

(The City of Chesapeake is exempt from recordation taxes pursuant to Section 58.1-811.A.3. and Grantors are exempt pursuant to Section 58.1-811.C.5. of the 1950 Code of Virginia as amended.)

DEED OF EASEMENT & MAINTENANCE AGREEMENT
FOR STORMWATER MANAGEMENT FACILITIES

THIS DEED OF EASEMENT AND MAINTENANCE AGREEMENT FOR STORMWATER MANAGEMENT FACILITIES (the "Deed and Agreement"), made this _____ day of _____, 20____, by and between _____ Grantor, hereinafter called Landowner, and the CITY OF CHESAPEAKE, VIRGINIA, a municipal corporation, Grantee, hereinafter called City, whose address is 306 Cedar Road, Chesapeake, Virginia 23322.

WITNESSETH:

WHEREAS, the City is authorized and required to regulate the control of storm and surface waters within the City as described in the following:

1. Within the Chesapeake Bay Preservation Area, as set forth in the City of Chesapeake City Code, Chapter 26, Article IX, Sections 26-512 through 26-530, as amended, herein referred to as the Chesapeake Bay Preservation Area District;
2. Within the City in general, as set forth in the Chesapeake City Code, Chapter 26, Article VII, herein referred to as the Stormwater Management Ordinance as amended;

The form of this document prepared by
Chesapeake City Attorney's Office

TAX ID

May 2017

The description prepared by

(If applicable)

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Return to:

Carole A. F. Gillespie, Right of Way Agent
City of Chesapeake
P.O. Box 15225
Chesapeake, VA 23328

Stormwater Deed of Easement and Maintenance Agreement

WHEREAS, the Landowner covenants it is the owner-in-fee of a certain tract or parcel of land more particularly described as (include legal description):

ALL THAT _____
_____;

IT BEING the same property conveyed to the Landowner by deed from _____, dated _____, and recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake, Virginia, in Deed Book _____, at page _____;

WHEREAS, the Landowner desires to construct certain improvements on its property which will alter storm and surface water conditions on the property, as described above; and

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Landowner is required by the Chesapeake Bay Preservation Ordinance and/or the Stormwater Management Ordinance to build and maintain at its expense Stormwater Management Facilities (herein and after referred to as SWMF, understood to include Best Management Practice facilities (BMPs) and impoundment facility), more particularly described and shown on the plan titled " _____ " and dated _____ (and any subsequent plan revisions approved by the City) on file at the City of Chesapeake Department of Development and Permits; and

WHEREAS, the City has reviewed and approved these plans subject to the execution of this Agreement;

NOW, THEREFORE, for and in consideration of the sum of One (\$1.00) Dollar, and other good and valuable considerations, the receipt of which is hereby acknowledged, the Landowner, with full authority to execute deeds, deeds of trust, covenants, and all rights, title and interest in the property described above, grants to the City the perpetual right of entry and inspection of the impoundment of stormwater, the maintenance of the facility thereof as set forth in this Deed and Agreement, located in the area designated as "Private Stormwater Management Facility Easement (SWMF)" shown on the attached sketch marked "Exhibit A," entitled "_____."

The Landowner further agrees as follows:

1. It is agreed that the facility is necessary for impounding and/or treating stormwater runoff on the property of the Landowner; Landowner agrees that such SWMF system shall be constructed, repaired, maintained and operated at its sole cost and expense, and the same shall be performed in compliance with the plans described herein, as detailed in Exhibit A, and the standards set forth in Paragraph #2 below.

2. Landowner shall, at its sole expense, make such changes or modifications to the SWMF as may, in the City's discretion, be determined necessary to ensure that the facility and system is properly maintained and continues to operate as designed and approved.

3. Landowner shall be responsible for inspecting the SWMF within the first year of its construction, then once every three (3) years afterwards. Landowner shall further be required to keep a record of such inspection on hand to provide to City officials on demand. The inspection report shall contain the following:

- a. The date of the inspection
- b. Name of inspector
- c. The condition of
 - i. vegetation
 - ii. fences
 - iii. spillways
 - iv. embankments
 - v. reservoir area
 - vi. outlet channels
 - vii. underground drainage
 - viii. sediment load
 - ix. check dams and
 - x. any other item that could affect the proper function of SWMF.

4. The City, its agents, contractors and employees, shall have the privilege of entry on the Landowner's property for the purpose of inspection of said SWMF and for maintenance in the event of Landowner's default as described further below. For the purposes of exercising the rights granted herein, the City shall have ingress and egress over such private driveways, roads,

or parking lots as may now or hereinafter exist. The right, however, is reserved to the Grantor to shift, relocate, close, or abandon such private driveways, roads, or parking lots at any time to the extent consistent with applicable law. If there are no public or private roads reasonably convenient to the SWMF, an ingress and egress easement may be specified on the exhibit, or, in the absence of a designated ingress and egress easement, the City shall have ingress and egress over the property of Grantor adjacent to the SWMF.

Should the City determine after an inspection that the SWMF is not being maintained in a condition adequate for its proper functioning, then the City shall notify the Landowner that it must, within ten days, correct such condition.

If Landowner fails to correct such condition, then City may perform the necessary work at the expense of the Landowner, which expense the Landowner agrees to pay the City promptly upon demand.

5. The covenants and agreements contained herein shall run with the land and bind successors in interest to the parties named herein, except that such parties or their successors may by written instrument signed by both parties and duly recorded declare any or all of such covenants no longer to be effective or binding.

6. No alteration whatsoever of the SWMF shall be permitted except with the approval of the Chesapeake Department of Development and Permits.

7. Landowner, its heir(s), successor(s) or assign(s), agrees to hold the City harmless and defend same from any liability or claims of any kind resulting from the construction, maintenance or failure of the drainage system mentioned in this document to operate properly.

8. The provisions of this Agreement shall be severable and, if any phrase, clause, sentence or provision is declared unconstitutional, or the applicability thereof to the Landowner and/or its assigns is held invalid, the remainder of this Agreement shall not be affected thereby.

9. In the event the City shall determine, at its sole discretion at any future time, that the SWMF is no longer required, then the City may vacate the SWMF in accordance with applicable law..

10. This conveyance is made subject to the conditions, restrictions, easements, and reservations of record, if any, affecting the aforesaid property and constituting constructive notice.

WITNESS the following signature(s) and seal (s):

_____ (SEAL)

_____ (SEAL)

COMMONWEALTH OF VIRGINIA

CITY OF CHESAPEAKE, to-wit:

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, do hereby certify that _____, and _____, whose name(s) is/are signed to the foregoing deed, dated the ____ day of _____, 20____, have acknowledged the same before me this ____ day of _____, 20____.

Notary Public (SEAL)

My commission expires: _____ Registration No: _____

APPROVED AS TO FORM:

ACCEPTED BY:

THE CITY OF CHESAPEAKE

BY: _____
Assistant City Attorney

Director of Development & Permits