

STORMWATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT

THIS AGREEMENT is made and entered into the ___ day of ___, 20__ by and between:

_____, with offices at _____
(hereinafter "Facility Owner"), and _____

The Town of _____, a municipal corporation organized and existing under the laws of the State of New York, with a principal office located at _____ (hereinafter "Town").

WITNESSETH

WHEREAS, the parties hereto desire to enter into an agreement to provide for the construction, maintenance, repair, and continuation of a Storm Water Management Facility (hereinafter "SWMF") as required by the Town of _____; and

WHEREAS, the SWMF shall be constructed in accordance with Town approved plans and shall be privately owned after construction. The agreement shall be binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval; and

WHEREAS, Facility Owner is the owner of a certain parcel of land known as _____, described in certain deed recorded in the Saratoga County Clerk's Office in Book _____ of Deeds at Page _____ (hereinafter referred to as "Premises"), and

WHEREAS, Facility Owner has or proposes to construct townhome apartments, with site improvements, including a SWMF, on the Premises in accordance with the Plans prepared by _____, and approved by the Town of _____ Planning Board (hereinafter the "Plans").

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. The Facility Owner shall construct, maintain, repair and continue a SWMF. The SWMF is one or a series of storm water management practices installed, stabilized and operating for the purposes of controlling storm water runoff and water quality. Such SWMF shall include any storm water control measures necessary to render the Premises in complain with all applicable laws, rules, regulations and ordinances. Such measures may include but shall not be limited to the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices, check dams, hydrodynamic separators and retention ponds.
2. The Facility Owner shall construct and maintain such SWMF on the Premises in accordance with the Plans as approved by the Town of _____ Planning Board on _____ and the Stormwater Pollution Prevention Plan (hereinafter "SWPPP") dated _____ and prepared by _____.
3. The Facility Owner shall maintain, clean, repair, including emergency repairs, replace and continue all measures necessary to ensure full operation and optimum performance of the SWMF. All measures taken to achieve these ends shall be done in accordance with design specifications.
4. The Facility Owner shall provide for the periodic inspection of the SWMF, not less than once in every 12 months, to determine the condition and integrity of the SWMF. Such inspections shall be performed by a professional engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Town within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the SWMF.
5. The Facility Owner shall undertake all necessary repairs, including emergency repairs and replacement of the SWMF at the direction of the Town in accordance with the recommendations of the inspection engineer.
6. Facility Owner hereby agrees to defend, indemnify and hold-harmless the Town of _____ from all suits, costs, claims, and proceedings arising out of the activities carried on by Facility Owner in connection with, resulting from the responsibilities required under or as consequence of the Agreement herein, to the extent of Facility Owner's responsibility for such claims, damages, and losses, except for those claims, suits or proceedings arising solely out of the negligence of the Town of _____.
7. Facility Owner hereby remises, releases and forever discharges to the Town, its officers, agents and employees of and from all claims of any nature resulting in repairs, including emergency repairs, and replacement of the SWMF.
8. The Facility Owner shall not authorize, undertake, or permit alteration, abandonment, modification or discontinuation of the SWMF, without prior written consent of the Town.
9. If ever the Town determines that the Facility Owner has failed to construct, maintain, repair to operate the SWMF in accordance with the project plans and the storm water pollution prevention plan or has failed to undertake corrective action specified by the Town or by the inspecting engineer, the Town is authorized to undertake such steps as are reasonably necessary for the

preservation, continuation, operation, repair or maintenance of the SWMF and to affix the expenses thereof as a lien against the property.

10. Failure to properly maintain the SWMF may result in a violation of the New York State Environmental Conservation Law, the Code of the Town of _____ and this agreement.

11. This agreement shall run with the land and be binding on the parties hereto and their respective heirs, successors and assigns.

12. This Agreement may not be altered except in writing, signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first above written.

By: _____

Town of _____

(Name)

STATE OF NEW YORK)

COUNTY OF) SS:

On the _____ day of _____ in the year of 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on this instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)

COUNTY OF) SS:

On the _____ day of _____ in the year of 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on this instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC