

PATRICK COUNTY, VIRGINIA



MAINTENANCE AGREEMENT FOR PERMANENT STORMWATER MANAGEMENT SYSTEMS AND BMPs

This agreement is entered into this _____ day of _____, _____ by and between _____, hereinafter referred to as the "Owner", grantor, and the Board of Supervisors of Patrick County, Virginia, hereinafter referred to as the "County", grantee,.

W I T N E S S E T H

WHEREAS, the owner has submitted a development plan for a project known as _____, which includes, among other features, a system that regulates peak rates of discharge and/or quality of runoff water (the term system includes any and all components designed to regulate flow, provide storage for runoff water, remove pollutants from runoff water and increase infiltration of runoff water into the soil; herein referred to as "best management practice(s)" or BMP(s)); and WHEREAS, the owner will install the system(s) in order to comply with the Virginia Stormwater Management Act, the Virginia Erosion and Sediment Control Law, the Patrick County Stormwater Management Ordinance, and all attending regulations and specifications of the aforementioned.

WHEREAS, this system(s) includes the following stormwater BMP(s) (reference BMP practice and decimal coordinates for each) _____

_____ ; and

WHEREAS, it is in the best interests of both parties and the general public to ensure proper maintenance of the system(s) including all BMP(s); and

WHEREAS, a maintenance plan (Attachment(s) _____) for each BMP has been submitted by the Owner and approved by the County in conjunction with this agreement; and

WHEREAS, both parties desire to ensure sufficient maintenance to maintain the integrity of the system(s) and the proper function of the BMP(s);

NOW, THEREFORE, for and in consideration of the mutual covenants stated below, the parties agree as follows:

1. The County shall:

- A. Release construction performance guarantee(s) only after as-built (record) plans and other appropriate certifications, showing adequate completion of the system(s) and BMP(s), has been submitted and approved by the County and after an inspection report prepared by County staff recommends approval of the system(s) and BMP(s).
- B. Perform maintenance inspections at least once every five years and provide copies of the maintenance inspection reports to the Owner. These inspections will be performed at reasonable times and with the Owner or representative(s) of the Owner, if available. Periodic inspections may be conducted after storms which produce high rates of runoff. Whenever possible, the County shall notify the Owner or the Owner's representative prior to entering the property.
- C. Not pay any compensation to the Owner, its administrators, executors, assigns, heirs, or any other successors in interest at any time for its use of the property in any way necessary for the inspection and maintenance of the system(s) or BMP(s), including access to the system(s) or BMP(s).

2. The Owner shall:

- A. Construct the system(s) and BMP(s) in accordance with the approved plans. Provide as-built (record) data and drawings, soil/geotechnical reports, and other certifications requested by the County in order to document compliance with the approved plans and the requirements set forth in the Virginia Stormwater Management Law and attending regulations. The as-built (record) drawing shall be appropriately sealed and signed by a professional engineer registered in the Commonwealth of Virginia and there shall be affixed to the record drawing a certification statement which certifies that the system(s) including all BMPs have been constructed in accordance with the approved plans. Where the as-built condition varies significantly from the approved plans, appropriately revised calculations shall be provided by the professional engineer certifying the system(s) and BMP(s).
- B. Provide maintenance which keeps the system(s) and BMP(s) in good working order acceptable to the County. At a minimum, maintenance shall be provided in accordance with the attached maintenance plan(s) and the Owner hereby agrees to abide by all terms and conditions of said maintenance plan(s). Such maintenance shall be provided in perpetuity unless and until both parties formally enter into a revised agreement or the system(s) and or BMP(s) are removed from service. The Owner shall notify the county and gain their approval prior to removing the system(s) or BMP(s) from service. The

Owner shall perform maintenance inspections at the time intervals specified within the attached maintenance plan(s).

- C. Provide a right of ingress and egress for the County and agents of the County for their maintenance inspections and, if deemed by the County to be needed and not adequately done by the Owner within a reasonable time after due notice, for the maintenance and repair of the system(s) and BMP(s). Thirty (30) days shall normally be regarded as a reasonable time. The Owner shall reimburse the County for maintenance and repair costs within ten (10) business days after receiving a request for reimbursement. It is expressly understood and agreed that the County is under no obligation to maintain or repair said system(s) and BMP(s), and in no event shall this agreement be construed to impose any such obligation on the County. However, if the County performs or otherwise provides maintenance and/or repair, the Owner will hold harmless and indemnify the county with regard to any damage to or destruction of personal or real property.
- D. Retain written inspection reports and records of repairs and shall immediately provide access to those reports and records to the County upon request. Inspection reports shall be recorded upon the inspection report forms included with the maintenance plan(s) attached hereto. The county will endeavor to inform and provide to the Owner any updated or amended inspection report forms as soon as they become available. The Owner shall be responsible for providing all replicated copies of the inspection report forms provided to them by the County that may be necessary to properly perform their inspections and for the proper retention of their records.
- E. Record this agreement in the land records of Patrick County along with a copy of the approved maintenance plan(s). The Owner also stipulates by this agreement, that final plats for any land on which the system(s) and BMP(s) and/or any portion of the system(s) and BMP(s) are situated will include a reference to this agreement and to its location (deed book designation, page number, etc.) in the land records of Patrick County.
- F. Agree, that the terms of this agreement shall be binding upon the heirs, successors and assigns of the Owner and that any subsequent owner of the property shall be responsible for the continued operation and maintenance of the system(s) and BMP(s) and shall hold the County harmless from any loss, damage, injury, cost or other claim resulting from the operation or maintenance of the subject system(s) and BMP(s). Shall notify the County within a reasonable time frame of any change of ownership.
- G. Agree, that for any system(s) or BMP(s) to be maintained by a property owners association, deed restrictions and covenants will include membership in the property owners association responsible for providing maintenance of the system and BMP(s).
- H. Agree that it, its executors, administrators, assigns, heirs, and other successors of interest shall indemnify and hold Patrick County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against Patrick County from the construction, operation, and/or maintenance of the system(s) and BMP(s) by the Owner or Patrick County. In the event a claim is asserted

against Patrick County, its agents or employees, Patrick County shall promptly notify the Owner and the Owner shall defend, at its own expense, any suit based on such claim. If any judgment or claim against Patrick County, its agents or employees shall be allowed, the Owner shall pay all costs and expenses in connection therewith.

WITNESS THE FOLLOWING SIGNATURES

OWNER: _____ NAME: _____

TITLE:

ADDRESS:

BY:

STATE OF:

COUNTY/CITY OF: _____, to wit: _____

The foregoing agreement was acknowledged before me

Owner.

My commission expires

Notary Public # ()

WITNESS THE FOLLOWING SIGNATURES

PATRICK COUNTY BOARD OF SUPERVISORS

By: _____
County Administrator

STATE OF: _____

COUNTY/CITY OF: _____, to wit:

The foregoing agreement was acknowledged before me

this _____ day of _____, _____, by
_____, County Administrator.

My commission expires _____

Notary Public # ()

Approved as to form: _____

County Attorney