

District: \_\_\_\_\_



Tax Map: \_\_\_\_\_

**MAINTENANCE AGREEMENT  
for  
STORMWATER MANAGEMENT FACILITIES  
(located in a public right-of-way)**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_

Insert Full Name of Owner(s)

hereinafter called "Landowner", and the Board of Supervisors of Fairfax County, Virginia, hereinafter called "County":

**WITNESSETH:**

WHEREAS, the Landowner is the owner of certain real property, more particularly described as

Insert Legal Description of Property

Plan Name

Tax Map Number

as recorded by Deed in the land records of Fairfax County, Virginia, in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_, hereinafter called the "Property"; and

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

WHEREAS, Site/Subdivision/Grading Plan Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ hereinafter called the "Plan" which is expressly made a part hereof, as approved or to be approved by the County, provides for management of stormwater flowing from the Property to the public right-of-way; and

WHEREAS, the County and the Landowner agree that the health, safety, and welfare of the residents of Fairfax County, Virginia, require that stormwater quantity and/or quality control facilities, hereinafter called stormwater management facilities, be constructed and maintained within the public right-of-way; and

WHEREAS, the County, in order to implement its Virginia Stormwater Management Program and Municipal Separate Storm Sewer System Permit Program Plan and in accordance with its adopted Stormwater Management Ordinance, requires the Landowner to ensure that the stormwater management facilities within the public right-of-way will be adequately maintained and operate as shown on the Plan; and

WHEREAS, the County must be able to inspect the stormwater management facilities shown on the Plan and desires to be able to maintain, repair and replace the facilities should the Landowner fail to do so and recover the expense of any necessary maintenance, repair or reconstruction undertaken; and

WHEREAS, the Landowner will be subject to any requirements to notify the County and/or the Virginia Department of Transportation, hereinafter called "VDOT", to secure applicable permits prior to performing work within public right-of-way, to comply with any conditions of said permit(s) and to employ measures necessary to protect the health, safety, and welfare of persons using the public right-of-way as prescribed by the County, VDOT and/or their authorized agents and employees.

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 stormwater management facilities must be constructed by the Landowner in accordance with the design and specifications identified in the Plan as well as any applicable conditions of a permit to work within the public right-of-way issued by VDOT and/or the County.

2. The Landowner must maintain the stormwater management facilities as shown on the Plan in good working order acceptable to the County and in accordance with the specific maintenance requirements noted on the Plan and/or attached hereto as Attachment A.

3. The Landowner must inspect the stormwater management facilities in accordance with the inspection qualifications, frequency, and reporting requirements noted on the Plan and/or Attachment A. The purpose of the inspection is to verify that each stormwater management facility and system is being properly maintained, is continuing to perform in accordance with the approved design, and conforms to the Plan and applicable codes. Deficiencies must be noted in the inspection report. If deficiencies are noted, they must be promptly corrected, repaired, or replaced by the Landowner.

4. The Landowner must provide a copy of an annual inspection and maintenance report of the stormwater management facilities to the County upon request.

5. The Landowner hereby grants permission to the County, or its authorized agents and employees, to enter upon the Property at reasonable times and in a reasonable manner should access to the Property be necessary to inspect, operate, install, construct, reconstruct, maintain, or repair the stormwater management facilities within the public right-of-way whenever the County deems necessary. Whenever reasonably possible, the County will attempt to notify the Landowner prior to the inspection. Any notice to the Landowner under this Agreement will be deemed to have been properly sent when personally delivered or sent first-class U.S. mail to the address of said Landowner as displayed in the County's real property tax assessment records or, alternatively, when notified by electronic mail provided that an acknowledgement of receipt is returned by the Landowner. To avoid imminent endangerment to human health or the environment, any notice to the Landowner will be deemed waived and the County, or its authorized agents and employees, may immediately begin the required maintenance, operation, construction, reconstruction, and/or repair work.

6. The County will provide to the Landowner copies of the County's inspection results and of any directive from the County outlining any necessary repairs or maintenance required to the stormwater management facilities including a date by which such necessary repairs or maintenance must be completed.

7. In the event the Landowner fails to maintain the stormwater management facilities in good working order acceptable to the County and in accordance with the specific maintenance requirements noted on the Plan and/or Attachment A, or as noted in inspection results as set forth in Paragraph 6 above, the County may take whatever steps it deems necessary to maintain said stormwater management facilities. This provision will not be construed to allow the County to erect any structure of a permanent nature on the Property of the Landowner. It is expressly understood and agreed that the County is under no obligation to maintain or repair said facilities and in no event will this Agreement be construed to impose any such obligation on the County.

8. 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 must reimburse the County upon demand within ten (10) days of receipt of an invoice thereof for all costs incurred by the County hereunder. If the Landowner fails to reimburse the County within sixty (60) days after the receipt of the County's demand for payment, such amount will be recorded as a lien against the Landowner in the records of Fairfax County, Virginia, and/or the County may also proceed to collect amounts due in any manner not prohibited by law.

9. It is the intent of this Agreement to ensure the proper maintenance of stormwater management facilities by the Landowner provided, however, that this Agreement will not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by stormwater drainage.

10. The Landowner, its executors, administrators, assigns, and any other successors in interest hereby indemnify and hold harmless the County and its agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the County from the construction, presence, existence or maintenance of the stormwater management facilities by the Landowner or the County.

11. In the event a claim is asserted against the County, its agents or employees, the County will promptly notify the Landowner and the Landowner must defend at the Landowner's own expense any suit based on such claim. If any judgment or claims against the County, its agents or employees are allowed, the Landowner must pay all costs and expenses in connection therewith.

12. This Agreement must be recorded among the land records of Fairfax County, Virginia, and will constitute a covenant running with the land and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interest.

IN WITNESS of all of which, the parties hereto have caused this Agreement to be executed under seal on their behalf.

\_\_\_\_\_  
Landowner

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print or type name and title)

\_\_\_\_\_  
Landowner

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print or type name and title)

Address: (type or print) \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY/CITY OF \_\_\_\_\_

I, \_\_\_\_\_, Notary Public in and for the State and County/City  
aforesaid, do hereby certify that \_\_\_\_\_

Name, Title

\_\_\_\_\_ whose name(s) is (are) signed to the foregoing Agreement, this day  
personally appeared before me in my State and County/City aforesaid and acknowledged the same.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My commission expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By: \_\_\_\_\_  
Director, Department of Land Development Services or designee

COMMONWEALTH OF VIRGINIA:

COUNTY OF FAIRFAX:

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, appeared before me in my State and County aforesaid, \_\_\_\_\_ Director, Department of Land Development Services, and acknowledged signature.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

Approved as to form:

\_\_\_\_\_  
Office of the County Attorney