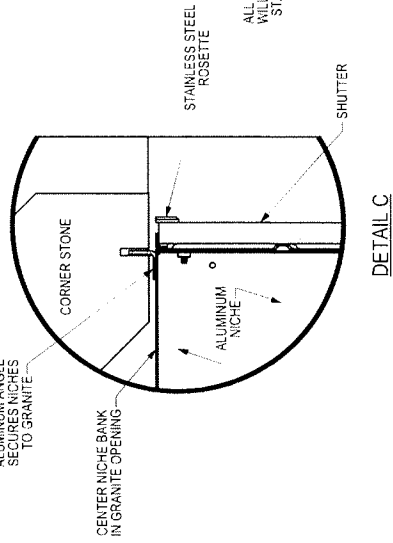
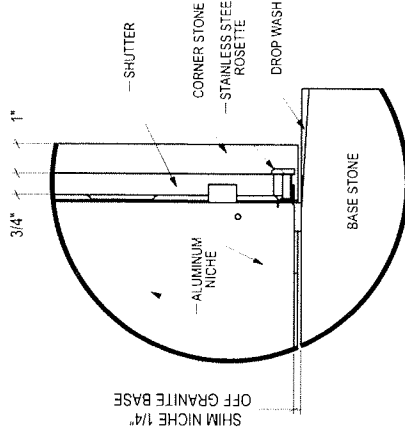
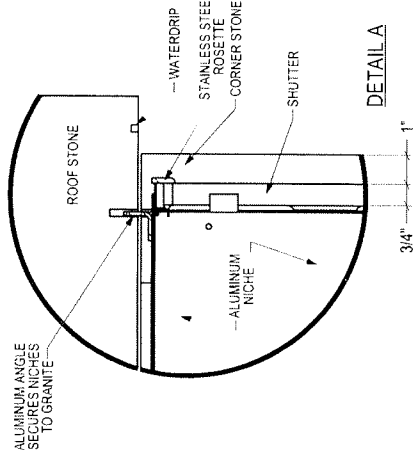
ROOF STONES, SHUTTERS AND ALUMINUM NICHES
REMOVED TO SHOW GRANITE CONSTRUCTION



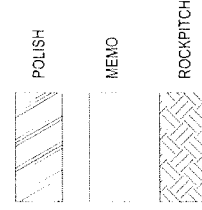
ISOMETRIC VIEW

GRANITE WILL BE SEAL MARK BARRE GRAY
ALL SURFACES WILL BE MEMO EXCEPT THE BASE SIDES WHICH WILL BE ROCKPITCH
THE SHUTTERS WILL BE POLISHED STAHLIGHT BLACK GRANITE

ROOF STONES, SHUTTERS AND ALUMINUM NICHES
REMOVED TO SHOW GRANITE CONSTRUCTION



GRANITE WILL BE BARRE GRAY
ALL SURFACES WILL BE MEMO EXCEPT THE BASE SIDES
WILL BE ROCKPITCH
SHUTTERS WILL BE JET BLACK POLISH GRANITE



DATE	4/12/2018
DESIGNER	AS NOTED
PROJECT	96-Niche Columbarium
SCALE	1" = 1'-0"

