



City of Annapolis
Department of Planning and Zoning
 145 Gorman Street Fl 3
 Annapolis, MD 21401-2529

Permitting@annapolis.gov • 410-260-2200 • Fax 410-263-9158 • TDD use MD Relay or 711 • www.annapolis.gov

Management Agreement – Stormwater for Development

Tax Account No.* _____
 GRD _____ - _____

This Management Agreement (“Agreement”) is made this ____ day of _____, 20____, by and among the City of Annapolis, a municipal corporation of the State of Maryland (“City”), _____ (the “Developer”), and _____ (the “Association”).

Whereas, the Developer owns real property in the City of Annapolis, has applied to the City for a grading permit related to the development of that property, and is entering into this Agreement pursuant to the Code of the City of Annapolis (“City Code”), [Chapter 17.10](#), as may be amended, as part of the City’s grading permit approval process and construction; and

WHEREAS, this Agreement shall run with the Property, as defined herein, and shall be binding on and enforceable against the Developer and its successors and assigns, including the Association and the Individual Owners, as defined herein; and

WHEREAS, the Association has agreed to assume responsibility and liability for the Stormwater Management System, as defined herein, located on the Association’s Common Areas, as defined herein, on the Property; and

WHEREAS, the Developer and its successors and assigns, the Individual Owners of Lots of the Property, as defined herein, have agreed to assume responsibility and liability for the Stormwater Management System located on those Lots in the Property; and

WHEREAS, the Association shall solely have legal obligations under this Agreement with respect to the Common Areas located on the Property, and each Individual Owner of a Lot in the Property shall solely have legal obligations under this Agreement with respect to such Individual Owner’s Lot; and

WHEREAS, the Association shall have no obligations with respect any Lot, and each Individual Owner(s) shall have no obligations with respect to any Common Areas or any other Lot in which the Individual Owner(s) does not have a fee simple interest.

Now, Therefore, in consideration of these premises and the mutual promises and understandings stated herein, and other good and valuable consideration, the sufficiency of which the parties acknowledge, the parties agree as follows:

1. Definitions.

a. "Property" refers to the land in Annapolis, Maryland, known as _____, and described in a deed dated _____, _____ and recorded among the land records of Anne Arundel County, Maryland in liber _____, page _____. The Property has been or will be subdivided into _____ (____) lots (each a “Lot” and collectively the “Lots”), as further described in [Attachment A](#), attached hereto and incorporated herein.

b. "Site Plan" refers to the City-approved “Site, Sediment, Erosion Control, Grading Plan” for the Property prepared by _____, a professional engineering firm or landscape architecture firm licensed in the State of Maryland, the requirements of which, in addition to this Agreement, shall govern the Stormwater Management System to be constructed on the Property. The Site Plan is hereby incorporated into this Agreement by reference.

Remainder of Page Left Intentionally Blank.

* Additional Tax Account Numbers/Deed References

<u>Tax Account Numbers</u>	<u>Deeds</u>
_____	_____
_____	_____
_____	_____
_____	_____

c. "Stormwater Management System" refers to the (specify how many of each device) to be constructed on the Property, and all components associated therewith. Each reference to Stormwater Management System shall apply to the same extent to each such facility, and the obligations as set forth in this Agreement shall apply to the same extent to each such facility.

Green Roof (A-1)	_____	Wet Extended Detention Pond (P-3)	_____
Permeable Pavement (A-2)	_____	Multiple Pond System (P-4)	_____
Reinforced Turf (A-3)	_____	Pocket Pond (P-5)	_____
Disconnection of Rooftop Runoff (N-1)	_____	Shallow Wetland (W-1)	_____
Disconnection of Non-Rooftop Runoff (N-2)	_____	Extended Detention Shallow Wetland (W-2)	_____
Sheetflow to Conservation Area (N-3)	_____	Pond/Wetland System (W-3)	_____
Rainwater Harvesting/Cistern (M-1)	_____	Pocket Wetland (W-4)	_____
Submerged Gravel Wetland (M-2)	_____	Infiltration Trench (I-1)	_____
Landscape Infiltration (M-3)	_____	Infiltration Basin (I-2)	_____
Infiltration Berm (M-4)	_____	Surface Sand Filter (F-1)	_____
Dry Well (M-5)	_____	Underground Sand Filter (F-2)	_____
Micro-Bioretenention (M-6)	_____	Perimeter Sand Filter (F-3)	_____
Rain Garden (M-7)	_____	Organic Filter (F-4)	_____
Grass/Wet/Bio Swale (M-8)	_____	Pocket Sand Filter (F-5)	_____
Enhanced Filter (M-9)	_____	Bioretention (F-6)	_____
Micropool Extended Detention Pond (P-1)	_____	Dry Swale (O-1)	_____
Wet Pond (P-2)	_____	Wet Swale (O-2)	_____

