



RECORDATION FEE

NOTICE

Please include a check for **\$31.00** payable to the Goochland County Clerk with your Stormwater Management Facilities Maintenance Agreement to pay for recording the agreement in Goochland County Circuit Court land records after it is ratified by Goochland County.

Note: All spaces on the agreement must be completed appropriately. If you have any questions, please contact Ron Nanni at (804) 657-2002. Signatory authority is required for an individual signing on behalf of the corporation or limited liability company. Signatory authority is usually set forth in an operating agreement or in a corporate resolution. **PLEASE USE 12 POINT FONT WHEN COMPLETING DOCUMENT; REDUCED FONT SIZE MAY NOT BE ACCEPTABLE FOR RECORDING PURPOSES.**

Prepared By:

Return to:
Goochland County Attorney
P. O. Box 10
Goochland, VA 23063

Tax Map Number: _____

**STORMWATER MANAGEMENT FACILITIES
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made this ____ day of _____, 20__ by _____, the “Landowner” (individual, partnership, association, corporation, LLC), and for indexing purposes, “Grantor”, and **GOOCHLAND COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, the “County”, and for indexing purposes “Grantee”;

WITNESSETH:

WHEREAS, Landowner is seized in fee simple of that certain real property identified as Tax Map Number(s) _____ in the _____ District of Goochland County, Virginia (the “Property”);

WHEREAS, Landowner desires to construct certain improvements on the Property that will alter existing storm and surface water conditions on both the Property and adjacent lands;

WHEREAS, Landowner agrees that the health, safety, and welfare of the property owners and residents located near the Property require that on-site stormwater management facilities (the “Facilities”) be constructed and maintained on the Property, and accordingly, Landowner has submitted, under Goochland County Land Disturbance Permit or Plan of Development Number _____, and County has approved, that certain Land Disturbance and Stormwater Management Plan for the Property, prepared by _____, dated _____, including any revisions approved by the County (the “Plan”), which Plan is incorporated herein by reference, and is and will remain on file with the County;

WHEREAS, the Plan provides for treatment and/or detention of stormwater within the confines of the Property within certain Best Management Practices areas (“BMP Areas”), which may also be called Stormwater Management Areas, as designated on the Plan.

NOW THEREFORE, in consideration of the benefit received and to be received by the Landowner, its successors and assigns, as a result of County’s approval of the Plan, the Landowner hereby covenants and agrees with the County as follows:

1. Construction. Landowner, its successors and assigns, at their sole expense, shall construct and perpetually maintain the Facilities and BMP Areas in strict accordance with the Plan, and any amendments thereto which have been approved by the County.

2. Maintenance. Landowner, its successors and assigns, shall perpetually maintain the Facilities and the BMP Areas as shown on the Plan in good working order and condition and otherwise in material compliance with the applicable rules, regulations and codes related to stormwater management and detention in the County (such maintenance and all work required in connection therewith, being collectively referred to in this Agreement as “Maintenance,” “Maintain,” “Maintaining,” or such other tense as the context requires).

3. Access; Inspection. At reasonable times and in a reasonable manner, County, its agents, employees and contractors, shall have the right of ingress and egress over the Property and the right to inspect the Facilities and the BMP Areas in order to ensure that such Facilities and BMP Areas are properly being maintained, are continuing to perform in an adequate manner, and are in compliance with the Plan and the County Code. At their sole expense, Landowner, its successors and assigns, shall make such changes or modifications to the Facilities and BMP Areas as may be determined as reasonably necessary by the County to ensure that the Facilities and BMP Areas are properly Maintained and continue to operate as originally designed and approved. The 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 and BMP Areas, including its access to the Facilities and BMP Areas.

4. Remedies. In the event Landowner, its successors and assigns, fail to correct any defects or deficiencies in the Facilities and BMP Areas or fail to Maintain the Facilities and BMP Areas as and to the extent required hereunder, and such failure is not cured within sixty (60) days following receipt of written notice from County, County may enter upon the Property and take whatever steps it deems necessary to correct any defects or deficiencies and Maintain the Facilities and BMP Areas. This provision shall not be construed to allow County to erect any structure of a permanent nature on the Property. It is expressly understood and agreed that County is under no obligation to inspect, maintain or repair any Facilities or BMP Areas on the Property. Nothing contained herein shall prevent the County from pursuing such other remedies as provided by law, including, but not limited to, civil and criminal remedies set forth in Section 62.1-44.15:48 of the Virginia Code (the Stormwater Management Act) and the Goochland County Code.

5. Costs. In the event County, to the extent permitted under Section 4 above, performs Maintenance of any nature, or expends any funds for labor, use of equipment, supplies, materials, and the like, Landowner shall reimburse County upon demand, within thirty (30) days of receipt of a written invoice for all such costs reasonably incurred by County.

6. Emergency Repairs. In the event of an emergency involving the Facilities or the BMP Areas, as determined by the County Administrator or designee, County, its employees or agents, at its option, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to meet the emergency. County shall notify Landowner by any appropriate means of such emergency and entry as soon as practicable. Should Landowner fail to respond, or should Landowner inform County that it intends not to respond within the specified period of time, or should it be necessary to protect the public health, safety and welfare, County may, at its option, enter immediately upon the Property and take whatever reasonable steps it deems necessary to address the emergency, all at the expense of Landowner.

7. Liability. It is the intent of this Agreement to ensure the proper construction and Maintenance of the Facilities and BMP Areas on the Property by Landowner, its successors and assigns; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater or stormwater drainage, except as otherwise expressly set forth herein.

