



STORMWATER MANAGEMENT FACILITIES MAINTENANCE AGREEMENT
Roanoke County, Virginia

THIS AGREEMENT, made and entered into this ____ day of _____, by and between _____, hereinafter called the "Landowner," and the Board of Supervisors of Roanoke County, Virginia, hereinafter called the "County."

WITNESSETH:

WHEREAS, the Landowner is the owner in fee simple of certain real property described on _____, as recorded by deed in the land records of Roanoke County, Virginia, Instrument Number _____, hereinafter called the "Property."

WHEREAS, the Site Plan/Subdivision Plan known as

_____,
(Name of Plan/Development)

hereinafter called the "Plan," as approved by the County and which is expressly made a part hereof, provides for the management of stormwater runoff within the confines of the property; and

WHEREAS, the Property noted above contains stormwater management facilities (SWMFs), often called Best Management Practices (BMPs), and their accompanying components and structures; and

WHEREAS, a plat or plan identifying such areas is attached hereto for reference; and

WHEREAS, the stormwater facilities maintenance and inspection schedule for such areas is attached hereto for reference; and

WHEREAS, the Landowner is proceeding to build or has built on and developed the property; and

WHEREAS, the County, the Association, and the Landowner, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of Roanoke County, Virginia, require that on-site stormwater management facilities be constructed and maintained on the Property; 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; and

WHEREAS, a maintenance and inspection schedule has been included on the Plan and is attached for reference, which details the requirements to perpetually maintain the structural integrity and the proper functioning of the SWMF and all of its components.

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 Landowner, its successors and assigns, shall or have constructed the required on-site SWMFs, as shown on Exhibit 1 and listed on Exhibit 2, at its sole expense and in strict accordance with the approved Plan and the associated specifications identified in the Plan.
2. The Landowner, its successors and assigns, shall, at its sole expense, make such changes or modifications to the SWMFs as may, in the County's sole discretion, be determined necessary to insure that the SWMFs are properly maintained and are continuing to operate as designed and approved.
3. The Landowner, its successors and assigns, including any homeowners association, shall perpetually and adequately maintain the SWMFs. This includes all pipes and channels built to convey stormwater to or from the facilities, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as that which is necessary to maintain the structural integrity of the facilities and to insure good working condition so that the facilities are performing their intended design functions. The Maintenance and Inspection Schedule is shown on Exhibit 3.
4. The Landowner, its successors and assigns, shall periodically inspect the SWMFs, as shown on Exhibit 3. 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, access roads, etc. Deficiencies shall be noted in the inspection report.
5. The Landowner, its successors and assigns, shall document all inspections, maintenance activities, and repairs that are performed on the SWMFs. 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.
6. The Landowner, its successors and assigns, hereby grant to the County, its authorized agents, employees, and contractors the perpetual right of ingress and egress over the Property for the purpose of inspecting the SWMFs. Such inspections shall be

conducted periodically and whenever the County deems necessary. Such inspections may be conducted for a variety of reasons, including the following: (a) to insure that the SWMF is being properly maintained and is continuing to function as designed and approved by the County, (b) to ensure that adequate maintenance is occurring, (c) to follow-up on reported deficiencies, and (d) to respond to citizen complaints. The County shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with maintenance or repairs, if necessary. The County shall specify in the directive a time frame in which the work shall be completed.

7. In the event the Landowner, its successors and assigns, fail to maintain the SWMFs in good working condition acceptable to the County, the County may enter upon the Property to correct all deficiencies, make all repairs, and to perform all maintenance, construction, and re-construction, as deemed necessary by the County, and to charge the costs of such repairs to the Landowner, its successors and assigns, and to any or all persons or entities served by the SWMFs. This provision shall not be construed to allow the County to erect any permanent structure on the Landowner's land outside of the easement or property wherein the SWMFs and their related components reside. It is expressly understood and agreed that the County is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the County.
8. The Landowner, its successors and assigns, shall perform the necessary work to comply with the attached maintenance schedule, including sediment removal, and as otherwise required to keep the SWMFs in good working order, as appropriate.
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, etc., the County may assess the Landowner, its successors and assigns, and/or all landowners served by the SWMFs for their proportionate share of the actual costs incurred by the County hereunder; such assessment may be placed on the real estate property tax bill of said properties and collected as ordinary taxes by the County. In collecting such charges, the County shall not be limited to the above remedy, but shall also have available to it all remedies accorded by law for the collection of unpaid debts.
10. The Landowner, its successors and assigns, shall indemnify, save harmless, and defend the County against any and all claims, demands, suits, liabilities, losses, damages, and payments, including reasonable attorney fees claimed or made by persons not party to this agreement, against the County that are alleged or proved to result or arise from any construction, operation, or maintenance of the SWMFs by the Landowner, its successors and assigns.
11. This Agreement and the covenants and agreements contained herein shall run with the title to the land and whenever the Property shall be held, sold, conveyed, or otherwise transferred, it shall be subject to the covenants, stipulations, agreements,

and provisions of this Agreement which shall apply to, bind, and be obligatory upon the Landowner hereto, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association, and it shall bind all present and subsequent owners of the Property described herein.