d. "Individual Owners" refers to any and all of the individual property owners that purchased or will purchase one (1) or more Lots within the Property, as further described in Attachment A, and in which applicable portions of the Stormwater Management System may be located.

e. "Common Areas" refers to those area of land which been transferred or are intended to be transferred in fee simple to the Association and in which applicable portions of the Stormwater Management System are located including, without limitation, those areas designated as _____, all as shown on the plat(s) entitled _____, which plat(s) are recorded at _____, _____, or intended to be recorded, among the Land Records of Anne Arundel County, Maryland.

2. Construction.

a. The Developer, at its sole cost and expense, shall construct the Stormwater Management System on the Property in accordance with this Agreement, the Site Plan, and the City Code, [Chapter 17.10](#), as may be amended, and all City standards.

b. All impervious areas on the Property, as depicted on the Site Plan, shall drain towards the Stormwater Management System as shown on the Site Plan.

c. The Developer shall place a note on the recorded subdivision plat(s) for the Property (the "Subdivision Plat"), which Subdivision Plat is incorporated herein by reference, indicating that the Property, the Lots, the Association and the Individual Owners shall be subject to the terms, conditions, and obligations of this Agreement, as recorded in the Land Records of Anne Arundel County, Maryland.

3. Disclosure.

The Developer shall incorporate, within the bylaws and/or covenants of the Association, a provision memorializing this Agreement (the "Provision"). This Provision shall not be incorporated in the bylaws and/or covenants of the Association until reviewed and approved, in writing, by the City Office of Law.

4. Applicability of Obligations and Liabilities.

a. The Association or the Individual Owner(s), as applicable, shall assume the obligations of this Agreement (as set forth herein), and be subject to its provisions and liable for any violation or breach thereof, and all liability resulting from any enforcement action taken by the City pursuant to this Agreement, after all of the following have occurred:

- (1) Liability of Individual Owner(s) of Lot(s) shall commence as to a Lot when the Developer has transferred to the Individual Owner(s) the fee simple interest in such Lot in which applicable portion(s) of the Stormwater Management System are located.
- (2) Liability of the Association shall commence as to the Common Areas when:
 - (a) The Developer has transferred to the Association the fee simple interest in the Common Areas in which applicable portion(s) of the Stormwater Management System are located;
 - (b) The Association is in good standing with the State Department of Assessments and Taxation;
 - (c) The Association has a membership of a majority of the Individual Owners; and
 - (d) The Association is functioning with officers and/or a board of director and has held its first association meeting attended by a quorum of the members of the Association.

b. Until such time that the requirement of Paragraph 4(a)(1) has been achieved, the Developer shall have sole liability for the obligations of this Agreement as to that Lot and any portion of the Stormwater Management System located thereon, and any violation or breach thereof, and all liability resulting from any enforcement action taken pursuant to this Agreement as to that Lot. Until such time that the requirements of Paragraph 4(a)(2) have been achieved, the Developer shall have sole liability for the obligations of this Agreement with respect to any of the Common Areas and any portion of the Stormwater Management System located thereon, and any violation or breach thereof, and all liability resulting for any enforcement action taken pursuant to this Agreement as to those Common Areas.