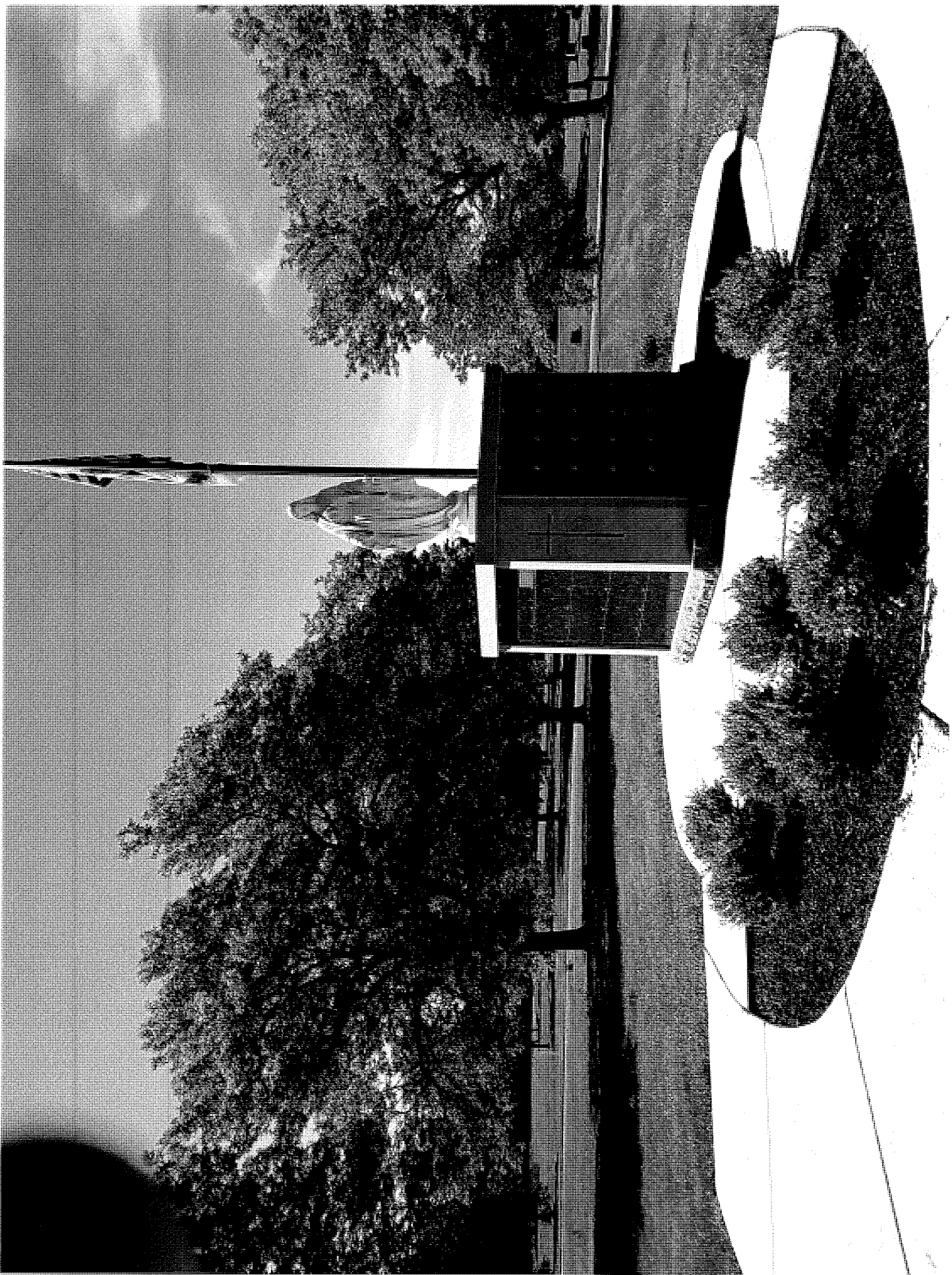


Exhibit E

Executive Session from 4:41p.m. to 5:25 p.m.

President Terry McCann gave a presentation for 96 Niches and 120 Niches Columbarium by Cold Springs Granite and Stone Art Memorial Company.

ON MOTION MADE by Dean Messing and seconded by Andy Fleming the Board approved the purchase of a 120 Niche Columbarium from Stone Art Memorial Company from Lackawanna, New York. At a cost of \$62,220.00. Terms: no deposit required payment in full upon completion and client approval.

President McCann gave a presentation on a two memorial cremation niches with a place for a vase cost is about. \$3,200.00 each for six units. President McCann is asking to purchase six units at a total cost of about \$19,200.00.

- 1.) Galle Memorial Studio, Inc.,
- 2.) Stone Art Memorial-(working on a better price.)

ON MOTION MADE by Bob Sarrasin and seconded by Dean Messing it was approved to purchase six units.

It was discussed and approved that current Director's and current Senior Management after 12 years of service be given a Fifty per cent discount on a purchase of a plot. Or to upgrade to a different location.(using the Pricing year of 2020)

ON MOTION MADE by Andy Fleming and seconded by Ed Osborne this was approved.

With the approval of the total Board, for, President McCann has been given Two Lots (Pays for one@2020 year Pricing) (and site choice) can purchase a sarcophagus (above.ground.2 person crypt.at his expense) to further our Cemetery Marketing Value.

