

**Prepared by:** Virginia Department of Environmental Quality  
1111 E. Main Street, Suite 1400  
Richmond, Virginia 23219  
(804) 698-4000

**STORMWATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between \_\_\_\_\_ (the Owner), and the Virginia Department of Environmental Quality (the Department).

WITNESSETH:

WHEREAS, the Owner is the owner of certain real property in \_\_\_\_\_ County, Virginia, Tax Map Parcel Number(s) \_\_\_\_\_, as recorded by deed in the land records of \_\_\_\_\_ County, Virginia at Deed Book \_\_\_\_\_, Page \_\_\_\_\_ (the Property);

WHEREAS, the Department currently is the Virginia Stormwater Management Program (VSMP) Authority for \_\_\_\_\_ County;

WHEREAS, the Property is being developed into a project known and designated as \_\_\_\_\_, as shown and described on the stormwater management plan for the Property dated \_\_\_\_\_, 20\_\_\_\_, and revised through \_\_\_\_\_, 20\_\_\_\_ (the Plan), a copy of which is retained by the Department and incorporated herein by reference;

WHEREAS, the Plan includes one or more permanent stormwater management facilities (the Facility) to control postdevelopment stormwater runoff from the Property; and

WHEREAS, to comply with § 62.1-44.15:28 of the Code of Virginia and the attendant regulations pertaining to this project, the Owner agrees to maintain the Facility in accordance with the Maintenance Plan dated \_\_\_\_\_, 20\_\_\_\_, and revised through \_\_\_\_\_, 20\_\_\_\_ (the Maintenance Plan), a copy of which is attached hereto as Exhibit A.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein, the receipt and sufficiency of which are acknowledged hereby, and in accordance with the following terms and conditions, the parties agree as follows:

1. The Department and its agents may enter the Property to perform periodic inspections to ensure the proper maintenance and functioning of the Facility. These inspections will be conducted at reasonable times. Whenever possible, the Department will notify the Owner prior to entering the Property. If the Department finds that repairs must be undertaken to return the Facility to the original design, as shown and described in the Plan, the Owner shall complete any such repairs within thirty (30) calendar days of the inspection or a longer period as approved by the Department.

2. The Owner, at the Owner's sole expense, shall construct the Facility in accordance with the Plan, and shall provide to the Department a construction record drawing for the Facility prior to termination of coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities, also known as the "Construction General Permit".

3. The Owner, at the Owner's sole expense, shall maintain and repair the Facility in perpetuity and in a manner which will enable the Facility to remain in compliance with the Virginia Stormwater Management Program Regulations and the Facility's original standards, as shown and described in the Plan and Maintenance Plan. The Owner shall keep written maintenance and repair records and provide copies to the Department upon request.

4. The Owner, at the Owner's sole expense, shall inspect the Facility according to the schedule set forth in the Maintenance Plan. These inspections shall be conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 *et seq.*) of Chapter 4 of Title 54.1 of the Code of Virginia; a person who works under the direction and oversight of a licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the State Water Control

Board. If the inspector finds during an inspection that repairs must be undertaken to return the Facility to the original design as shown and described on the Plan, the Owner shall complete any such repairs within thirty (30) calendar days of the inspection or a longer period as approved by the Department. The Owner shall keep written inspection records and provide copies to the Department upon request.

5. The Owner shall provide a right of ingress and egress for the Department and its agents to perform the periodic inspections referenced above and to undertake or have undertaken maintenance and repair of the Facility, if such maintenance is deemed necessary by the Department and not adequately completed by the Owner. It is expressly understood and agreed that the Department is under no obligation to maintain or repair the Facility. The Owner shall reimburse the Department for all maintenance and repair costs within thirty (30) calendar days after receiving a demand for reimbursement. The Owner acknowledges that the Department may take any other enforcement actions as may be available at law.

6. The Owner shall save, hold harmless, and indemnify the Department and its agents against all liability, claims, demands, costs and expenses arising from, or out of, the Owner's failure to comply with the terms and conditions set forth herein, or arising from acts of the Owner related to the construction, operation, maintenance or repair of the Facility.

7. This Agreement shall constitute a covenant running with the land and shall inure to the benefit of and shall be binding upon the parties hereto, their respective heirs, successors and assigns, including, without limitation, any subsequent VSMP Authority for \_\_\_\_\_ County and all subsequent owners of the Property, as well as any property owner's association or similar organization responsible for maintenance of the Facility. This Agreement shall be described in full or incorporated by reference into each deed of conveyance out of the Property. The Owner shall notify the

Department in writing within 30 days of conveying any interest in the Property affecting the ownership or responsibility for maintenance of the Facility.

8. Upon execution of this Agreement, it shall be immediately recorded in the Clerk's Office of the Circuit Court of \_\_\_\_\_ County, Virginia, at the Owner's sole expense. A copy of the recorded agreement shall be provided to the Department within 30 days of recordation. The Owner also stipulates, by this Agreement, that final plats for any land on which the Facility and/or a portion of the Facility is situated will include a reference to this Agreement and to its location in the land records of \_\_\_\_\_ County, Virginia.

IN WITNESS WHEREOF, the Owner and the Department have caused this Agreement to be signed in their names by their duly authorized representatives as of the date first set forth above.

[Signatures appear on the following pages]

**STORMWATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT**

Owner Signature Page

\_\_\_\_\_, Owner

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ in [his/her] capacity as \_\_\_\_\_ for \_\_\_\_\_, the Owner.

\_\_\_\_\_ [SEAL]

Notary Public

My Commission Expires: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_

**STORMWATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT**

Virginia Department of Environmental Quality Signature Page

Virginia Department of Environmental Quality

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ in [his/her] capacity as \_\_\_\_\_ for the Virginia Department of Environmental Quality.

\_\_\_\_\_ [SEAL]

Notary Public

My Commission Expires: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_