c. Subject to Paragraph 4(d) below, after the Association or the Individual Owner(s), as applicable, assume the obligations of this Agreement, the Developer shall be jointly and severally liable with the Association and the Individual Owner(s), as applicable, for the obligations of this Agreement and all liability caused by any violation or breach thereof by the Association or the Individual Owner(s), as applicable, and all liability resulting from any enforcement action taken pursuant to this Agreement, and shall be a guarantor of the Association's obligations and the Individual Owner(s)' obligations, as applicable, and liability imposed by this Agreement if the Association's charter is forfeited or the Association is otherwise dissolved, voluntarily or involuntarily, or the Association otherwise becomes defunct, is no longer operating as a viable association or has otherwise become non-functional or is not fulfilling any of its obligations of this Agreement or the Individual Owner(s) are not fulfilling their obligations of this Agreement. This Paragraph 4(c) shall not be construed to limit the Developer's rights against and contribution from the Association and/or Individual Owner(s), as applicable, for any and all damages suffered by the Developer as a result of this Paragraph.

d. The Developer shall serve as a guarantor and shall be jointly and severally liable as set forth in Paragraph 4(c) above until all of the following have occurred:

- (1) The Developer has, to the City's satisfaction and in the City's sole and reasonable discretion, completed the development of the Property in accordance with the approved grading permit plans;
- (2) The City has accepted as-built drawings of the development of the Property in accordance with the approved grading permit plans as being complete and accurate;
- (3) The City has released the full amount of any bond or other security that the Developer has posted in connection with the development of the Property; and
- (4) The Developer has transferred the fee simple interest in each and all of the Lots within the Property to Individual Owners.

e. Once all of the conditions in Paragraph 4(d) above have been met, then the Developer shall have no further liability under this Agreement, except for such liability which it has already incurred prior thereto.

f. At any time after the Developer has no further liability pursuant to this Agreement and the Association's charter is forfeited or the Association is otherwise dissolved, voluntarily or involuntarily, or the Association otherwise becomes defunct, is no longer operating as a viable association or has otherwise become non-functional, then the successor Individual Owners of each Lot of the Property, in accordance with Paragraph 11 below, in addition to any other Individual Owner liability hereunder, shall be subject to the provisions of this Agreement and jointly and severally liable for violations or breaches thereof by the Association (albeit defunct) and for all liability resulting for any enforcement actions taken pursuant to this Agreement relative to the Common Areas.

5. Inspections.

a. After being placed into operation and throughout the life of the Stormwater Management System, the Association and/or the Individual Owner(s), as applicable, shall inspect the Stormwater Management System forty-eight (48) hours after every one-half inch (½") storm or greater, or as otherwise necessary, to allow for proper stormwater management on the Property. These inspections shall consist of monitoring the health of plant materials in the Stormwater Management System, and the flow of stormwater and drainage in the Stormwater Management System and on the Property.

b. In addition to the inspections required in Paragraph 5(a) above, the Association and/or the Individual Owner(s), as applicable, shall routinely:

- (1) Inspect the Property for substantial, persistent or chronic erosion, flooding or ponding that in any manner impacts upon the integrity of the Stormwater Management System; and
- (2) Inspect all gutters, roof leaders and downspouts as frequently as needed to allow for unobstructed flow of stormwater on the Property.

6. Routine Maintenance and Repair.

a. The Association and/or the Individual Owner(s), as applicable, at their respective sole cost and expense, shall timely perform the following routine maintenance and repairs of the Stormwater Management System:

- (1) Remove any stormwater in any rain garden, as applicable, which remains standing in excess of forty-eight (48) hours after any storm and notify the City pursuant to Paragraph 7(a) below.
- (2) Remove all obstructions to the flow of stormwater and drainage on the Property.
- (3) Replace any plantings that are diseased, dying, dead or otherwise in an irreparably unhealthy condition with the same species as indicated in the Site Plan, or other species as approved by the City.
- (4) Repair or replace any rain barrel, as applicable and as needed.
- (5) Maintain the Stormwater Management System free of all oil, grease, grit, litter, garbage, trash, grass clippings, leaves, limbs, branches and other debris.
- (6) Correct or repair areas of erosion, ponding or flooding on the Property.
- (7) Clean all gutters, roof leaders and downspouts as needed for unobstructed flow of stormwater and drainage on the Property.
- (8) Maintain leaf protection at all roof gutter downspout locations on the Property.
- (9) Maintain, repair and replace the Stormwater Management System as otherwise required by the City and when necessary for proper stormwater management on the Property.

b. All maintenance, repair and replacement of the Stormwater Management System pursuant to this Paragraph and this Agreement shall be subject to the City's inspection and final approval.

