

**Metropolitan Nashville – Davidson County - Inspection and Maintenance Agreement;
Declaration of Restrictions and Covenants; Long Term Maintenance Plan Instructions**

INSPECTION AND MAINTENANCE AGREEMENT
FOR PRIVATE STORMWATER MANAGEMENT FACILITIES

Grading Permit No.: _____

Map & Parcel No.: _____

Project Name & Address: _____

THIS AGREEMENT, made this ____ day of _____, 20____, by and between _____, hereinafter referred to as the "OWNER(S)" of the following property and Metropolitan Government of Nashville and Davidson County, Tennessee, hereinafter referred to as the "METROPOLITAN GOVERNMENT",

WITNESSETH

WE, the OWNER(S), with full authority to execute deeds, mortgages, other covenants, do hereby covenant with the METROPOLITAN GOVERNMENT and agree as follows:

1. The OWNER(S) covenant and agree with the METROPOLITAN GOVERNMENT that the OWNER(S) shall provide for adequate long term maintenance and continuation of the stormwater control measures described in the Long Term Maintenance Plan and shown on the location map, deed of easement drawing or plat attached hereto to ensure that the facilities, are and remain in proper working condition in accordance with approved design standards, rules and regulations, and applicable laws. The OWNER(S) shall perform preventative maintenance activities at intervals described in the inspection schedule included in the Long Term Maintenance Plan along with necessary landscaping (grass cutting, etc.) and trash removal as part of regular maintenance.
2. The OWNER(S) shall submit to the METROPOLITAN GOVERNMENT an annual report by July 1st of each year. The report shall document the inspection schedule, times of inspection, remedial actions taken to repair, modify or reconstruct Systems and Facilities, the state of control measures, and notification of any planned change in responsibility for such Systems and Facilities.
3. The OWNER(S) shall submit to the METROPOLITAN GOVERNMENT a report every five years of an inspection performed by a qualified professional as specified by the METROPOLITAN GOVERNMENT. This report shall be submitted on July 1st and will substitute for the annual report detailed in item #3.
4. The OWNER(S) shall grant to the METROPOLITAN GOVERNMENT or its agent or contractor the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the facility.
5. The OWNER(S) shall grant to the METROPOLITAN GOVERNMENT the necessary easements and rights-of-way and maintain perpetual access from public rights-of-way to the facility for the METROPOLITAN GOVERNMENT or its agent and contractor.
6. If, upon inspection, the METROPOLITAN GOVERNMENT finds that OWNER(S) has failed to properly maintain the facilities, the METROPOLITAN GOVERNMENT may order the work performed within ten (10) days. In the event the work is not performed within the specified time, the OWNER(S) agrees to allow the METROPOLITAN GOVERNMENT to enter the property and take whatever steps it deems necessary to maintain the stormwater control facilities. This provision shall not be construed to allow the METROPOLITAN GOVERNMENT to erect any structure of a permanent nature on the land of the OWNER(S) without first obtaining written approval of the OWNER(S).
7. The METROPOLITAN GOVERNMENT is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the METROPOLITAN GOVERNMENT. The OWNER(S) shall reimburse the METROPOLITAN GOVERNMENT upon demand the costs incurred in the maintenance of the facilities.

8. If the OWNER fails to pay the METROPOLITAN GOVERNMENT for the above expenses after forty-five (45) days written notice, the OWNER authorizes the METROPOLITAN GOVERNMENT to collect said expenses from the OWNER through appropriate legal action and the OWNER shall be liable for the reasonable expenses of collection, court costs, and attorney fees.

9. The OWNER(S) and the OWNER(S) heirs, administrators, executors, assigns, and any other successor in interest shall indemnify and hold harmless the METROPOLITAN GOVERNMENT and its officers, agents and employees for any and all damages, accidents, casualties, occurrences, claims or attorney's fees which might arise or be asserted, in whole or in part, against the METROPOLITAN GOVERNMENT from the construction, presence, existence, or maintenance of the stormwater control facilities subject to this AGREEMENT. In the event a claim is asserted against the METROPOLITAN GOVERNMENT, its officers, agents or employees, the METROPOLITAN GOVERNMENT shall notify OWNER(S) and the OWNER(S) shall defend at OWNER(S) expense any suit based on such claim. If any judgment or claims against the METROPOLITAN GOVERNMENT, its officers, agents or employees, shall be allowed, the OWNER(S) shall pay all costs and expenses in connection therewith. The METROPOLITAN GOVERNMENT will not indemnify, defend or hold harmless in any fashion the OWNER(S) from any claims arising from any failure, regardless of any language in any attachment or other document that the OWNER(S) may provide.

