

Prepared by:  
PROPERTY OWNER'S ATTORNEY

**STORMWATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT**  
§58.1-811 (A)(3); 17.1-266

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Town of Warrenton, Virginia (hereinafter "Town") and the following entity(s) (hereinafter "Owner"):

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_, and  
\_\_\_\_\_.

WITNESSETH:

WHEREAS, Owner is the owner of certain real property in the Town of Warrenton, Virginia, Tax Map Parcel Number(s) \_\_\_\_\_, as recorded by deed in the land records of the Clerk's Office of the Circuit Court for Fauquier County, Virginia in Deed Book \_\_\_\_\_, at Page \_\_\_\_\_, and being further described as set forth in the attached Exhibit A, and located as described in the attached Exhibit B (hereinafter "Property");

WHEREAS, the Town currently is the Virginia Stormwater Management Program (VSMP) Authority for the Town of Warrenton;

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\_\_\_\_ (hereinafter "Plan"), a copy of which is retained by the Town and incorporated herein by reference;

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

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

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

1. The Town 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 Town will notify the Owner prior to entering the Property. If the Town 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 only if approved by the Town in writing.

2. The Owner, at the Owner’s sole expense, shall construct the Facility in accordance with the Plan and all attendant state and local regulations, and shall provide to the Town 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”, or any other state or local permits, as applicable.

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 Town Codes (as amended), 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 Town annually.

4. The Owner, at the Owner’s sole expense, shall cause the Facility to be inspected annually in accordance with and to 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 Town. The Owner shall keep written inspection records and provide copies to the Town annually.

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

6. The Owner shall save, hold harmless, and indemnify the Town 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 the Town of Warrenton, 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 obligation shall be made known to any perspective purchaser prior to closing. The Owner shall notify the Town in writing within 30 days of conveying any interest in the Property affecting the ownership or responsibility for maintenance of the Facility. The Owner(s) agrees in the event that the Property is sold, transferred, or leased to provide information to the new owner, operator, or lessee regarding proper inspection, maintenance and repair of the stormwater management practice(s). The information shall accompany the first deed transfer and include Exhibits B and C and this Agreement. The transfer of this information shall also be required with any subsequent sale, transfer or lease of the Property.

8. Upon execution of this Agreement, it shall be recorded promptly in the Clerk's Office of the Circuit Court of Fauquier County, Virginia, at the Owner's sole expense. A copy of the recorded agreement shall be provided to the Town within thirty (30) calendar days of recordation.

9. The terms of this Agreement shall not be amended, modified or terminated and no waiver of any provision hereof shall be effective unless set forth in a written instrument executed with the same formality as this Agreement.

10. This Agreement shall be governed by and construed in accordance to the laws of the Commonwealth of Virginia.

11. This Agreement is not complete without the attached Exhibits being incorporated herein as are listed below.

Exhibit A: Legal description of the real estate for which this Agreement applies (“Property”).

Exhibit B: Location map(s) showing a location of the Property and an accurate location of each stormwater management practice affected by this Agreement.

Exhibit C: Long-term Maintenance Plan that prescribes those activities that must be carried out to maintain compliance with this Agreement.

[Signature Page to Follow]

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

**PROPERTY OWNER**

ATTEST:

\_\_\_\_\_  
[PRINT NAME, TITLE]

\_\_\_\_\_  
[SIGNATURE]

COMMONWEALTH OF VIRGINIA

COUNTY OF \_\_\_\_\_ to wit:

I, \_\_\_\_\_, a Notary Public in and for the jurisdiction aforesaid, do certify that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_ in [his/her] capacity as \_\_\_\_\_, for \_\_\_\_\_ the Owner.

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

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

My Notary Registration Number: \_\_\_\_\_.

**TOWN OF WARRENTON, VIRGINIA**

ATTEST:

\_\_\_\_\_  
[PRINT NAME]  
Program Administrator

\_\_\_\_\_  
[SIGNATURE]

COMMONWEALTH OF VIRGINIA

COUNTY OF \_\_\_\_\_ to wit:

I, \_\_\_\_\_, a Notary Public in and for the jurisdiction aforesaid, do certify that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_ in [his/her] capacity as \_\_\_\_\_, for The Town of Warrenton.

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

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

My Notary Registration Number: \_\_\_\_\_.

**PROPERTY OWNER**

ATTEST:

\_\_\_\_\_  
[PRINT NAME, TITLE]

\_\_\_\_\_  
[SIGNATURE]

COMMONWEALTH OF VIRGINIA

COUNTY OF \_\_\_\_\_ to wit:

I, \_\_\_\_\_, a Notary Public in and for the jurisdiction aforesaid, do certify that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_ in [his/her] capacity as \_\_\_\_\_, for \_\_\_\_\_ the Owner.

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

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

My Notary Registration Number: \_\_\_\_\_.