7. Problems; Substantial Ineffectiveness, Nonfunctioning or Failure.

a. The Association and/or the Individual Owner(s), as applicable, shall notify the City as soon as reasonably possible if:

- (1) Proper draw down of stormwater is not occurring after two (2) consecutive one-half inch (½") storms or greater;
- (2) If there is significant erosion on the Property adversely affecting proper stormwater management on the Property;
- (3) If the Stormwater Management System has ceased to function as designed; or
- (4) If the Stormwater Management System has become substantially ineffective, nonfunctional or has failed.

b. Upon such notice from the Association and/or the Individual Owner(s), as applicable, and pursuant to Paragraph 8 of this Agreement, the City shall have a right of entry on the Property and the Lots to inspect the Stormwater Management System and the Property generally for compliance with the Site Plan, this Agreement and all applicable laws, including all City standards, and to generally monitor stormwater management on the Property.

c. The City shall provide notice to the Association and/or the Individual Owner(s), as applicable, of any finding that stormwater management on the Property is inconsistent or not in compliance with the Site Plan, this Agreement or any applicable laws, including any City standards, and shall specify the remedial action(s) to be taken by

the Association and/or the Individual Owner(s), as applicable.

d. The Association and/or the Individual Owner(s), as applicable, at their respective sole cost and expense, and subject to the City's inspection and final approval, shall timely complete all remedial action stated in the City's notice pursuant to Paragraph 7(c) above.

e. In accordance with Paragraph 8 of this Agreement, if the Association and/or the Individual Owner(s), as applicable, shall fail to perform the remedial action(s) required by the City under this Paragraph 7, the City shall have the right to perform all such work at the Property to bring the Stormwater Management System in compliance with the Site Plan, this Agreement, all applicable laws, including all City standards, and proper stormwater management generally. The City shall assess the Association and/or the Individual Owner(s), as applicable, for all costs and expenses associated with this work pursuant to Paragraph 9 of this Agreement.

8. Access to the Property and the Stormwater Management System.

a. At any time during normal business hours and upon reasonable notice by the City to the Association and/or the Individual Owner(s), as applicable, the Association and/or the Individual Owner(s), as applicable, shall make the Property, the Lots, and the Stormwater Management System available to the City, and its officials, officers, employees, contractors and agents, for inspection.

b. The Association and/or the Individual Owner(s), as applicable, shall maintain the Property and the Lots in a manner that shall not impede personnel, vehicular and equipment access to the Stormwater Management System by the City, and its officials, officers, employees, contractors and agents.

c. The Association and/or the Individual Owner(s), as applicable, at their respective sole cost and expense, and within a reasonable time after the City requests, shall remove all debris, landscaping, improvements and other items on the Property or the Lots that impede personnel, vehicular and equipment access to the Stormwater Management System. If the Association and/or the Individual Owner(s), as applicable, shall fail to do so, the City shall have the right to remove any such debris, landscaping, improvements and other items. The City shall assess the Association and/or the Individual Owner(s), as applicable, for all costs and expenses associated with this removal pursuant to Paragraph 9 of this Agreement.

d. If reasonable attempts to provide notice to the Association and/or the Individual Owner(s), as applicable, pursuant to this Agreement fail, or the City determines for any reason, in its sole discretion, that injury to persons or damage to property or public health or safety is imminent and likely to occur pending notice to the Association and/or the Individual Owner(s), as applicable, and an opportunity to perform maintenance, repair or replacement, the City shall have a right of entry on the Property and the Lots, without providing advance notice, to perform all maintenance, repair or replacement required for compliance with the Site Plan, this Agreement, applicable laws, including all City standards, and proper stormwater management generally. The City shall assess the Association and/or the Individual Owner(s), as applicable, for all costs and expenses associated with this work pursuant to Paragraph 9 of this Agreement.

