

**STORMWATER MANAGEMENT FACILITIES
MAINTENANCE AGREEMENT
Montgomery County, Virginia**

PARCEL ID NUMBER(S): _____

TAX MAP NUMBER(S): _____

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between, _____, hereinafter called the "Landowner", and Montgomery County, Virginia, a political subdivision of the Commonwealth of Virginia, acting by and through its Board of Supervisors, hereinafter called the "County".

WITNESSETH:

WHEREAS, the Landowner is the owner of that certain parcel of land identified as Tax Map Number _____, being of record in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, in _____, hereinafter called the "Property,"; and

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, the Site Plan/Subdivision Plan known as _____, hereinafter called the "Plan", which is expressly incorporated by reference herein , as approved or to be approved by the County; and

WHEREAS, the Plan provides for stormwater management facilities and other drainage conveyance channels or permanent erosion and sediment control measures and improvements within the confines of the Property, referred to as the "Facilities"; and

WHEREAS, the County and the Landowner agree that the health, safety, and general welfare of the residents of Montgomery County, Virginia require that on-site stormwater management Facilities as shown on the Plan be constructed on the Property by the Landowner and adequately maintained by the Landowner, its successors and assigns, including any homeowners association; and

WHEREAS, the County requires that on-site stormwater management Facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowners association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site stormwater management Facilities shall be constructed by the Landowner in accordance with the Plan and associated specifications, and, upon completion of construction of such Facilities the Landowner shall provide a construction record drawing as required by §62.1-44.15 of the Code of Virginia.
2. The Landowner, its successors and assigns, shall maintain the Facilities in accordance with the maintenance procedures contained in latest edition of the Virginia Stormwater Management Handbook and specific maintenance requirements noted on the Plan along with any associated specifications and/or manuals to assure good working order acceptable to the County. Such maintenance procedures shall meet or exceed those maintenance requirements set forth in the Stormwater Management Ordinance of Montgomery County.
3. The Landowner, its successors and assigns, shall inspect the Facilities in accordance with and within the timeframes provided in the requirements set forth in the Stormwater Management Ordinance of Montgomery County. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the Facilities in their entirety and all related components including, but not limited to, berms, outlet structure, pond areas, incoming or outgoing pipes or channels, side slopes, vegetation, access roads, etc. Deficiencies shall be noted in the inspection report.
4. The Landowner, its successors and assigns, shall document all inspections, maintenance activities, and repairs that are performed on the Facilities. Documents shall be maintained by the Landowner, its successors and assigns, for a minimum period of five (5) years and said documents shall be made available for review by, or copies shall be provided to, the County upon request.
5. The Landowner, its successors and assigns, hereby grants permission to County, its authorized agents, employees and contractors to enter upon the Property and to inspect the Facilities whenever the County deems necessary. The purpose of such inspections include the following reasons: to insure that the Facilities are being properly maintained and are continuing to function as designed, to verify correction of reported deficiencies, and to respond to citizen complaints. Such right of access will *allow* County

to inspect the Facilities, but the County is under no obligation to conduct periodic inspections. Defects or deficiencies discovered during any such inspection shall be documented and specific measures to be taken to remedy such defect or deficiency shall be described in writing, a copy of which shall be provided to the Landowner. The Landowner agrees to perform promptly all needed maintenance and correct defects and/or deficiencies, including sediment removal, reported to it by the County. Such defects and/or deficiencies shall be corrected within a reasonable period of time as determined between Landowner and County, but such period shall not exceed fifteen (15) calendar days.

6. The Landowner, its successors and assigns, further agrees that when the County determines that there exists a threat of imminent danger to life or property or other emergency due to the Facilities, the County, or its agents, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to mitigate the danger or emergency. Alternatively, the County may notify the Landowner by telephone to take necessary action within a specified time period. Should Landowner fail to respond, or should Landowner inform County that it does not intend to act within the specified time period, then the County, or its agents, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to mitigate the danger or emergency.
7. In the event the Landowner, its successors and assigns, fails to maintain the Facilities, in good working order acceptable to the County, or to promptly correct defects and/or deficiencies reported to it by the County within the prescribed time period, the County may enter upon the Property and take whatever steps it deems necessary to maintain said Facilities. This provision shall not be construed to allow County to erect any structure of a permanent nature on the land of the Landowner outside of the easement or property containing the Facilities. It is expressly understood and agreed that County is under no obligation to maintain or repair said Facilities, and in no event shall this Agreement be construed to impose any such obligations on County.
8. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management/BMP facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
9. In the event the County, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies,

materials, and the like, the Landowner, its successors and assigns, shall reimburse County upon demand, within thirty (30) calendar days of receipt thereof for all costs incurred by County hereunder. In collecting such charges, the County shall have available to it all remedies accorded by law for the collection of unpaid debts.

10. It is the intent of this Agreement to ensure the proper maintenance of onsite Facilities by the Landowner, its successors and assigns; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by stormwater damage.
11. The Landowner, its successors and assigns, shall indemnify and hold the County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against County from the construction and/or maintenance of the described onsite Facilities by the Landowner or County.

In the event a claim is asserted against County, its agents or employees, County shall promptly notify the Landowner and the Landowner, its successors and assigns, shall defend, at its own expense, any suit based on such claim. If any judgment or claim against County, its agents or employees shall be allowed, the Landowner shall pay all costs and expenses in connection therewith.

12. County shall not pay any compensation to Landowner, its successors and assigns, at any time for its use of the Property in any way necessary for the inspection and maintenance of the Facilities, including access to the Facilities.
13. This Agreement shall be governed by the laws of the Commonwealth of Virginia.
14. Provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision is declared unconstitutional, or the applicability thereof to Landowner held invalid, the remainder of this Agreement shall not be affected thereby.
15. Plans and specifications for stormwater management facilities and measures to be undertaken on the subject property, along with any plats identifying facilities areas and/or creating property rights to such areas, shall be attached hereto and are hereby incorporated by reference as a part of this Agreement.

16. This Agreement shall be recorded among the land records in the Clerk's Office of Montgomery County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs, including any homeowners association and any other successors in interest.

17. Such covenant running with the land shall be described in full or incorporated by reference into each deed of conveyance out of the described Property, and such covenant shall be noted on any subsequently recorded plat of subdivision or re-subdivision of Property.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on their behalf.

LANDOWNER:

(Full Name of Company, Corporation, or Partnership)

By: _____ **(SEAL)**
(Duty Authorized Officer Signature)

As: _____ **(TITLE)**
(Duty Authorized Officer Title)

LANDOWNER ACKNOWLEDGMENT

State of: _____

County/City of: _____, **to wit:**

The foregoing instrument was acknowledged before me this____, day of____, _____

by: _____ as _____ on
(Duty Authorized Officer Printed Name) (Duty Authorized Officer Printed Title)

behalf of _____
(Insert Full Name of Company/Corporation/Partnership)

_____/_____
(Notary Public Signature) (Notary Public Printed Name)

My Commission expires: _____ Registration # _____

BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA:

By: _____ (SEAL)
Director of Engineering and Regulatory Compliance

COUNTY ACKNOWLEDGMENT

State of Virginia
County of Montgomery, to wit:

The foregoing instrument was acknowledged before me this____, day of_____, _____

by: _____, Director of Engineering and Regulatory Compliance, on behalf of the Board of Supervisors on Montgomery County, Virginia.

_____/_____
(Notary Public Signature) (Notary Public Printed Name)

My Commission expires: _____ Registration # _____