SENIOR MANAGEMENT SALARY

ON.MOTION.MADE by Andy Fleming and seconded by Dean Messing it was agree to give both John and Nancy the following:

- 1.)\$500.00 Yearly Bonus
- 2.) 1% contribution to their 401 retirement plan.
- 3.) \$1000.00 Covid-19 Bonus
- 4.) Thanks for a Job Well Done!!

ON MOTION MADE BY Andy Fleming and seconded by Bob Sarrasin the Executive Meeting and Director's meeting was adjourned at 5:25 p.m.

Respectively Submitted

Marshall Gomez

Exhibit F

From: Terrence McCann tw.mccann@yahoo.com
Subject: Photos
Date: September 3, 2021 at 12:53 PM
To: mr.mccann@yahoo.com

TM

HILLCREST CEMETERY

1223 Abbott Road Phone 716-649-4338
Hamburg NY 14075 Fax 716-649-4338
[email] tw.mccann@yahoo.com

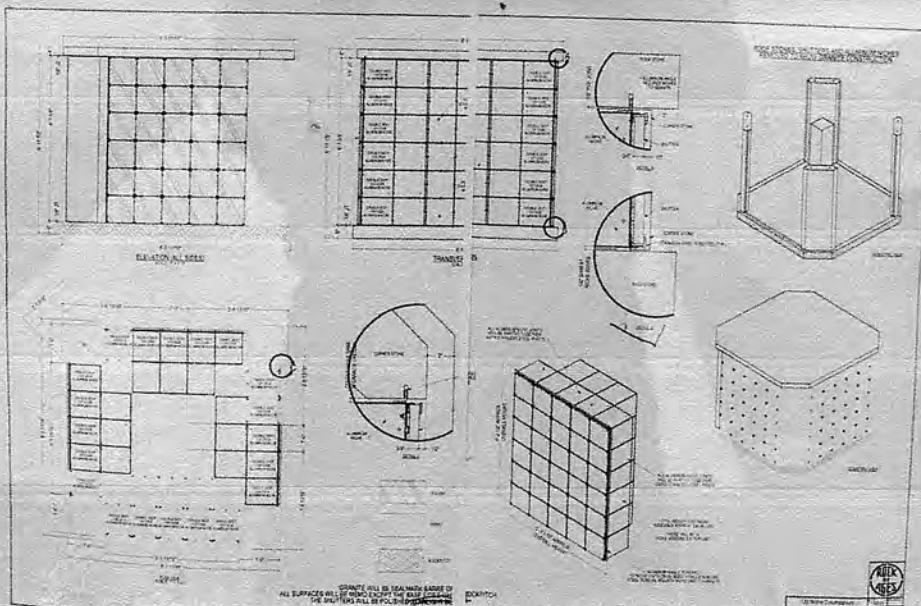
NOTICE TO LOT OWNERS

January 6, 2021

AN APPLICATION TO ADD A 120 UNIT FREE-STANDING COLUMBARIUM WILL BE PLACED OUTSIDE BETWEEN MAUSOLEUM #1 AND SERENITY MAUSOLEUM. HAS BEEN SUBMITTED TO THE NEW YORK STATE DIVISION OF CLIMATE RESOURCES FOR APPROVAL.

