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**EXEMPT FROM RECORDATION TAX PURSUANT TO SECTIONS 58.1-811 (C)(4)  
CODE OF VIRGINIA, AS AMENDED.**

**DEED OF  
BEST MANAGEMENT PRACTICES FACILITY  
AND DRAINAGE EASEMENT**

THIS DEED OF BEST MANAGEMENT PRACTICES FACILITY AND DRAINAGE EASEMENT ("Deed") is made this 10<sup>th</sup> day of February, 2010, by and between the **THE COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "Grantor" or the "County"); and **THE POINTE HOMES ASSOCIATION, INC.**, a Virginia Corporation (the "Grantee"), whose address is 103 Bulifants Boulevard, Suite A, Williamsburg, Virginia, 23188.

WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant and convey unto the Grantee, its successors and assigns, a perpetual, non-exclusive easement (the "Easement") for ingress, egress, regress, and general access to and travel over; and for the installation, operation and/or maintenance of a best management practice facility (the "BMP") and related drainage facilities, over, upon and across the following described property (the "Easement Area"), to-wit:

All that certain lot, piece, or parcel of land lying and situate in Berkeley District, James City County, Virginia, shown and designated as "DRAINAGE EASEMENT 49, 807 S.F. ± 1.14 AC. ±" on that certain plat entitled "PLAT OF DRAINAGE EASEMENT FOR CONVEYANCE TO: THE POINTE HOMES ASSOCIATION, INC. FROM JAMES CITY COUNTY" dated October 21, 2009, prepared by AES Consulting Engineers, which plat is attached hereto and made a part hereof as Exhibit A.

✓  
Prepared by and return to:  
Adam R. Kinsman  
Deputy County Attorney  
P.O. Box 8784  
101-C Mounts Bay Road  
Williamsburg, VA 23187-8784

The Easement is conveyed subject to the follows terms, covenants, restrictions, and conditions:

1. The Easement, rights and privileges herein conveyed to Grantee are made expressly subject to such easements, covenants, restrictions, conditions, reservations, and limitations, if any, of record, and to matters visible upon inspection or that would be disclosed by accurate physical survey of the premises.

2. Grantor may, in its reasonable discretion, upon ninety (90) days notice to Grantee relocate any Easement Area as may be practicable to a new site designated by Grantor and acceptable to Grantee. In the event that any Easement Area is so relocated, Grantor shall reimburse Grantee for the actual costs for the relocation of Grantee's improvements located within the Easement Area and convey to Grantee an equivalent easement at the new site.

3. Grantor may use the Easement Area for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not materially interfere with Grantee's exercise of any of its rights hereunder.

4. Except as provided herein, Grantee shall not use the Easement Area in any way that materially interferes with Grantor's use and enjoyment of the Easement Area or Grantor's other property; provided, however, that Grantee shall have the right to keep the Easement Area clear of trees, shrubs, undergrowth or other obstructions which pose a material threat to the safe and proper operation of the BMP.

5. Grantor shall have no responsibility for the proper functioning of the BMP, drainage facilities, or other improvements within the Easement Area.

6. All installation and other work to be performed by Grantee hereunder shall be done in a workman-like manner, in accordance with all applicable laws, ordinances, and regulations, and in such manner as to minimize disruption of Grantor's use of the Easement Area and other property and not to block access to or in any way obstruct, interfere with, or hinder the use of the Grantor's property or any entrance ways thereto, or interfere materially with, delay, or impose any additional expense upon Grantor in maintaining the Grantor's property. If such conditions shall occur, Grantee shall take prompt corrective action.

7. Grantee shall not file any mechanic's, laborer's or materialman's lien, or suffer or permit any such lien to be filed against the Grantor's property, or any improvements thereon, or any part thereof by reason of work, labor, services, or materials requested and/or supplies claimed to have been requested by or on behalf of Grantee; and if such lien shall at any time be so filed, within ten (10) days after notice of the filing thereof, Grantee shall cause it to be canceled and discharged of record.

8. Grantee shall, or cause its subcontractors to, at all times during the exercise of its rights hereunder maintain with respect to all work or other activity on Grantor's property pursuant to this Agreement: (a) insurance which complies with all applicable workers' compensation and employers' liability laws, and (b) liability insurance providing coverage in an amount not less than \$1,000,000.00 combined single limit, naming Grantor as additional insured. Grantee shall provide Grantor with evidence of such insurance coverage in a form reasonably satisfactory to Grantor. All contractors, subcontractors, mechanics or laborers and other persons providing labor or material to Grantor's property shall be properly licensed and insured to include but not be limited to worker's compensation insurance, as applicable. Grantee shall indemnify and hold the County harmless from and against any and all costs, expenses, liabilities, losses, damages, injunctions, suits, fines, penalties, claims and demands, including attorney's fees, or injury to person or property resulting from or arising out of the use of the Easement Area and the BMP by Grantee, its servants or agents, excepting claims or damages as may be due or caused by the acts of the County, its servants or agents.

9. The easement rights and privileges established, created and granted by this Agreement, are not intended, nor shall they be construed as creating any rights in or for the benefit of the general public, or in any person or business entity other than those expressly provided for herein, whether as a third party beneficiary or otherwise.

10. Grantee shall maintain any and all of Grantee's improvements in the Easement Area in good order and repair, and in accordance with all applicable laws, ordinances, and regulations.

WITNESS the following signature and seal:

COUNTY OF JAMES CITY, VIRGINIA

By: Sanford B. Wanner  
Sanford B. Wanner  
County Administrator

COMMONWEALTH OF VIRGINIA  
COUNTY OF JAMES CITY, to-wit:

The foregoing was acknowledged before me this 10<sup>th</sup> day of February, 2010, by Sanford B. Wanner, County Administrator of the County of James City, Virginia.

Beth Klapper  
NOTARY PUBLIC

My commission expires: December 31, 2012  
Notary Registration No.: 7182762

Beth Klapper  
Notary Public No.: 7182762  
Commonwealth of Virginia  
My Commission Expires:  
December 31, 2010

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 10 Nov. 2010  
at 2:42 AM/PM. The taxes imposed by Virginia Code  
in 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

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\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

NOT ATTACHED