12. Initially, the Landowner is solely responsible for the performance of the obligations required hereunder and, to the extent permitted under applicable law, the payment of any and all fees, fines, and penalties associated with such performance or failure to perform under this Agreement. Notwithstanding any provisions of this Agreement to the contrary, upon the recordation of a deed or other instrument of sale, transfer, or other conveyance of fee simple title to the Property or any portion thereof (a "Transfer") to a third party (the "Transferee"), the Landowner shall be released of all its obligations and responsibilities under this Agreement accruing after the date of such Transfer to the extent such obligations and responsibilities are applicable to that portion of the Property included in such Transfer, but such release shall be expressly conditioned upon the Transferee assuming such obligations and responsibilities by recorded written agreement for the benefit of the County. Such written agreement may be included in the Transfer deed or instrument, provided that the Transferee joins in the execution of such deed or instrument. A certified copy of such deed, instrument, or agreement shall be provided to the County. The provisions of the preceding three sentences shall be applicable to the original Landowner and any successor Transferee who has assumed the obligations and responsibilities of the Landowner under this Agreement, as provided above.
13. Nothing in this Agreement shall be construed to prohibit a transfer of the Property by the Landowner to subsequent owners and assigns.
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. This Agreement shall be recorded among the land records of Roanoke County, Virginia, at the expense of the Landowner.
16. In the event that the County shall determine, at its sole discretion at any future time, that the SWMFs are no longer required, the County shall, at the request of the Landowner, execute a release of this Stormwater Management Facilities Maintenance Agreement.
17. In the event of any dispute arising under the provisions of this Agreement, the laws of the Commonwealth of Virginia shall apply and jurisdiction over such dispute shall be in the Roanoke County Circuit Court.

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

LANDOWNER:

(Full Name of Owner, Company, Corporation, or Partnership)

By: _____ (SEAL)
(Duly Authorized Officer Signature)

As: _____ (TITLE)
(Duly Authorized Officer Title)

LANDOWNER ACKNOWLEDGMENT

State of: _____

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

The foregoing instrument was acknowledged before me this _____, day of _____, _____.

by: _____ as _____
(Duly Authorized Officer Printed Name) (Duly Authorized Officer Printed Title)

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

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

My Commission expires: _____ Registration # _____

Approved as to Content and Form:

**Board of Supervisors of
Roanoke County, Virginia**

County Attorney's Office

By: _____(SEAL)
Tarek Moneir,
Development Services Director

COUNTY ACKNOWLEDGMENT

**State of Virginia
County of Roanoke, to wit:**

The foregoing instrument was acknowledged before me this____, day of _____,
_____, by Tarek Moneir, Development Services Director, on behalf of the Board of
Supervisors of Roanoke County, Virginia.

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

My Commission expires: _____ Registration # _____

EXHIBIT 1

Plat or Plan Depicting Location of Stormwater Management Facilities

INSERT A PLAT OR A PLAN THAT CLEARLY SHOWS THE LOCATION OF ALL STORMWATER MANAGEMENT FACILITIES FOR THE SITE. LEAVE "EXHIBIT 1" AT THE TOP OF THIS PAGE.

EXHIBIT 2
Listing of Stormwater Management Facilities

<i>Facility Name as Shown on the Plan</i>	<i>Facility Type</i>	<i>How many?</i>	<i>Tax Map/Parcel I.D.</i>

EXHIBIT 3
Maintenance and Inspection Schedule

[PROVIDE A MAINTENANCE AND INSPECTION SCHEDULE FOR EACH **TYPE** OF STORMWATER FACILITY SERVING THE SITE.
MANUFACTURER'S MAINTENANCE LITERATURE MAY BE SUBMITTED FOR MANUFACTURED TREATMENT DEVICES.
NON-PROPRIETARY STRUCTURES MAY BE FOUND IN ROANOKE COUNTY'S STORMWATER MANUAL OR ON ITS WEBSITE.]

Stormwater Management Facility Type: _____

REQUIRED ACTION	REQUIRED MAINTENANCE	FREQUENCY