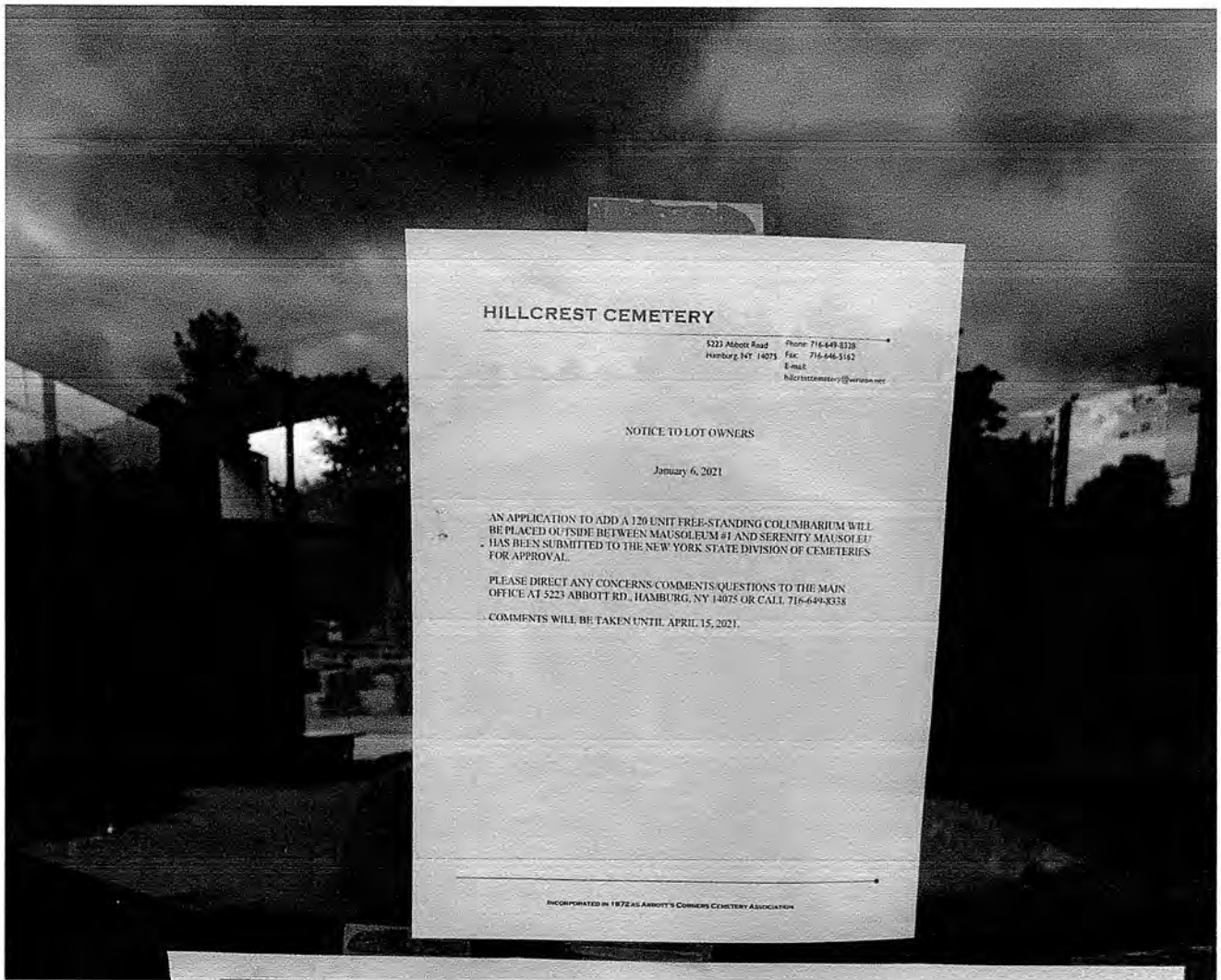
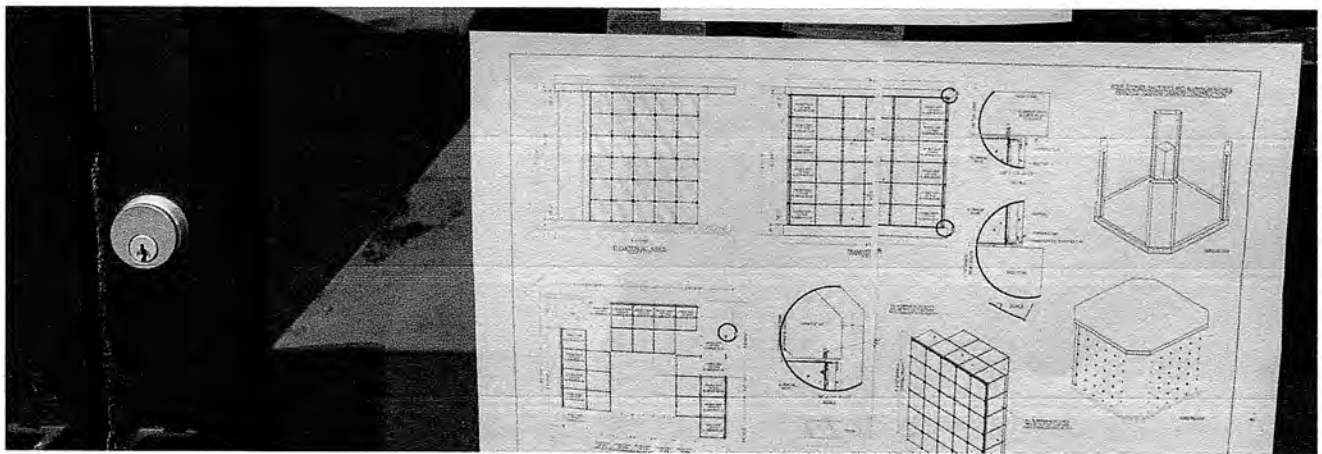
PLEASE DIRECT ANY CONCERNS, COMMENTS OR QUESTIONS TO THE MAIN OFFICE AT 5223 ABBOTT RD, HAMBURG, NY 14075 OR CALL 716-649-4338. COMMENTS WILL BE TAKEN UNTIL APRIL 15, 2021.