8. Indemnification. Landowner, its successors and assigns, shall indemnify, hold harmless, and defend the County, its agents and employees from and against any and all claims, demands, suits, liabilities, losses, damages and payments, including reasonable attorney fees claimed or made against the County that are alleged or proven to result or arise from the Landowner's, its successors' and/or assigns', construction, operations, or Maintenance of the Facilities and BMP Areas. In the event a claim is asserted against County, it shall promptly notify Landowner, its successors and assigns, and Landowner, its successors and assigns, shall defend at its own expense any action or suit based on such claim. If any such judgment or claims against County shall be permitted, Landowner, its successors and assigns, shall pay such judgment or claim and all reasonable costs and expenses incurred by County in connection therewith.

9. Recordation. This Agreement and the covenants and agreements contained herein shall be recorded among the land records in the Circuit Court Clerk's Office of Goochland County, Virginia, and shall constitute a covenant running 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 successors and assigns, and shall bind all present and subsequent owners of the Property.

10. No Rights in Public. Neither this instrument nor its recordation in the Goochland Circuit Court Clerk's Office are intended to, and neither shall be construed to, create any rights, easements, or privileges in the public generally, by dedication or otherwise, in and to all or any portion of the Facilities or BMP Areas on the Property.

11. Modification. This Agreement shall not be modified except by written instrument executed by the County and the owner(s) of the Property at the time of modification, and no modification shall be effective until recorded in the Goochland County Circuit Court Clerk's Office.

12. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be given by hand, delivered by national overnight courier service, or sent by registered or certified United States mail, postage prepaid, return receipt requested, and addressed as follows:

If to Landowner:

with a copy to:

If to County:

Goochland County Administrator
P.O. Box 10
Goochland, VA 23063

with a copy to:

Goochland County Attorney
P. O. Box 10
Goochland, VA 23063

Landowner, its successors and assigns, agrees to notify County in writing at the above address immediately upon any change in legal status or address of Landowner.

13. Governing Law; Venue. This Agreement is entered into in the Commonwealth of Virginia and shall be governed by and construed in accordance with the laws of Virginia. The venue for any litigation arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in Goochland County, Virginia.

14. Waiver. No breach of this Agreement shall be waived, altered or modified except by written instrument signed by the party sought to be bound by such waiver, alteration or modification. A waiver of any breach on any one occasion shall not constitute waiver of any other or subsequent breach, whether of a same or different nature. No delay or failure by any party to insist upon the strict performance of any term of this Agreement, or to exercise any right or remedy available upon any breach of this Agreement, shall operate as a waiver of such right or remedy, and no single or partial exercise of any right or remedy under this Agreement shall preclude other or further exercise of such right or remedy or the exercise of any other right, power or privilege. No course of dealing between the parties shall be effective to change, modify or discharge any provision of this Agreement or to constitute a waiver of any default under this Agreement.

15. Severability. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision of this Agreement, and the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

[Signatures Commence on Following Page]

IN WITNESS WHEREOF, the parties have executed this Stormwater Management Facilities Maintenance Agreement as of the date first set forth above.

LANDOWNER: [INSERT LANDOWNER NAME – MUST MATCH PAGE 1 OF AGREEMENT]

By: _____
Name: _____
Title: _____

LANDOWNER ACKNOWLEDGEMENT

STATE/Commonwealth of _____
CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ (name), as _____ (title) of _____ (organization).

Notary Public (SEAL)

My commission expires: _____

Notary Registration No.: _____

COUNTY SIGNATURES/NOTARY CERTIFICATION

GOOCHLAND COUNTY, VIRGINIA,
a political subdivision of the Commonwealth of Virginia

By: _____
Name: _____
Title: County Administrator or designee

COUNTY ACKNOWLEDGEMENT

COMMONWEALTH OF VIRGINIA
COUNTY OF GOOCHLAND, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by
_____ as _____ (*title*) of Goochland
County, Virginia.

_____(SEAL)
Notary Public

My commission expires: _____

Notary Registration No.: _____

APPROVED AS TO FORM:

Goochland County Attorney's Office

LENDER’S ACKNOWLEDGMENT AND CONSENT

_____, a bank organized and operating under the laws of the Commonwealth of Virginia (the “Lender”) is the holder of that certain promissory note dated _____ (the “Note”) executed by _____ (the “Landowner”), which is secured by that certain Credit Line Deed of Trust dated _____ (the “Deed of Trust”) and recorded as Instrument # _____, in the Circuit Court Clerk’s Office, Goochland County, Virginia, made by Landowner to _____, a Virginia _____, as trustee (the “Trustee”), for the benefit of Lender. The Deed of Trust constitutes a lien on the subject Property of the aforesaid Stormwater Management Facilities Maintenance Agreement (the “Agreement”).

Lender and Trustee execute this Acknowledgment and Consent for the purpose of acknowledging the Agreement and agreeing that the terms and conditions of the Agreement and the covenants, conditions and restrictions created by the Agreement run with the Property. In the event of a foreclosure of the Deed of Trust, or a transfer of any portion of the Property subject to the Deed of Trust in lieu of foreclosure, Lender and Trustee each agree that the purchaser at any such foreclosure or the transferee under any such deed in lieu of foreclosure, including the Lender or Trustee shall take title to or possession of the Property together with and subject to all of the terms and conditions of the Agreement.

LENDER:

By: _____
Name: _____
Title: _____

LENDER ACKNOWLEDGEMENT

STATE OF _____:
CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ (name), as _____ (title) of _____ (organization).

My commission expires: _____
Notary Registration No.: _____

Notary Public (SEAL)

TRUSTEE:

By: _____

Name: _____

Title: _____

TRUSTEE ACKNOWLEDGEMENT

STATE OF _____:

CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this _____ day of _____,
20____, by _____ (*name*), as _____ (*title*) of
_____ (*organization*).

My commission expires: _____

Notary Registration No.: _____

Notary Public (SEAL)