

AGREEMENT FOR THE USE OF CITY PROPERTY

THIS AGREEMENT, made this 31st day of ~~July, 2012~~ ^{Aug 2013}, by and between the CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia ("City"), Grantor, and BAY BREEZE POINT HOMEOWNERS ASSOCIATION ("HOA"), Grantee.

WITNESSETH:

That for and in consideration of the sum of one dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the City grants to HOA the right to enter upon and use certain city-owned property located at Pleasant Avenue and 30th Bay Street, being the City's pump station site ("Property"), for the purpose of maintaining the street-facing side of the City-owned masonry wall and HOA-owned landscaping and improvements located on the Property.

This Agreement shall be subject to the following terms and conditions:

1. The HOA shall have the authority to enter upon the Property from time to time as may be necessary for the purpose of maintaining the street-facing side of the City-owned masonry wall and HOA-owned landscaping and improvements located on the Property.
2. Prior to entering upon the Property for the purposes of maintaining the street-facing side of the City-owned masonry wall and/or the installed improvements on the Property, the HOA shall first notify the Director of Utilities of the anticipated dates and times of such entry. Director of Utilities notification is not required for HOA routine maintenance of HOA-owned landscaping and improvements. If the HOA



intends to install additional improvements or replace existing improvements, the Director of Utilities will be notified and endorsement obtained.

3. The City shall have access to the Property at all times.
4. The HOA shall not engage in any activities on the property except for those specifically set forth above.
5. The HOA expressly agrees to indemnify, defend and hold the City harmless from and against any and all claims, loss, damage, injury, and liability, however caused, resulting from, arising out of, or in any way connected with the HOA's use of the Property.
6. The HOA at its own cost and expense, shall take out and keep in full force and effect public liability insurance in some company authorized to do business in the Commonwealth of Virginia, insuring them and naming the City of Norfolk as an additional insured party in the amount of at least \$1,000,000.00 per person/per injury/per occurrence, and \$2,000,000.00 aggregate, against liability from any and all claims, actions and suits that may be asserted or brought against the City of Norfolk and/or the HOA, and its successors and assigns, for any injury to or death of any person or persons or for any damage to or destruction of property resulting from the HOA's use of the Property, evidence of such insurance shall be filed with the Risk Manager, Department of Finance, City of Norfolk.
7. The HOA shall repair any damage that it shall do to the Property during the term of this Agreement.

8. The City shall notify the HOA prior to performing work that could result in damages to HOA-owned landscaping and improvements located on the Property during the term of this Agreement. This prior notification will provide the HOA and the City time to develop an approach that will minimize damages to the HOA-owned landscaping and improvements created by the planned City action(s). In the event any of the HOA-owned landscaping or improvements located on the Property are damaged by the City, its officers, agents, employees, or contractors, during the term of this Agreement, the City will take all reasonable measures to repair such damage and place any such landscaping or improvements in their original condition.

9. By entering upon the Property for the purposes aforesaid, the HOA and its officers, agents, employees, and volunteers assume any and all risk of personal injury or property damage.

10. This Agreement shall be in effect until terminated. Further, this agreement may be terminated by either party at any time upon giving fourteen (14) days written notice of such termination.

WITNESS the following duly authorized signatures:

(SIGNATURE PAGES TO FOLLOW)



CITY OF NORFOLK

By: Marcus D. Jones
City Manager

ATTEST:

R. Breckenridge Daughtry
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Tracey Cox Hasick, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the 30 day of April, 2014, do hereby certify that Marcus D. Jones, City Manager, and R. Breckenridge Daughtry, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this 31 day of January, 2013.

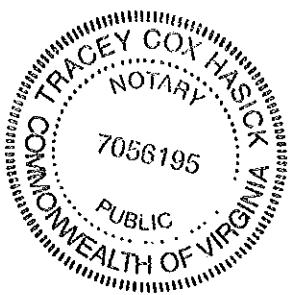
Notary Public: Tracey Cox Hasick
Registration No.: 7056195

Contents Approved:

Ken McKey
Director of Utilities

Form and Correctness Approved:

Marcus D. Jones
Deputy City Attorney



BAY BREEZE POINT HOMEOWNERS
ASSOCIATION

By: James R Casey
Title: President

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Jonathan Sowers, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the 31 day of August, 2014, do hereby certify that James R Casey (Aka Jim), President (title) whose name is signed on behalf of Breeze Point Homeowners Association to the foregoing Agreement, has acknowledged the same before me in my City and State aforesaid. He/She is personally known to me or has produced a driver's license as identification.

Given under my hand this 15 day of January, 2013.

Notary Public: JS

Registration No.: 7378905