INCORPORATED IN 1872 AS AMITY'S CEMETERY ASSOCIATION









From: Terrence McCann tw.mccann@yahoo.com
Subject: Photos
Date: September 3, 2021 at 11:25 AM
To: mr.mccann@yahoo.com



Sent from my iPhone



Exhibit G

Brendon Stanton

Investigator , Division of Cemeteries.

New York State Department of State

44 Hawley St.

State Office Bldg.15th FLR.

Binghamton, NY 13901

Hi Brendon,

In response to you r visit on 8/20/21,and Letter on 8/25/21,and our phone conversation last week.

Hillcrest Cemetery Columbarium , Application:

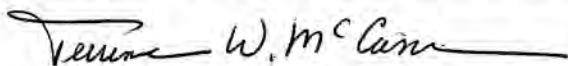
We had posted the necessary paper work as directed, see the following:

- 1.) Posted at our Cemetery Office Entrance Window. (January 6,2021)
- 2.) Posted at each of our Two Mausoleum entrance doors. (In full View.) (Same Date.)

The New Columbarium which was placed between the Two Mausoleum's , along side of our Columbarium Section in the Cemetery.

- 3.) The New Columbarium was placed on 6/01/21 and that week we removed the signage. after the finish concrete work was completed.
- 4.) Hope the enclosed pictures will help in our application process.
- 5.) We thank the NYS Cemetery Board Secretary , who helped us navigate thru this process since we had no representative in the Western NY Area during the Pandemic. (Many phone calls were placed to no avail, until we reached the Secretary of the Board in Albany.)
- 6.) Hope this explanation will help.

Respectfully , (Thanks Brendon, Hope to meet You!)



Terrence W. McCann , President of the Board (716-662-5723)

Hillcrest Cemetery

5223 Abbott Rd.

Hamburg , NY 14075





Exhibit H

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
STATE OFFICE BUILDING
44 HAWLEY STREET
BINGHAMTON, NY 13903
TELEPHONE: (607) 721-8756
FAX: (607) 721-8753
WWW.DOS.NY.GOV

KATHY HOCHUL
GOVERNOR

CEMETERY BOARD

RICHARD J. RODRIGUEZ
ACTING SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

MARY T. BASSETT, M.D., M.P.H.
COMMISSIONER OF HEALTH

NOTICE OF NON-COMPLIANCE

Non-Compliance Number: BNG-2022-00001

Cemetery Name: **Abbott's Corners Cemetery**
Cemetery Number: #15-001
Notice Date: January 12, 2022

Served on: **Terrence McCann, president**
63 Butternut Circle
Orchard Park, NY 14127
hillcrestcemetery@verizon.net

A written statement of compliance is required by **January 31, 2022**. Failure to respond will result in formal notification to the New York State Cemetery Board.

You are hereby ordered to correct such non-compliance and to show proof that violations have been corrected. Your notice of compliance is to be sent to the Albany office at the following address:

Division of Cemeteries
99 Washington Avenue
Albany, NY 12231

The above captioned cemetery was found to be out of compliance with the laws and regulations of New York State as follows:

19 NYCRR § 201.11. Procedure for approval for construction of a mausoleum

(a) A cemetery corporation planning construction of a mausoleum or columbarium for at least 60 days prior to the actual commitment for construction, shall submit to the Cemetery Board the following information:

1. Whether the proposed construction has the approval of the corporation's lot owners, obtained at a special or regular meeting. If not, a description of the authorization or approval obtained. A copy of the minutes of the meeting of the lot owners or board of trustees, or of the resolution, shall be included.