10. The OWNER(S) shall not be able to transfer, assign or modify its responsibilities with respect to this agreement without the METROPOLITAN GOVERNMENT's written prior consent. Nothing herein shall be construed to prohibit a transfer by OWNER(S).

11. No waiver of any provision of this AGREEMENT shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

12. The OWNER(S) shall record a plat showing and accurately defining the easements for stormwater control facilities. The plat must reference the Instrument Number where this AGREEMENT and its or attachments are recorded and contain a note that the OWNER(S) is responsible for maintaining the stormwater management facilities.

13. The OWNER(S) shall record this AGREEMENT in the office of the Register of Deeds for the county of Davidson, Tennessee, and the AGREEMENT shall constitute a covenant running with the land, and shall be binding upon the OWNER(S) and the OWNER(S) heirs, administrators, executors, assigns, and any other successors in interest.

<p>REVIEWED BY:</p> <p>_____</p> <p>FOR THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, DEPARTMENT OF WATER AND SEWERAGE SERVICES</p> <p>PREPARED BY:</p> <p>_____</p> <p>FOR THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, DEPARTMENT OF WATER AND SEWERAGE SERVICES</p>	<p>ATTEST BY OWNERS(S):</p> <p>_____</p> <p>OWNER(S) NAME (PRINTED)</p> <p>BY: _____</p> <p>TITLE: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>OWNER(S) ADDRESS AND PHONE NUMBER</p>
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STATE OF _____

COUNTY OF _____

Before me, _____ of the state and county mentioned, personally appeared _____, with whom I am personally acquainted (or provided to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be president (or other officer authorized to execute the instrument) of _____, the within named bargainor, a corporation, and that such president or officer as such _____, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as _____.

Witness my hand and official seal at office in _____, this _____ day of _____, of the year _____.

Notary Public

My Commission Expires: _____

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, _____ of the state and county mentioned, personally appeared _____, with whom I am personally acquainted (or provided to me on the basis of satisfactory evidence), and who acknowledge themselves to be the Director of Water Services of the Metropolitan Government of Nashville and Davidson County or his designee and as such, being authorized so to do, executed the foregoing instrument of the purposes therein contained.

Witness my hand and official seal at office in _____, this _____ day of _____

Notary Public

My Commission Expires: _____

FOR GOVERNMENT USE ONLY

I, _____, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original documents executed and authenticated according to law.

This instrument has been reviewed and approved by the Metro Water, Property Services.

Signature

**STATE OF TENNESSEE
COUNTY OF DAVIDSON**

Personally appeared before me, the undersigned, a notary for this County and State, _____, who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary Signature

MY COMMISSION EXPIRES: _____

Notary's Seal

This instrument prepared by:
Metropolitan Department of Law
108 Metropolitan Courthouse
Nashville, Tennessee 37201

DECLARATION OF RESTRICTIONS AND COVENANTS

FOR

STORMWATER FACILITIES AND SYSTEMS

Grading Permit No.: _____

Being on the Property conveyed to _____, the deed for which is of record in Instrument No. _____, R.O.D.C., Tennessee.

_____ (individually or collectively, the "Declarant"), the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference (the "Property"), does hereby covenant, agree and declare as follows:

1. Declarant is lawfully seized of the Property and possessed of said land in fee simple and has good right to make the following declarations and covenants.
2. Declarant has prepared and submitted to Metro a Long Term Maintenance Plan (the "Plan") acceptable to Metro, a copy of which is attached hereto, and shall thereafter provide for adequate long term maintenance and continuation of the stormwater control measures described in the Plan to ensure that all stormwater facilities ("Facilities") and systems ("Systems") required by the Plan are and remain in proper working condition in accordance with the Plan and with all applicable rules, regulations and laws. Declarant shall perform preventative maintenance activities at intervals described in the inspection schedule included in the Plan along with necessary landscaping (grass cutting, etc.) and trash removal as part of regular maintenance.
3. Declarant shall submit to Metro an annual report by July 1st of each year. The report shall document the inspection schedule, times of inspection, remedial actions taken to repair, modify or reconstruct Systems and Facilities, the state of control measures, and notification of any planned change in responsibility for such Systems and Facilities.
4. Declarant shall submit to Metro a report every five years of an inspection performed by a qualified professional as specified by Metro. This report shall be submitted on July 1st and will substitute for the annual report detailed in item #3.
5. Declarant hereby accords to Metro and its employees, agents and contractors a perpetual right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the Systems and Facilities.
6. Declarant hereby accords to Metro and its employees, agents and contractors a perpetual right of entry for access from public rights-of-way to the Systems and Facilities.