9. Assessment.

a. The City shall assess the Association and/or the Individual Owner(s), as applicable, for all costs and expenses that the City incurs for labor, materials and other services pursuant to this Agreement (each, an "Assessment"), including all reasonable legal fees and costs the City incurs to collect the Assessment, or to otherwise enforce this Agreement, whether in connection with litigation or otherwise. Assessments shall be made payable to "City of Annapolis", and submitted to the Finance Director, Finance Department, City Hall, 160 Duke of Gloucester Street, Annapolis, Maryland 21401.

b. If the Association and/or the Individual Owner(s), as applicable, fails to pay an Assessment within thirty (30) calendar days after the City requests payment, or after final disposition of any reasonable dispute about such Assessment, the City shall have the right to record the Assessment on the annual property tax bill for the applicable portion of the Property or the Lot(s) and collect payment as ordinary property taxes under the City Code with interest at the maximum lawful annual rate.

10. Records.

a. The Association and/or the Individual Owner(s), as applicable, shall maintain all existing and subsequently generated records relating to the construction, inspection, maintenance, repair and replacement of the Stormwater Management System, and produce them to the City upon the City's request.

b. The Association and/or the Individual Owner(s), as applicable, shall maintain records containing the dates and nature of all inspections, maintenance, repair and replacement of the Stormwater Management System, and provide them to the City upon the City's request.

11. Recordation; Binding.

a. It is expressly agreed that this Agreement shall be recorded among the land records of Anne Arundel

County at the sole cost and expense of the Developer, and that the duties and responsibilities of this Agreement shall run with the title to the Property.

b. Subject to Paragraph 13 of this Agreement, the parties and their respective successors, assigns and purchasers shall be entitled to all of the rights and privileges of this Agreement and shall be bound by all of its duties and responsibilities. All references to the "Developer" herein shall be interpreted to specifically refer to all of the Developer's successors, assigns and purchasers, without regard to privity with the City under this Agreement. All references to the "Association" herein shall be interpreted to specifically refer to all of the Association's successors, assigns and purchasers, without regard to privity with the City under this Agreement. All references to the "Individual Owner(s)" herein shall be interpreted to specifically refer to all of the Individual Owner(s)' respective successors, assigns, heirs and purchasers, without regard to privity with the City under this Agreement.

c. The terms of this Agreement shall be binding upon and shall inure to the benefit of the parties, any successor municipal authorities of the City or any successor quasi-governmental authority. Subject to Paragraph 13 of this Agreement, successor owners of record of the Property or the Lots and/or the successors and assigns of the Developer, the Association and the Individual Owner(s) may assign their benefits, rights, duties and obligations hereunder either as part of the conveyance of the Property as an entirety or severally as part of the conveyances of portions or Lots of the Property.

12. Indemnification.

a. The Developer, the Association and the Individual Owner(s) shall forever indemnify, defend and hold harmless the City, its elected officials, appointees, directors, employees, agents, contractors and representatives from and against all liability for injuries to persons, including death, and damage to City property and other property arising from acts or omissions of the Developer, the Association and the Individual Owner(s), as applicable, or their respective officers, agents, employees, contractors, patrons, volunteers, guests or invitees resulting in connection with this Agreement, the Site Plan or the Stormwater Management System.

b. Developer and/or Association and/or Individual Owner(s) indemnification does not limit any immunity which the City, its elected officials, appointed officers, directors, employees, agents, contractors and representatives are entitled to assert, and includes all costs and expenses, including reasonable attorney's fees, whether or not related to administrative or judicial proceedings.

c. The City, in its sole discretion, may participate in handling its own defense or exclusively handle its own defense, and select its own attorneys, including the City Attorney. The indemnification for attorney fees applies whether or not the City Attorney or other attorney handles the defense.

13. Assignment.

a. Except in connection with a fee simple transfer of the property, no assignment by the Developer, the Association or the Individual Owner(s) of any obligations of this Agreement shall be effective without the City's prior written approval and the prior written acknowledgement of the assignee agreeing to comply with the obligations of this Agreement.

b. Any City-approved assignment shall be in writing which, along with the City's consent and the assignee's acknowledgment, shall be recorded among the land records of Anne Arundel County, Maryland, at the Developer's and/or the Association's and/or the Individual Owner(s)' sole cost and expense.

