

170000028

DIFGTS

Prepared by/Return to:
Maxwell Hlavin, Esq.
Asst. County Attorney
101-D Mounts Bay Road
Williamsburg, VA 23185
(757) 233-6612

**THIS DEED IS EXEMPT FROM RECORDATION TAX PURSUANT TO SECTION
58.1-811A(3) OF THE CODE OF VIRGINIA, 1950, AS AMENDED**

Tax Parcel No. 384150001A

Consideration: \$10.00

DEED OF EASEMENT

This DEED OF EASEMENT is dated the 22 day of DECEMBER, 2016, by and between THE MIDLANDS TOWNHOUSES HOMEOWNER'S ASSOCIATION, INC., a Virginia nonstock corporation hereinafter called "Grantor," and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, hereinafter called "Grantee."

WITNESSETH:

FOR TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys with GENERAL WARRANTY unto Grantee, its successors and assigns, the following rights in and to certain real property situate, lying, and being in James City County, Virginia, to-wit:

The privilege and easement, in perpetuity, over, under, upon, and across certain lands of Grantor for the purpose of providing stream restoration and stormwater management, such lands being shown as "VARIABLE WIDTH DRAINAGE EASEMENT TO JAMES CITY COUNTY 6,354 S.F.±/0.146 AC.±" on a plat titled "PLAT SHOWING DRAINAGE EASEMENT DEDICATED TO JAMES CITY COUNTY FROM THE MIDLANDS TOWNHOUSES HOMEOWNER'S ASSOCIATION, INC., P1 & 2 COMMON AREA," dated 11/02/2016 and prepared by AES Consulting Engineers, Inc., which plat is attached to this Deed of Easement as Exhibit A and made a part hereof.

Grantor and Grantee agree this easement is subject to the following conditions and covenants:

- A. The easement shall be for the purpose of constructing, installing, maintaining,

inspecting, operating, protecting, replacing, repairing, changing the size of, and removing improvements as part of the County's stormwater system, including, but not limited to, pipes, mains, manholes, inlet structures, pumps, vegetated structures, rock sills, retaining walls and related facilities (collectively, the "Facilities").

B. The Facilities constructed within the easement shall remain the property of Grantee. Grantee shall have the right to inspect, rebuild, remove, repair, improve, and make such changes, alterations, additions to, or extensions of its Facilities within the boundaries of said easement as are consistent with the purpose expressed herein. All construction, maintenance, equipment, and Facilities shall comply with all applicable laws, ordinances, codes, and regulations.

C. Grantee shall have the right, but not responsibility, to trim, cut, and remove trees, shrubbery, or other natural obstructions on, under, or over the easement which interfere with or threaten the efficient and safe operation, construction, or maintenance of the Facilities. All brush, branches, and other debris resulting from Grantee cutting, trimming, or clearing shall be removed from the lands of Grantor and disposed of by Grantee.

D. Grantee and its agents shall have full and free use of the easement for the purposes named, and shall have all rights and privileges reasonably necessary to the utilization of the easement, including a right of ingress to and egress from the easement where least damage to Grantor's property will occur from such access, which right of access shall be exercised only when reasonably necessary, and a limited right use to adjoining land of Grantor where necessary to the use and enjoyment of Grantee's right in the easement, provided, however, that such right to use adjoining lands of Grantor shall be exercised only during periods of actual construction or maintenance of the Facilities, and shall not be construed to allow Grantee to erect any Facilities of a permanent nature on such adjoining land. All damages to any such adjoining lands of Grantor

caused by use of the easement by Grantee pursuant to this provision shall be repaired by Grantee at its expense, and restored as nearly as possible to their original condition.

E. Grantor may use the easement for any purpose not inconsistent with the rights hereby granted, provided such use does not interfere with the safe and efficient construction, operation, or maintenance of the Facilities, and further provided that such use is not inconsistent with any laws, ordinances, or codes pertaining to the construction, operation, or maintenance of the Facilities.

