

## Appendix D: Maintenance Covenant

State of South Carolina )  
 )  
Berkeley County )

Permanent Stormwater Facility  
Maintenance and Responsibility Agreement  
Tax Map No. \_\_\_\_\_

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between \_\_\_\_\_ (hereinafter referred to as Landowner) and Berkeley County, and political subdivision of the State of South Carolina (hereinafter referred to as County).

It is agreed as follows:

**Landowner Responsible for Stormwater Facility:**

The South Carolina Stormwater Management and Sediment Reduction Act of 1991 (§48-14-10, et. seq.) and Regulation 72-308 provide that a Landowner shall adequately establish and maintain stormwater Best Management Practices (BMP) facilities upon making certain improvements to the Landowner’s property. This law applies to any individual, partnership, corporation or other entity, constructing a stormwater facility. It also applies to all subsequent owners of the property. The obligation applies to the maintenance of all pipes, equipment, and channels built to convey stormwater to a management facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater on the property. (All fixtures and graded or excavated improvements for controlling stormwater are herein the “Facility”). Adequate maintenance is herein defined as keeping the Facility in good working condition so that the Facility is performing all its design functions in accordance with the purposes for which it is designed.

**Maintenance Required:**

The Landowner, its successors and assigns, will perform the maintenance, repair, and replacement necessary to keep the Facility in good working order. The maintenance schedule for the Facility (including sediment removal) that is outlined on page 4 of this agreement must be followed.

**Inspection Required:**

The Landowner, its successors and assigns, shall regularly and periodically inspect the Facility in its entirety. Records shall be kept identifying the dates and maintenance performed and shall be made available to the County at the County’s request. The purpose of the inspection is to assure safe and proper functioning of the Facility. The inspection shall cover all parts of the Facility including, but not limited to, berms, outlet structures, pond areas, and access roads. The Landowner’s failure to inspect shall be treated as a breach of this Agreement just as much as a failure to repair if repair is required after inspection.

**Access Permitted:**

The Landowner grants permission to the County, its authorized employees and agents, to enter upon

the Property and to inspect the Facility whenever the County deems necessary. The purpose of the inspection is to follow-up on reported or observed deficiencies, to respond to citizen complaints, or to inspect if a significant time has passed after the last inspection. The County shall provide the Landowner a copy of the inspection findings and a directive to commence with the repairs if necessary. In the case of multiple Landowners of a single property, notice to one shall suffice as notice to all.

**No Duty on the County:**

This Covenant creates no affirmative duty on the County to inspect, and it imposes no liability of any kind whatsoever on the County for omissions in inspecting. The Landowner agrees to hold the County harmless from any liability in the event the Facility fails to operate properly due to the Landowner's failure to abide by the terms of this Agreement.

**Landowners Covenant:**

The Landowner accepts responsibility for ownership and proper maintenance of the stormwater system, the Facility (ponds, swales, etc.) on the \_\_\_\_\_ site located at \_\_\_\_\_, Berkeley County, South Carolina, per the approved maintenance plan. Landowner will complete any necessary repairs and/or preventive maintenance procedures in a timely manner to ensure proper functioning of stormwater management device(s).

Landowner understands that the maintenance plan may be amended or revised at any time by the County to address changed conditions or to address conditions not being effectively met by the Facility. Following the County's sending notice, the Landowner will abide by any prescribed changes.

This covenant to maintain the Facility shall run with the land. Landowner(s) will continue to own and maintain the Facility until the County is notified in writing of a transfer in ownership and maintenance responsibility. The notification will include a date for the transfer of responsibility which will become effective upon the County's receipt of a letter of acceptance from the new owner. Notwithstanding the provision for a letter of acceptance, any new Landowner shall be responsible for all duties and obligations created by this Permanent Stormwater Facility and Maintenance Responsibility Agreement upon it being executed and filed in the Register of Deeds Office for Berkeley County.

Landowner understands that failure to adhere to the signed Maintenance Covenant may result in fines of up to \$1,000.00 per day, per violation and /or the institution of a court action, or such other and additional penalties, fines, or assessments as shall be enacted and provided for by the general law of the state or by local regulations lawfully enacted.

(Signatures contained on the next page)



[PROJECT NAME]

**SEDIMENT AND EROSION CONTROL MAINTENANCE PLAN**

TOWN/CITY OF \_\_\_\_\_, BERKELEY COUNTY, SC

RESPONSIBLE PARTY: [COMPANY OR INDIVIDUAL NAME]

REQUIRED MAINTENANCE

FREQUENCY