

Sample Stormwater Facility Maintenance Agreement

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between (Insert Full Name of Owner)

_____, hereinafter called the "Landowner", and the [Local Jurisdiction], hereinafter called the "[Town/City]".

WITNESSETH, that WHEREAS, the Landowner is the owner of certain real property described as (Tax Map/Parcel Identification Number) _____

as recorded by deed in the land records of [Local Jurisdiction] Deed Book _____ Page _____, hereinafter called the "Property".

WHEREAS, the Landowner is proceeding to build on and develop the property; and WHEREAS, the Site Plan/Subdivision Plan known as

_____, (Name of Plan/Development) hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the [Town/City], provides for detention of stormwater within the confines of the property; and

WHEREAS, the [Town/City] and the Landowner, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of [Local Jurisdiction] require that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the [Town/City] 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.

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 on-site stormwater management facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Plan.
2. The Landowner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management facilities in accordance with the required Operation and Maintenance Plan. This includes all pipes, channels or other conveyances built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions. The Stormwater Best Management Practices Operation, Maintenance and Management Checklists are to be used to establish what good working condition is acceptable to the [Town/City].

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3. The Landowner, its successors and assigns, shall inspect the stormwater management facility and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, basin areas, access roads, etc. Deficiencies shall be noted in the inspection report.
 4. The Landowner, its successors and assigns, hereby grant permission to the [Town/City], its authorized agents and employees, to enter upon the Property and to inspect the stormwater management facilities whenever the [Town/City] deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The [Town/City] shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.
 5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management facilities in good working condition acceptable to the [Town/City], the [Town/City] may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. This provision shall not be construed to allow the [Town/City] to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the [Town/City] 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 [Town/City].
 6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
 7. In the event the [Town/City] 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, its successors and assigns, shall reimburse the [Town/City] upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the [Town/City] hereunder.
 8. This Agreement imposes no liability of any kind whatsoever on the [Town/City] and the Landowner agrees to hold the [Town/City] harmless from any liability in the event the stormwater management facilities fail to operate properly.
 9. This Agreement shall be recorded among the land records of [Local Jurisdiction] and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

WITNESS the following signatures and seals:

Company/Corporation/Partnership Name (Seal)

By: _____

(Type Name and Title)

The foregoing Agreement was acknowledged before me this ____ day of
____, 20____, by

_____.

NOTARY PUBLIC

My Commission Expires: _____

By: _____

(Type Name and Title)

The foregoing Agreement was acknowledged before me this ____ day of
____, 20____, by

_____.

NOTARY PUBLIC

My Commission Expires: _____

Approved as to Form:

[Town/City] Attorney Date