

GPIN(s):

Prepared by: _____

Exempt from recordation taxes—Code of Virginia § 58.1-811(A)(3)

Exempt from technology fee—Code of Virginia § 17.1-279(E)

MAINTENANCE AGREEMENT
FOR DRAINAGE AND STORMWATER MANAGEMENT FACILITIES

This agreement, dated _____, 20____, is between _____, owner of the property subject to this agreement (“Owner”), and the City of Fredericksburg, Virginia, a municipal corporation (“City”).

RECITALS

- A. _____ is the owner of the _____ acre parcel of land designated as GPIN(s) _____ in the City of Fredericksburg’s tax records (“the Property”). Owner acquired this property by deed dated _____, recorded in the Fredericksburg Circuit Court land records as _____.
- B. A drainage or stormwater plan prepared by _____, titled _____, dated _____, 20____, (all components and pages of which shall be termed the “Plan”) has been approved by the City.
- C. The Plan provides for permanent drainage, stormwater management, best management practices, erosion and sediment control facilities or other techniques designed to manage the quality and quantity of stormwater runoff (“the Facilities”).
- D. To comply with the Federal Clean Water Act, the Virginia Chesapeake Bay Protection Act, Virginia Erosion and Sediment Control Law, Virginia State Water Control Law, and regulations adopted under those laws, the City requires that the Facilities be constructed, operated, and

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maintained (including repairs and replacements necessary to meet the Plan's requirements)
by Owner.

Therefore, in consideration of state and federal law and the City's approval of the stormwater-related aspects of the site plan or subdivision plan related to this agreement, the parties agree as follows:

AGREEMENT

1. Owner warrants that it is the fee simple owner of the Property, and that there are no exceptions or restrictions that would interfere with or adversely affect the City's rights under this agreement or that would adversely affect the Owner's authority to enter into this agreement.
2. The Owner shall ensure the proper construction, operation, and maintenance of the Facilities. The Owner shall submit a construction record drawing of the Facilities to the City upon completion of construction and before release of any surety and termination of any temporary permit. The construction record drawing must be sealed and signed by a professional engineer, architect, landscape architect, or land surveyor licensed under Code of Virginia Title 54.1, Chapter 4, Article 1, certifying that the Facilities have been constructed in accordance with the approved Plan.
3. The Owner shall maintain the Facilities as needed to ensure that they remain in proper working order and in accordance with the Plan, including any associated maintenance plans or instructions, and with applicable design standards and laws.
4. The City may access the Property as necessary to access the Facilities and as reasonably necessary to ensure the proper construction, operation, and maintenance of the Facilities.

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5. The Owner, at its own expense, shall have the Facilities inspected by a professional engineer, architect, landscape architect, or land surveyor licensed under Code of Virginia Title 54.1, Chapter 4, Article 1, or a person working under the direction and oversight of such a professional. These inspections shall take place at least once every five years after completion of the Facilities.
6. The Owner shall submit a written inspection report to the City within 30 days of each inspection. The inspection report shall be consistent with the standards of practice for inspecting similar facilities and shall include at least:
 - a. the date of the inspection;
 - b. the name, address and professional classification of the inspector; and
 - c. the condition of vegetation, fences, spillways (principal and emergency), embankments, reservoir areas, inlet and outlet channels, underground drainage structures, sediment loads, gates and valves, and anything else that could affect the proper functioning of the Facilities and conformance to the Plan.
 - d. A description of all maintenance and other actions the inspector deems necessary to ensure that the Facilities perform in conformance with the Plan.
7. Owner shall perform any maintenance or other actions described in § 6d within 30 days of the inspection report (or within a longer time if agreed to in writing by the City).
8. If the Owner fails to comply with the terms of this agreement, the City, upon reasonable notice to Owner, may enter the Property and fulfill the terms (such as maintenance and repairs) itself, at Owner's expense.

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9. In the event of an emergency, as determined by the City's Senior Stormwater Manager or other person designated by the City Manager, in which there is imminent danger that the condition of the Facilities may permit or cause: a public nuisance; a threat to public health; an imminent threat of flooding, ponding of water, or erosion; or an unreasonable degradation of other properties, water quality, stream channels and other natural resources, the City may immediately take whatever steps it reasonably determines necessary to correct the conditions causing the emergency. To the extent reasonable under the circumstances, the City shall provide the Owner with notice and an opportunity to correct the conditions.
10. This agreement does not obligate the City to maintain the Facilities.
11. This agreement does not modify or waive any applicable law, regulation, or the terms of any other agreement between the parties.
12. If the City performs work or expends any funds under this agreement for the maintenance, repair, or replacement of the Facilities, including funds for labor, equipment, supplies, and materials, the Owner shall reimburse the City within 30 days of receipt of written notice of such expenditures from the City. The City may file a memorandum of lien in the land records of the Fredericksburg Circuit Court Clerk for any costs incurred under this section, at which time those costs become a lien on the Property that runs with the land and an obligation of the Owner and all its successors and assigns, jointly and severally. In addition, the City may pursue any legal remedies for enforcement of the lien and collection of the amount owed.

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13. Any notices pertaining to this agreement shall be sent by certified mail to:

Owner: the address listed in the City's tax records for owner of the Property.

City: City Manager, PO Box 7447, Fredericksburg Virginia 22404-7447.

14. Owner shall save, hold harmless, and indemnify the City and its employees and officers from and against all liability, losses, claims, demands, costs and expenses arising from, or out of, default or failure by Owner to maintain the Facility, in accordance with the terms of this document, or from Owner's acts arising from, or out of, the construction, operation, repair or maintenance of the Facility.

15. The Owner shall not be entitled to compensation from the City for its use or occupancy of the Property for the purposes of this agreement.

16. This agreement is a covenant that runs with the land and is binding upon all subsequent owners, administrators, executors, assigns, heirs, and any other successors in interest so long as they own the Property or any portion of the Property served by the Facilities.

17. This agreement is governed by Virginia law. The General District Court and the Circuit Court of Fredericksburg, Virginia are the exclusive venue for any litigation regarding this agreement.

18. The City shall have this agreement recorded in the Fredericksburg Circuit Court land records, with the Owner listed as grantor and the City listed as grantee. The Owner shall pay any fees required for recordation of the agreement.

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By signing below, Owner and the City consent to the terms of this agreement.

[OWNER]

By: [NAME, TITLE]

Commonwealth of Virginia
City/County of _____:

I certify that _____ signed this document as _____ of
_____ in my presence on _____, 20__.

_____ notary seal:
Notary Public

My registration number: _____

My commission expires: _____

GPIN(s):

City of Fredericksburg, Virginia
A municipal corporation

By: Timothy Barood, City Manager

Approved as to form:

Approved as to substance:

Dori E. Martin, Assistant City Attorney

Tyler R. Gelles, Senior Stormwater Manager

Commonwealth of Virginia
City of Fredericksburg:

I certify that Timothy Barood, City Manager, signed this document in my presence on _____, 20__.

Notary Public

notary seal:

My registration number: _____

My commission expires: _____