

Maintenance Agreement

WHEREAS, the Property Owner _____ recognizes that the wet or extended detention facility or facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called, _____, located in Land Lot(s) _____, District(s) _____, of Cherokee County, Georgia; and,

WHEREAS, the Property Owner is the owner of real property more particularly described on the attached Exhibit A (hereinafter referred to as "the Property"); and,

WHEREAS, Cherokee County (hereinafter referred to as "the County") and the Property Owner, or its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of the County require that the facilities be constructed and maintained on the property; and,

WHEREAS, the Development Regulations require that facility or facilities as shown on the approved development plans and specifications be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

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:

SECTION 1.

The facility or facilities shall be constructed by the Property Owner in accordance with the plans and specifications for the development.

SECTION 2.

The Property Owner, its administrators, executors, successors, heirs or assigns shall maintain the facility or facilities in good working condition, acceptable to the County, and in accordance with the schedule of long term maintenance activities agreed hereto and attached as Exhibit B.

SECTION 3.

The Property Owner, its administrators, executors, successors, heirs or assigns hereby grants permission to the County, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the County deems necessary. Whenever possible, the County shall provide notice prior to entry. The Property Owner shall execute an access easement in favor of Cherokee County to allow the County to inspect, observe, maintain, and repair the facility as deemed necessary. A fully executed original easement is attached to this Agreement as Exhibit C and by reference made a part hereof.

SECTION 4.

In the event the Property Owner, its administrators, executors, successors, heirs or assigns fails to maintain the facility or facilities as shown on the approved plans and specifications in good working order acceptable to the County and in accordance with the maintenance schedule incorporated in this Agreement, the County, with due notice, may enter the property and take whatever steps it deems necessary to return the facility or facilities to good working order. This provision shall not be construed to allow the County to erect any structure of a permanent nature on the property. It is expressly understood and agreed that the County is under no obligation to maintain or repair the facility or facilities and in no event shall this Agreement be construed to impose any such obligation on the County.

SECTION 5.

In the event the County, pursuant to the Agreement, performs work of any nature, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, the Property Owner shall reimburse the County, or shall forfeit any required bond upon demand within thirty (30) days of receipt thereof for all the costs incurred by the County hereunder. If not paid within the prescribed time period, the County shall secure a lien against the real property in the amount of such costs. The actions described in this section are in addition to, and not in lieu of, any and all legal remedies available to the County as a result of the Property Owner's failure to maintain the facility or facilities.

SECTION 6.

It is the intent of this agreement to insure the proper maintenance of the facility or facilities by the Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or caused by storm water runoff.

SECTION 7.

Sediment accumulation resulting from the normal operation of the facility or facilities will be addressed. The Property Owner will make accommodation for the removal and disposal of all accumulated sediments. Disposal will be provided onsite in a reserved area(s) or will be removed from the site. Reserved area(s) shall be sufficient to accommodate for a minimum of two dredging cycles.

SECTION 8.

The Property Owner shall use the standard BMP Operation and Maintenance Inspection Report attached to this agreement as Exhibit D, and by this reference made a part hereof, for the purpose of a minimal annual inspection of the facility or facilities by a qualified inspector.

SECTION 9.

The Property Owner, its administrators, executors, successors, heirs and assigns hereby indemnifies and holds harmless the County and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the County from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner or the County. In the event a claim is asserted against the County, its authorized agents or employees, the County shall promptly notify the Property Owner and the Property Owner shall defend, at its own expense, any suit based on such claim. If any judgment or claims against the County, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith.

SECTION 10.

This Agreement shall be recorded among the deed records of the Clerk of Superior Court of Cherokee County and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, heirs, assigns and any other successors in interest.

SECTION 11.

This Agreement may be enforced by proceedings at law or in equity by or against the parties hereto and their respective successors in interest.

SECTION 12.

Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions and all other provisions shall remain in full force and effect.

MAINTENANCE AGREEMENT SO AGREED this _____ day of _____,
20_____.

PROPERTY OWNER (CORPORATION)

Name of Corporation: _____, a Georgia Corporation

Printed or typed name: _____

By: _____ Title: _____

(President or Vice President)

Printed or typed name and title: _____

Witness: (Signature of Witness) _____ Title: _____

Corporate Secretary or Corporate Secretary Asst)

Printed or typed name and title: _____

CORPORATE SEAL

Attest: (Notary)

STATE OF GEORGIA

COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____, the _____.

and _____, the _____

of the above corporation.

My Commission expires: _____

(Seal)

CHEROKEE COUNTY, GEORGIA

By : _____, the _____ (title)
County Engineer (Per resolution passed by BOC 7/20/2005)
Printed or typed name and title: _____

(SEAL)

Attest: (Notary)
STATE OF GEORGIA
COUNTY OF CHEROKEE

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____, the _____.

of the above Department of Cherokee County Government.
My Commission expires: _____

(Seal)

- Attachments:
Exhibit A (Plat and Legal Description)
Exhibit B (Maintenance and Inspection Schedule)
Exhibit C (Access Easement)
Exhibit D (Standard BMP Operation and Maintenance Inspection Report)

MAINTENANCE AGREEMENT SO AGREED this _____ day of _____, 20_____.