F. Grantor is a common interest community as defined in Va. Code § 55-528, and by this Deed is ceding responsibility for the maintenance, repair and replacement of a stormwater management facility that will be located on property owned by the Grantor, defined as the Facilities herein, to the Grantee.

G. Grantee's acceptance of this easement as set forth on page 5 is acceptance for the purposes of establishing the immunity set forth in Va. Code § 62.1-44.15:41 in favor of the Grantee.

H. Grantor covenants that it has the right to convey the easement and that its signatory is authorized to execute this deed on Grantor's behalf. The easement and other rights granted herein are and shall be subject to any and all easements, covenants, restrictions, and conditions of record affecting the property.

I. If Grantor or Grantee fails to insist on the strict observance by the other party of any of the provisions of this Deed, neither party shall be precluded from subsequently enforcing this Deed or be held to have waived any such provision.

J. This Deed, including all exhibits hereto (which are hereby incorporated herein by reference for all purposes) contains the full and final agreement of every kind and nature

whatsoever between the parties hereto concerning the subject matter set forth herein and all preliminary negotiation and agreements of any kind are merged herein. This Deed may not be changed, amended, or modified in any manner other than by a written amendment or modification executed between Grantor and Grantee or their respective successors and/or assigns.

K. If any provision of this Deed or the application thereof shall be deemed invalid or unenforceable, the remainder of this Deed in its application shall not be affected by such partial invalidity but shall be enforced to the fullest extent permitted by law as if such invalid or unenforceable provision was never a part hereof.

L. This Deed shall be construed in accordance with the laws of the Commonwealth of Virginia and the parties agree that jurisdiction for all actions hereunder shall lie in the County of James City, Virginia.

M. All rights, obligations, and liabilities herein given to or imposed upon any party hereto shall extend to the permitted successors and assigns of any such party.

N. This Deed may be executed in one or more identical counterparts and all such counterparts together shall constitute a single instrument for the purpose of the effectiveness of this Deed.

[Remainder of page intentionally left blank]

WITNESS the following signatures hereunto duly authorized:

GRANTOR: THE MIDLANDS TOWNHOUSES HOMEOWNER'S ASSOCIATION, INC.



By: JAY COLLEY
Its: PRESIDENT

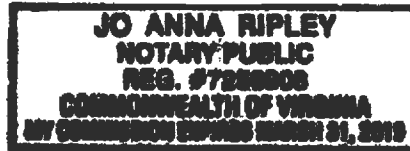
STATE/Commonwealth of Virginia
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 9 day of December, 2016, by Jay Colley as President of The Midlands Townhouses Homeowner's Association, Inc.



Notary Public

My commission expires: 3/31/19
Notary Registration No. 7258908





**OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT**

DATE : 01/03/2017 **TIME :** 12:06:53 **CASE # :** 830CLR170000028
RECEIPT # : 1700000079 **TRANSACTION # :** 17010300078
CASHIER : AXS **REGISTER # :** W022 **FILING TYPE :** DE-PL **PAYMENT :** FULL PAYMENT
INSTRUMENT : 170000028 **BOOK :** **PAGE :** **RECORDED :** 01/03/2017 **AT :** 12:05
GRANTOR : MIDLANDS TOWNHOUSES HOMEOWNERS ASSOCIATION INC **EX :** N **LOC :** CO
GRANTEE : COUNTY OF JAMES CITY VIRGINIA **EX :** N **PCT :** 100%
RECEIVED OF : NA
ADDRESS :
DATE OF DEED : 01/03/2017
CASH : \$0.00
DESCRIPTION 1 : VARIABLE WIDTH DRAINAGE EASEMENT MIDLANDS **PAGES :** 7 **OP :** 0
NAMES : 0
CONSIDERATION : \$0.00 **AVAL :** \$0.00 **MAP :** **PIN :**

ACCOUNT CODE	DESCRIPTION	PAID
035	VOF FEE	\$0.00

TENDERED : \$ 0.00
AMOUNT PAID : \$ 0.00

CLERK OF COURT : MONA A. FOLEY

**PAYOR'S COPY
RECEIPT COPY 1 OF 2**