CITY OF HARRISONBURG, VA

DESIGN & CONSTRUCTION STANDARDS MANUAL

APPENDIX I

STORMWATER MANAGEMENT/ BMP FACILITIES MAINTENANCE AGREEMENTS

Procedures for Submitting Agreements

- Agreements are submitted to the City of Harrisonburg, Department of Planning & Community Development, 409 S. Main Street, Harrisonburg, Virginia 22801.
- Obtain **original** agreement from the Department of Planning & Community Development or from the City's Design Construction Standards Manual (DCSM).
- **Type** all information on form.
- **Submit** draft agreement with exhibit(s) for City review **prior to signature.**

Following approval:

- Sign form in **black ink**.
- Signature must be properly notarized (black ink).
- If the Landowner is a corporation, partnership, trust, limited liability company, etc., provide official/legal documentation that the person signing is authorized to sign legal/contractual documents for the organization.
- Record agreement in County Clerk's office and provide copy of stamped document to City.

CITY OF HARRISONBURG, VA

STORMWATER MANAGEMENT/BMP FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of _____ , ____ , by and between _____ hereinafter called the
(Insert Full Name of Owner)
"Landowner", and the City of Harrisonburg, a Virginia municipal corporation, hereinafter called the "City".

WITNESSETH:

WHEREAS, the Landowner is the owner of certain real property described as City of Harrisonburg Tax Map/Parcel _____ as recorded by deed in the land records of Rockingham County, Virginia, 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, _____, prepared by _____ and dated _____, hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City, provides for Best Management Practices (BMPs) for detention and/or treatment of stormwater within the confines of the property; and

WHEREAS, approximate locations of specific BMP facilities included on the Plan are shown on the attached (indicate by x):

___ Copy of City-approved final subdivision plat, or

___ City-approved scaled exhibit drawing of property; and

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

WHEREAS, the City requires that on-site stormwater management/BMP 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/BMP 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/BMP facilities. This includes all pipes and channels 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 requiredInspection Report form(s) is(are) to be used to establish what good working condition is acceptable to the City.

3. The Landowner, its successors and assigns, shall inspect the stormwater management/BMP facility and submit an inspection report every five years by the method and date prescribed in the latest City's Design and Construction Standards Manual. 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, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.

4. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management/BMP facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The 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/BMP facilities in good working condition acceptable to the City, the City may, after proper notice, 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. The City shall allow Landowner 90 days to make necessary repairs before taking this action; however, for large scale repair work the City may, on a case-by-case basis, allow the Landowner to present for consideration an Action Plan and schedule for repairs. In such cases the City may require a bond, letter of credit, cash escrow or other acceptable surety to guarantee the work. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner. It is expressly understood and agreed that the 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 City.

6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. A maintenance schedule should follow those prescribed in the Plan, along with any recommendations included in the City's Design and Construction Standards Manual, manufacturers' guidelines, etc. This schedule shall be followed by the landowner, its successors and assigns.

7. In the event the 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 City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder. This shall include costs which exceed those obtained through a surety provided in association with an Action Plan as described in Item 5 above.

8. Landowner, by execution of this Agreement, acknowledges that he/she has reviewed with the Engineer the specifics of the Plan and understands the function and maintenance requirements of all BMPs provided for on the Plan. Landowner agrees to maintain a copy of the Plan through the duration of ownership, and to transfer that plan to the new owner upon relinquishing the property.

Project Name: _____

9. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management/BMP facilities fail to operate properly.

10. This Agreement shall be recorded among the land records in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, heirs and any other successors and assigns in interests, including any homeowners association.

11. This agreement shall be governed by the laws of the Commonwealth of Virginia.

12. Any disputes arising from or as a result of this Agreement shall be resolved in the Circuit Court of Rockingham County, Virginia.

13. If any provision of this Agreement is found to be illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision of this agreement.

Project Name: _____

WITNESS the following signatures and seals:

_____

_____

_____
Company/Corporation/Partnership Name
By: _____
_____
(Type Name)
_____
(Type Title)

STATE OF _____
CITY/COUNTY OF _____
The foregoing Agreement was acknowledged before me this day _____ of ,_____, _____, by _____.

_____
NOTARY PUBLIC
My Commission Expires: _____
My Commission No. is: _____

Project Name: _____

CITY OF HARRISONBURG, VIRGINIA

By: _____
Kurt D. Hodgen

Its: City Manager

STATE OF _____
CITY/COUNTY OF _____
The foregoing Agreement was acknowledged before me this day ____ of _____, _____, by Kurt D. Hodgen, City Manager.

_____
NOTARY PUBLIC
My Commission Expires: _____
My Commission No. is: _____

Approved as to Form:

_____ _____
City Attorney Date

Project Name: _____