PROPERTY OWNER (PARTNERSHIP)

Name of Partnership: _____, a Georgia Partnership),
Printed or typed name of Partnership _____
By: _____ (managing or general partner)
Printed or typed name of partner: _____
By: _____ (signature)
Printed or typed name of partner _____

(Seal, if any)

Attest: (Notary)
STATE OF GEORGIA
COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____, 20____, by _____, the _____ and _____, the _____ of the above partnership.
My Commission expires: _____

(Seal)

MAINTENANCE AGREEMENT SO AGREED this _____ day of _____,
20____.

**PROPERTY OWNER
(LIMITED LIABILITY CORPORATION)**

Name of LLC: _____
Printed or typed name: _____
By: _____, Title: _____
Printed or typed name and title: _____
Signature of Witness: _____
Printed or typed name and title: _____

(Seal)

Attest: (Notary)
STATE OF GEORGIA
COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____, the _____
and _____, the _____
of the above limited liability corporation.
My Commission expires: _____

(Seal)

MAINTENANCE AGREEMENT SO AGREED this _____ day of _____,
20_____.

**PROPERTY OWNER (INDIVIDUAL OR PROPERTY OWNED
JOINTLY BY SEVERAL INDIVIDUALS)**

By: _____

Signature of Owner

Printed or typed name: _____

By: _____

Signature of Owner

Printed or typed name: _____

By: _____

Signature of Owner

Witness: _____

Printed or typed name: _____

(Seal if any)

Attest: (Notary)

STATE OF GEORGIA

COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____,
and _____, the owner(s) in the above agreement.

My Commission expires: _____

(Seal)

EXHIBIT 'C'

**PERMANENT WATER QUALITY BMP AND ACCESS EASEMENT
AGREEMENT**

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

THIS EASEMENT granted this _____ day of _____, 20_____
between the property owner as party of the first part, hereinafter referred to as Grantor,
and CHEROKEE COUNTY, a political subdivision of the State of Georgia, as party of
the second part, hereinafter referred to as Grantee.

WITNESSETH THAT: Grantor, for and in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid at and before the sealing and delivery of this easement and in consideration of the agreements and covenants contained in this document and the Maintenance Agreement between Grantor and Grantee, hereby grants unto the Grantee an easement in and to that portion of the property shown on Exhibit "A" to the Maintenance Agreement, as shown on the plat attached hereto.

The purpose of this easement is to allow Grantee, or its agents, access for maintenance activities to the Water Quality Best Management Practice (BMP) facility, and to prevent development of the property within the easement following issuance of the Certificate of Occupancy or in the case of a residential subdivision, the approval of the Final Plat, without written permission from the Cherokee County Engineering Department . This easement is required by the provisions of the Maintenance Agreement executed by and between the Grantor and Grantee.

PERMANENT WATER QUALITY BMP AND ACCESS EASEMENT AGREEMENT SO AGREED this _____ day of _____, 20____.

**PROPERTY OWNER
(INDIVIDUAL OR PROPERTY OWNED JOINTLY BY SEVERAL INDIVIDUALS)**

By: _____

Signature of Owner

Printed or typed name: _____

By: _____

Signature of Owner

Printed or typed name: _____

By: _____

Signature of Owner

Witness: _____

Printed or typed name: _____

(Seal if any)

Attest: (Notary)

STATE OF GEORGIA

COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____, 20____, by _____, _____, _____, the owner(s) in the above agreement.

My Commission expires: _____

(Seal)

ATTACHMENTS: EXHIBIT "A" (Plat of Easement)

**PERMANENT WATER QUALITY BMP AND ACCESS EASEMENT
AGREEMENT SO AGREED** this _____ day of _____, 20____.

PROPERTY OWNER (CORPORATION)

Name of Corporation: _____, a Georgia Corporation

Printed or typed name: _____

By: _____ Title: _____

(President or Vice President)

Printed or typed name and title: _____

Witness: (Signature of Witness) _____ Title: _____

Corporate Secretary or Corporate Secretary Asst)

Printed or typed name and title: _____

CORPORATE SEAL

Attest: (Notary)

STATE OF GEORGIA

COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____

_____, 20____, by _____, the _____.

and _____, the _____

of the above corporation

My Commission expires: _____

(Seal)

Attachments: Exhibit "A" (Plat of Easement)

**PERMANENT WATER QUALITY BMP AND ACCESS EASEMENT
AGREEMENT SO AGREED** this _____ day of _____, 200____.

PROPERTY OWNER (PARTNERSHIP)

Name of Partnership: _____, a Georgia Partnership),
Printed or typed name of Partnership _____
By: _____ (managing or general partner)
Printed or typed name of partner: _____
By: _____ (signature)
Printed or typed name of partner _____

(Seal, if any)

Attest: (Notary)
STATE OF GEORGIA
COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____, the _____
and _____, the _____
of the above partnership.
My Commission expires: _____

(Seal)

