



AFTER
RECORDING RETURN TO:
City of Richmond, Department of Public Utilities
Water Resources Division
730 E. Broad Street, 8th Floor
Richmond, Virginia 23219

CITY OF RICHMOND, VIRGINIA
TAX MAP NO: _____

STORMWATER UTILITY MAINTENANCE AGREEMENT

THIS STORMWATER UTILITY MAINTENANCE AGREEMENT (this "Agreement") is made this ____ day of _____, 20__ by and between _____, (the "Owner") and the CITY OF RICHMOND, a municipal corporation organized under the laws of the Commonwealth of Virginia (the "City").

RECITALS

WHEREAS, the Owner holds fee simple title to certain real property situated in the City of Richmond, Virginia, designated as Tax Parcel No. _____ and being a portion of the same real estate conveyed to the Owner by deed recorded in the Clerk's office of the Circuit Court of the City of Richmond, Virginia, as Instrument No. _____, or in Deed Book _____ at page _____ (the "Property"); and

WHEREAS, the Owner has submitted to the City, and the City has approved, a plat showing the location of, and the City's route of access to, one or more stormwater management facilities and associated appurtenances (the "Facilities") on the Property intended to manage the quality and quantity of stormwater runoff from the Property, which plat is entitled _____, prepared by _____, dated _____ and marked as "Attachment A," attached hereto and incorporated herein; and

WHEREAS, the Facilities are described as follows:

_____ ; and

WHEREAS, pursuant to Sections 14-331 and 14-332 of the 2015 Richmond City Code (the "Code"), the Owner must sign and record in the local land records an instrument to run with the land that, i) obligates the Owner and any future owner of the Facilities to inspect and maintain the Facilities for their full lifespan, and ii) provides the City with a route of access to the Facilities through the Property for purposes of inspection and, when the City deems it necessary and convenient, maintenance of the Facilities; and

WHEREAS, the City and the Owner intend for this Agreement to serve as the instrument described in the previous paragraph.

AGREEMENT

NOW, THEREFORE, in accordance with the rights and obligations described in the Richmond Stormwater Management Program, set forth in Chapter 14, Article V of the Code, the parties agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated herein by reference.
2. **Inspection and Maintenance of Facilities by the Owner.** The Owner agrees to regularly maintain and inspect the Facilities to ensure the Facilities function at design capacity (“Good Working Order”) throughout their expected lifespan, as determined by the City’s Department of Public Utilities (the “Department”). The Owner shall inspect the Facilities at least once every three (3) years, and the Owner’s maintenance of the Facilities must, at minimum, be in accordance with guidance provided in the latest edition of the “Virginia Stormwater Management Handbook” and at the Virginia Stormwater BMP Clearinghouse website.
3. **Submission of Inspection and Maintenance Reports.** The Owner agrees to submit an inspection and maintenance report to the Department, on a form to be provided by the City, within thirty (30) days following any inspection or maintenance of the Facilities by the Owner.
4. **Inspection and Maintenance of Facilities by the City.** Pursuant to Section 14-332 of the Code, the City has the right to access the Property from time to time to inspect the Facilities to ensure they are in Good Working Order. In the event the Facilities are not in Good Working Order, the City will provide the Owner with written notice of corrective action needed to restore Good Working Order (“Corrective Action Notice”). Upon failure by the Owner to take such corrective action within thirty (30) days following receipt of a Corrective Action Notice, the City may take whatever steps it deems necessary to restore the Facilities to Good Working Order. The Owner expressly understands and agrees the City is under no obligation to maintain or repair the Facilities, and in no event will this Agreement be construed to impose any such obligation on the City.
5. **Response to Facilities Emergency.** In the event of an emergency involving the Facilities, as determined by the Department in its sole discretion, the City will have the right, but not an obligation, to take whatever steps it deems necessary to abate the emergency condition. Before, or in place of, exercising such right, the City may to instruct the Owner by telephone or email to abate the emergency condition within a specified period of time.
6. **Reimbursement of the City’s Expenditures; No Cost to the City.** In the event the City performs work or expends any funds to maintain or repair the Facilities or to respond to an emergency related thereto, including, but not limited to, performance of labor and purchase of equipment, supplies and materials, the Owner agrees to reimburse the City in full within sixty (60) days after the City provides written notice to the Owner of all compensation due. In no event will the City pay any compensation to the Owner relating to the City’s exercise of its rights set forth in this Agreement.

7. Indemnification.

- a. The Owner hereby agrees to indemnify, defend and hold the City harmless from and against any and all actual, threatened, or alleged claims, liabilities, penalties, fines, costs, losses, damages, causes of action, judgments, and administrative actions, including without limitation attorney’s fees and court costs, resulting either directly or indirectly from the acts or omissions of the City and its officers, employees, agents and contractors in the performance of activities on the Property permitted by this Agreement.
- b. The City, in its performance of activities on the Property permitted by this Agreement, shall not be liable for any personal injury or property damage to the Owner, its employees, contractors, agents, invitees or licensees, irrespective of how such injury or damage may be caused.
- c. No causes of action of, or defenses of, or claims of the Owner against the City shall derogate from or in any way invalidate, offset, or prevent the enforcement of the indemnification owed by the Owner to the City under this section 7, and such enforcement may proceed whether or not caused or contributed to by any negligence or act or omission of the City and notwithstanding any fault or uncured default of the City under this Agreement.
- d. None of the provisions within the paragraphs of this section 7 may be construed as a waiver of the sovereign immunity granted to the City by the Commonwealth of Virginia Constitution, statutes and case law to the extent that it applies.
- e. Every provision within the paragraphs of this section 7 shall survive the expiration or termination of this Agreement.

8. **Notices.** Notices under this Agreement shall be in a signed writing and shall be considered given when mailed by certified mail return receipt requested or hand delivered to the other party at the following addresses stated in this Section 8.

Any signed written notice to the Owner shall be sent to:

Any signed written notice to the City shall be sent to:

City of Richmond, Department of Public Utilities
Water Resources Division
730 East Broad Street, 8th Floor
Richmond, Virginia 23219

with a copy of the signed written notice sent to:

City of Richmond, Office of the City Attorney
900 East Broad Street, 4th Floor
Richmond, Virginia 23219

Either party may change any of its contact and address information given above by giving notice in writing stating its new address to the other party.

9. **Waiver.** The failure of the City to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provision or of any other provision of this Agreement at any time. Waiver of any breach of this agreement shall not constitute waiver of a subsequent breach.
10. **Enforcement.** Pursuant to Section 14-331(a)(5) of the Code, this Agreement shall be enforceable by all appropriate governmental parties.
11. **Agreement to Run with Land.** This Agreement shall run with the land and be binding upon the Owner's heirs, successors and assigns in title.
12. **Authorization.** The individual executing this Agreement on behalf of the Owner represents that he or she is duly authorized to bind the Owner to the terms and provisions of this Agreement.

SIGNATURE ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Owner has hereunto affixed their signature as of the day and year first hereinabove written.

Owner

BY: _____

NAME: _____

TITLE: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that _____, whose name is signed to the foregoing deed of easement, bearing date _____ day of _____, 20____, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this _____ day of _____, 20_____.

Notary Public

Notary Registration Number:
My commission expires: _____