7. If, upon inspection, Metro determines that Declarant has failed to properly maintain the Systems and Facilities in accordance with the Plan, the Declarant acknowledges that Metro will in that event have the authority to order Declarant to perform such maintenance within ten (10) days. In the event the maintenance is not performed within the specified time, Declarant shall allow Metro to enter the property and take all reasonable steps to maintain the Systems and Facilities. Declarant acknowledges that Declarant understands that Metro is under no duty or obligation to maintain or repair the Systems and Facilities. Declarant shall reimburse Metro in full and upon demand for all costs incurred by Metro in the maintenance or repair of the Systems and Facilities and shall be liable to Metro for the reasonable costs of collection, including without limitation court costs and attorney fees.
8. Declarant shall reimburse Metro in full upon demand in the amount of any judgment rendered against Metro due to Declarant's failure to perform the obligations created by this instrument.
9. The Property may be used for any lawful purpose desired after the construction of all of the Systems and Facilities, provided that structural change, in the opinion of Metro (the discretion to give such opinion on behalf of Metro may be exercised by the Director of Water and Sewerage Services, or the Director's designee), will not destroy, weaken or damage them or interfere with their operation or maintenance. Additionally, prior to any changes or additions to or relocation of the improvements, the Declarant, successors and/or assigns must demonstrate to the satisfaction of the Director of Water and Sewerage Services that any such proposed change, addition, or relocation will not eliminate the improvement or interfere with or significantly change its needed operation, or otherwise pose a danger to the public health or safety. A map depicting any approved change, addition, or relocation of the improvements shall be recorded with reference to this instrument number.
10. These restrictions and covenants under this instrument shall become void if the structures on the property are demolished, the property is prepared for redevelopment, and the Director of Water and Sewerage Services certifies that all portions of the public storm water system on or immediately adjacent to the property have been restored to the existing condition as of the day of the execution of this instrument.

The Declarant shall provide this executed document along with associated recording fees (payable to the Davidson County Register of Deeds) to Metro Water Services for the purpose of recording this Declaration. Upon the recording of this Declaration by Metro in the office of the Register of Deeds for the county of Davidson, Tennessee, the foregoing restrictions and covenants shall run with the land and shall be binding on Declarant and all subsequent owners of the Property (or any portion thereof) and shall inure to the benefit of and be enforceable by Metro, its successors and assigns (although Metro's failure to exercise its enforcement rights in any particular situation shall not be deemed a waiver of them). Declarant, for itself and its successors in interest, further covenants to warrant and forever defend Metro's enforcement rights regarding the foregoing restrictions and covenants against the adverse claims of all persons. Any plat recorded at or after the date of the filing of this Declaration shall reference the instrument number where this Declaration and its attachments are recorded and contain a note that the Declarant is responsible for maintaining the Systems and Facilities. The foregoing covenants and restrictions may not be modified or amended except by a recorded instrument signed by Declarant and Metro (the discretion to do so on behalf of Metro may be exercised by the Director), or their respective successors or assigns, and shall not be extinguished by merger of title or otherwise.

WITNESS my/our hand(s), this __ day of _____, 20__.

Declarant

Declarant

**STATE OF TENNESSEE
COUNTY OF DAVIDSON**

Before me, _____, a Notary Public of the State and County
aforesaid, personally appeared _____
with whom I am personally acquainted, and who, upon oath, acknowledged _____
to be _____
the within named bargainer(s), _____ and that _____, as
such _____
being authorized to do so, executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal this ____ day of _____, 20__.

_____, Notary Public

My Commission Expires _____.

FOR GOVERNMENT USE ONLY

I, _____, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original documents executed and authenticated according to law.

This instrument has been reviewed and approved by the Metro Water, Property Services.

Signature

**STATE OF TENNESSEE
COUNTY OF DAVIDSON**

Personally appeared before me, the undersigned, a notary for this County and State, _____, who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary Signature

MY COMMISSION EXPIRES: _____

Notary's Seal

Long Term Maintenance Plan Instructions

The Long Term Maintenance Plan is a component of the Maintenance Document for the development or site. One of the purposes of the Long Term Maintenance Plan is to inform property owners about the system components on their properties, so that they will know the locations and maintenance needs of the components and structural BMPs.

The Long-Term Maintenance Plan must include or address the following elements:

- Description and locations of stormwater system components to be inspected, prepared by the engineer.
- Schedule of inspections and the techniques used to inspect and maintain the systems to ensure that they are functioning properly as designed. Documentation checklists for each type of BMP including the inspection schedule and potential maintenance items that must be addressed. Templates for checklists are found in this Appendix.
- Where and how the trash, sediment and other pollutants removed from the stormwater system will be disposed.
- Schematics of BMPs located on the site.
- Person(s) and phone number(s) of who will be responsible for inspection and maintenance. If the organization that will be responsible is yet to be organized, list the name, address and phone number of the person or entity with interim responsibility.
- Provisions for permanent access and maintenance easements.