Attachments: Exhibit "A" (Plat of Easement)

**PERMANENT WATER QUALITY BMP AND ACCESS EASEMENT
AGREEMENT SO AGREED** this _____ day of _____, 200____.

**PROPERTY OWNER
(LIMITED LIABILITY CORPORATION)**

Name of LLC: _____
Printed or typed name: _____
By: _____, Title: _____
Printed or typed name and title: _____
Signature of Witness: _____
Printed or typed name and title: _____

(Seal)

Attest: (Notary)
STATE OF GEORGIA
COUNTY OF _____

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____, the _____
and _____, the _____
of the above limited liability corporation.
My Commission expires: _____

(Seal)

Attachments: Exhibit "A" (Plat of Easement)

EXHIBIT "D"

CHEROKEE COUNTY

BMP Facility Operation and Maintenance Inspection Report for Pond Facilities

Inspector Name Community _____

Inspection Date Address _____

Type of BMP _____

Watershed _____ Tax Map _____

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reqd.	Not Reqd.	
I. POND FACILITIES					
A. Pond Dam Embankments and Emergency Spillways					
1. Vegetation and Ground Cover Adequate					
2. Surface Erosion					
3. Animal Burrows					
4. Unauthorized Planting					
5. Cracking, Bulging, or Sliding of Dam					
a. Upstream Face					
b. Downstream Face					
c. At or Beyond Toe					
Upstream					
Downstream					
d. Emergency Spillway					
6. Pond, Toe & Chimney Drains Clear & Funct.					
7. Seeps/Leaks on Downstream Face.					

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reqd.	Not Reqd.	
8. Slope Protection or Riprap Failures					
9. Vertical and Horizontal Alignment of Top of Dam as Per "As-Built" Plans					
10. Emergency Spillway Clear of Obstructions and Debris					
11. Other (Specify)					
B. Riser and Principal Spillway Type: Reinforced Concrete Corrugated Pipe Masonry *Indicates Dry Ponds Only					
1.* Low Flow Orifice Obstructed					
2.* Low Flow Trash Rack					
a. Debris Removal Necessary					
b. Corrosion Control					
3. Weir Trash Rack Maintenance					
a. Debris Removal Necessary					
b. Corrosion Control					
4. Excessive Sediment Accumulation Inside Riser					
5. Concrete/Masonry Condition Riser & Barrels					
a. Cracks or Displacement					
b. Minor Spalling (<1")					
c. Major Spalling (Rebars Exposed)					
d. Joint Failures					
e. Water Tightness					
6. Metal Pipe Condition					
7. Control Valve					
a. Operational/Exercised					
b. Chained and Locked					

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reqd.	Not Reqd.	
8. Pond Drain Valve					
a. Operational/Exercised					
b. Chained and Locked					
9. Outfall Channels Functioning					
10. Other (Specify)					
C. Permanent Pool - Wet Ponds					
1. Undesirable Vegetative Growth					
2. Floating or Floatable Debris Removal Required					
3. Visible Pollution					
4. Shoreline Problems					
5. Other (Specify)					
D. Dry Pool Areas - Dry Pond					
1. Vegetation Adequate					
2. Undesirable Vegetative Growth					
3. Undesirable Woody Growth					
4. Low Flow Channels Clear of Obstructions					
5. Standing Water or Wet Spots					
6. Sediment and/or Trash Accumulation					
7. Other (Specify)					
E. Condition of Outfalls into Pond Area					
1. Rip Rap Failures					
2. Slope Invert Erosion					
3. Storm Drain Pipes					
4. Endwalls / Headwalls					
5. Other (Specify)					

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reqd.	Not Reqd.	
F. Other					
1. Encroachments on Pond or Easement Area (Be Specific)					
2. Complaints from Local Residents (Describe on Back)					
3. Aesthetics					
a. Grass Mowing Reqd.					
b. Graffiti Removal Reqd.					
c. Other					
4. Public Hazards (Be Specific)					
5. Maintenance Access					

SUMMARY

1. Inspector's Remarks:

2. Overall Condition of Facility (Check One) Acceptable _____
 Unacceptable _____

3. I hereby certify under penalty of perjury that I have performed the inspections and made a good faith effort to identify the items that need maintenance. I further certify that failure to inspect or misrepresent the need for maintenance could result in my liability for personal or property damage.

Signed: _____ Date: _____

Inspector's printed or typed name: _____

CHEROKEE COUNTY, GEORGIA

By : _____, the _____ (title)
County Engineer (Per resolution passed by BOC 7/20/2005)
Printed or typed name and title: _____

(SEAL)

Attest: (Notary)
STATE OF GEORGIA
COUNTY OF CHEROKEE

The foregoing Agreement was acknowledged before me this _____ day of _____
_____, 20____, by _____, the _____.

of the above Department of Cherokee County Government.
My Commission expires: _____

(Seal)

- Attachments:
Exhibit A (Plat and Legal Description)
Exhibit B (Maintenance and Inspection Schedule)
Exhibit C (Access Easement)
Exhibit D (Standard BMP Operation and Maintenance Inspection Report)