A Promising New Era for Perpetual Care & Maintenance Trusts

Introducing: the Unitrust Distribution Method

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Perpetual care cemeteries, as implied by their name, have a responsibility to their clients and communities: a promise to provide a well maintained resting place for families' loved ones as far into the future as possible.

Even if at capacity, a cemetery must have the ability to cover maintenance expenses into perpetuity and fulfill the responsibility they have promised to their community. Without "new" income, the cemetery must fully depend on income generated by its trust to sustain its business and the expenses that come with it.

For generations and still today, endowment care trusts fund perpetual care cemeteries using the traditional net-income approach. As many cemeteries discovered over the years, this method limits income distribution, providing only the interest and dividends yielded by the trust.

As you may guess, today's fluctuating interest rates result in inconsistent distributions, therefore creating difficulty to develop an appropriate budget.

As available funds for maintenance and upkeep continue to decrease, cemetery owners and operators seek a stronger, more consistent alternative.

To enhance the financial stability of their business, a growing number of perpetual care cemeteries have begun making one small, but significant change: transitioning to the unitrust model. This new model arrives at a good time, as cemeteries face increased pressure to maintain a safe resting place for loved ones. With this "total-return" approach, cemeterians can elect to receive a fixed three- to five-percent of the trust's total market value for care and maintenance of their cemetery.

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Income Only				Unitrust (Total Return)	
	Portfolio Market Value	Income	Yield		Portfolio Market Value
				Dec 31, 2013	$12,454,717
Dec 31, 2014	$13,271,938			Dec 31, 2014	$13,271,938
Annual Income		$440,866	3.32%	Dec 31, 2015	$13,371,734
Trust Expenses (Trustee, Servicing Agent, Investment, Taxes & Legal fees)		($155,517)	-1.17%	Trust Expenses are already included in Portfolio Market Value	-0-
Net Amount Available for Distrbution		$285,349	2.15%	Must use 3 Prior Years Market Value Average	$13,032,796
				3% Unitrust Payout	$390,984
				37% Increase in revenue for care and maintenance	

This chart, provided in the FSI white paper titled, *Unitrusts: Perpetual Solutions for Perpetual Care Cemeteries*, shows actual financial growth for care and maintenance.

The growth of the fund is derived from capital gains of stock held in the trust fund's portfolio. Rather than focusing on income only, unitrust shifts the investment goal to increase the total value of the trust and create a higher total annual return. This approach can develop a greater annual distribution while simultaneously growing the total trust at a steady rate. It should come as no surprise that nearly every major endowment in the United States incorporates this concept for investment and distribution of funds.

The only issue is that, in many states, cemetery laws restrict cemetery trustees to only the distribution of income derived from investments – the income-only model – for use in care and maintenance. Therefore, a change in cemetery law is often required for trustees to utilize unitrust.

At this point, each state has approached adopting unitrust differently. Some states used legislation to implement the method, while others utilized administrative rule changes. No matter the method for adoption, several states have amended regulations since 2009 to allow perpetual care cemeteries to adopt the unitrust distribution method. In fact, the total count of states utilizing unitrust is up to 13, with 11 of those coming since 2015. Currently, that list includes Arizona, California, Colorado, Florida, Georgia, Iowa, Missouri, Nevada, Oklahoma, Tennessee, Texas, Virginia and Washington.

Those interested in adopting unitrust face slightly different scenarios in each state due to variances in state laws and regulations. Anyone seeking to make the transition should first be familiar with those laws and regulations while also consulting closely with industry regulators.

Laws vary widely from state to state. Florida law, for example, requires specific notification to the Florida Board of Funeral, Cemetery and Consumer Services to make the transition. Tennessee also has a form that is filed with the state's regulatory division. Cemeteries seeking to make the transition should work toward completing the requirements necessary in their respective states. Information on requirements is available from each state's regulatory agency.

It probably goes without saying that most cemeterians will need some help in transitioning to the unitrust model. While trustees should be familiar with most kinds of trusts, including unitrusts, some may not have a great deal of experience with them. They need to understand how the concept applies to cemeteries and how to comply with regulatory criteria.

In any event, in those states where the unitrust has been adopted, state regulatory bodies can provide information on the requirements to convert to a unitrust. Most trustees can help with the reallocation of investments that a unitrust will require. It is imperative that the cemetery and trustee communicate well and understand each other's needs.

In short, cemeterians should look to their trustees for financial guidance and counsel in this process. If they do not have a trustee that is familiar with the unitrust model, this may be the time to look to an outside source. The prospect of a more secure—and more lucrative—stream of care and maintenance income is certainly worth the trouble when you consider the long-term prospects of success into perpetuity.

Another important aspect of unitrust is how it benefits the public, because cemeteries that are not adequately funded, and therefore maintained, become a liability for the general population. If cemeteries fall into disrepair, taxpayer funds may be required to keep them safe and prevent them from becoming an eyesore.

The use of the unitrust distribution method serves both the cemetery and the public by providing the financial sustainability needed to maintain a safe and well-maintained final resting place. Adoption of this method will help cemeterians be better stewards of their business' finances while fulfilling the duties of the sacred trust and responsibility to their community.