2. (A) The name of the licensed architect or engineer and the estimated total costs of construction, including land to be appropriated, landscaping, embellishments and other features.

(B) A map or sketch indicating the location of the building, together with a general description including the number of crypts and niches.

(C) Whether the proposed construction is the complete structure or whether units are to be added later. If future units are contemplated, the extent of such commitment or plan.

3. The source of funds to pay for the construction and the terms of payment.

4. An estimate of the trust funds and the current maintenance funds required to maintain and preserve the facility, covering the year-to-year maintenance and long-term preservation.

5. An estimate of the cumulative total revenues from sales based on the projected selling prices.

6. A full disclosure to the extent outstanding certificates of indebtedness or land shares are to participate in the sales proceeds.

7. The projected disposition of the total estimated sales revenues, including but not limited to the amounts to be allocated for:

(A) permanent maintenance and current maintenance funds;

(B) supplemental trust or special fund;

(C) estimated selling expenses, including disclosure of promotional plans;

(D) recovery of construction costs;

(E) general fund use or retention; and

(F) building operation.

8. (A) A copy of the drawing required by paragraph (B) of this subdivision along with an indication of the location of the proposed building, and a statement that the notices required by such paragraph have been posted in accordance with its provisions.

(B) In addition to its submission to the Cemetery Board, the cemetery corporation shall, no earlier than 10 days prior to such submission, post mausoleum construction notices in the immediate proximity of the proposed mausoleum, the cemetery office and, in a manner so as not to violate local zoning ordinances or to create a traffic hazard, all entrances. Each mausoleum construction notice shall provide information written in plain English concerning the mausoleum proposed and include a drawing, which shall be an appropriately apt rendition designed to give a fair impression of the construction. In addition, such notices shall reveal the telephone number and address where comments may be received and the last date on which such comments will be accepted, which shall be no earlier than 60 days following the date the notices are posted. The provisions of this paragraph shall not apply to the construction of an addition to an existing mausoleum if the number of crypts to be added does not exceed 250 spaces.

(b) Prior to offering sale of space to the public, the cemetery corporation shall file with the Cemetery Board the prices for each type or category of entombment unit pursuant to N-PCL section 1513(b). A copy of the rules and regulations, filed and approved pursuant to N-PCL section 1509, setting forth the cemetery's and the lot owner's obligations and responsibilities, shall be furnished to a purchaser at the time the sales contract is signed.

(c) All charges for services to be rendered and the basis for such charges must be approved by the Cemetery Board, before implementation, pursuant to N-PCL section 1509(c)(1). If existing service charges are intended to be applied to mausoleum entombments, specific approval will be required prior to their becoming effective for such new services.

Specific Information: The Abbott's Corners Cemetery Association of the towns of Hamburg and Orchard Park, Erie County, applied for State Cemetery Board approval for the installation of a columbarium unit in January 2021. This application was incomplete, and I requested additional information from the cemetery association. I received this additional information in June 2021, and later discovered that the columbarium unit had already been installed at the time I received this additional information, which remained incomplete.

The cemetery failed to comply with three different portions of 19 NYCRR Section 201.11. These are as follows:

- 19 NYCRR Section 201.11(a)(2)(B), in that the cemetery association failed to provide a map showing the location of the proposed columbarium unit at least 60 days prior to commitment for construction
- 19 NYCRR Section 201.11(a)(8)(A), in that the cemetery association failed to provide a copy of the drawing required in 19 NYCRR Section 201.11(a)(8)(B) at least 60 days prior to commitment for construction.
- 19 NYCRR Section 201.11(a)(8)(B), in that the cemetery association failed to post required signage at all entrances and at the location of the proposed columbarium no earlier than 10 days prior to the submission of its application.

Since the cemetery association has previously installed multiple columbarium units, it is reasonable to assume that it was aware of the procedure. The cemetery association must develop a plan to ensure that it does not willfully fail to comply with Division and Cemetery Board directives in the future.

I affirm that I identified this non-compliance with the Not for Profit Corporation Law on January 12, 2022.



Brendon Stanton
Investigator, NYS Department of State
Division of Cemeteries

By authority of Lewis A. Polishook, director

I affirm that I represent the above captioned cemetery corporation, and that we have resolved the above offenses in the following manner:

(Signature and title)

(Date)