14. Waiver.

a. No delay or omission on the part of the City to exercise any right or option granted to the City under this Agreement, in any one or more instances shall constitute a waiver of the City's rights hereunder and each such right or option shall remain continuously in full force and effect.

b. The Developer, the Association and the Individual Owner(s) each hereby understand and agree that this Agreement shall not waive any rights, powers or remedies that the City may have pursuant to the City Code, at law or in equity.

15. No Partnership.

Nothing contained in this Agreement shall be construed in a manner to create any relationship between the parties other than expressly specified herein, and the parties shall not be considered partners or co-venturers for any purpose on account of this Agreement.

16. Severability.

In the event any one or more of the provisions of this Agreement shall for any reason be held by a court or other lawful authority to be invalid, illegal or unenforceable, in whole or in part or in any other respect, the remaining provisions hereof shall not be affected thereby, and the Agreement shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.

17. Governing Law.

This Agreement and its interpretation shall be governed by Maryland law. The venue for all actions pursuant to this Agreement shall be the Courts of Anne Arundel County, Maryland. The parties waive trial by jury in all actions brought pursuant to this Agreement.

18. Captions and Headings.

The captions and headings contained in this Agreement are included herein for convenience of reference only and shall not be considered a part hereof and are not in any way intended to limit or enlarge the terms hereof.

19. Integration; Modification.

a. This Agreement is the final and entire agreement of the parties concerning all matters having to do with the Stormwater Management System. The parties acknowledge that there are no other understandings or representations, oral or written, regarding the subject or matters having to do with the Stormwater Management System.

b. None of the terms or provisions of this Agreement may be changed, waived, or modified exempt by written instrument executed by both parties hereto.

20. Counterparts.

This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

21. Notice.

Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or such other address and/or such other individual as a party may identify in writing to the other party:

To the City: Department of Public Works
145 Gorman Street, 2nd Floor
Annapolis, Maryland 21401
Attn: Director

With a Copy to: City Attorney
160 Duke of Gloucester Street
Annapolis, Maryland 21401

To the Developer: _____

To the Association: _____

To the Individual Owner(s): Homeowner Name
Address (according to State Department of Assessments and Taxation)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed under Seal as of the day and year written below.

DEVELOPER:

_____ By: _____ (Seal)
Witness Name: _____
Title: _____

STATE OF MARYLAND, COUNTY OF _____, to wit:

I HEREBY CERTIFY, that on this ____ day of _____, in the year 20____, before me, the subscriber, a Notary Public, personally appeared _____, _____ of the Developer named in the foregoing Agreement, and being authorized to do so, he/she acknowledged the foregoing Agreement to be the act of the Developer, by himself/herself as its _____, and IN MY PRESENCE SIGNED AND SEALED THE SAME.

AS WITNESS my hand and Notarial Seal.

Notary Public _____ My Commission expires _____

ASSOCIATION:

_____ By: _____ (Seal)
Witness Name: _____
Title: _____

STATE OF MARYLAND, COUNTY OF _____, to wit:

I HEREBY CERTIFY, that on this ____ day of _____, in the year 20____, before me, the subscriber, a Notary Public, personally appeared _____, _____ of the Developer named in the foregoing Agreement, and being authorized to do so, he/she acknowledged the foregoing Agreement to be the act of the Developer, by himself/herself as its _____, and IN MY PRESENCE SIGNED AND SEALED THE SAME.

AS WITNESS my hand and Notarial Seal.

Notary Public _____ My Commission expires _____

ATTEST:

CITY OF ANNAPOLIS:

Regina C. Watkins-Eldridge, MMC, City Clerk

By: _____ (Seal)
Gavin Buckley, Mayor

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

OFFICE OF THE CITY ATTORNEY

Return to:

City of Annapolis
Office of Law
160 Duke of Gloucester Street
Annapolis, MD 21401

ATTACHMENT A
LOTS
Attach Diagram of Lots.

ATTACHMENT B
STORMWATER MANAGEMENT SYSTEM
Attach Description/Diagram of Stormwater Management System