



**BOTETOURT COUNTY, VIRGINIA**  
**BOARD OF SUPERVISORS**

1 West Main Street, #1, Fincastle, Virginia 24090

**STORM WATER MANAGEMENT INFRASTRUCTURE  
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between (Insert Full Name of Owner) \_\_\_\_\_ hereinafter called the "Landowner", and the Board of Supervisors of Botetourt County, Virginia, hereinafter called the "County".

WITNESSETH, that WHEREAS, the Landowner is the owner of certain real property described as (Botetourt County tax Map/Parcel Identification Number) \_\_\_\_\_ as recorded by deed in the land records of Botetourt 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 \_\_\_\_\_, (Name of Plan/Development) hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the County, provides for detention and conveyance of stormwater within the confines of the property; and <sup>i</sup>

WHEREAS, the County and the Landowner, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of Botetourt County, Virginia, require that on-site stormwater management/BMP facilities be constructed and maintained on the Property; and WHEREAS, the County requires that on-site stormwater management infrastructure 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 infrastructure 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 infrastructure. This includes all pipes and channels built to convey stormwater, as well as all structures, improvements, and vegetation provided to control the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions.
3. The Landowner, its successors and assigns, shall inspect the stormwater management infrastructure and submit an inspection report annually to Botetourt County. 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.



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4. The Landowner, its successors and assigns, hereby grant permission to the County, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management infrastructure whenever the County deems necessary. The County 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 correct deficiencies identified in the inspection report to the stormwater management/BMP facilities to a condition acceptable to the County, the County may 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. This provision shall not be construed to allow the County to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management/BMP facilities. It is expressly understood and agreed that the County 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 County.

6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management infrastructure (including sediment removal) is outlined on the approved plans, the schedule will be followed.

7. It is further covenanted by the Landowner that it will not at any time dedicate the Facilities to the public, to public use or to Botetourt County nor will it subdivide the above Property without the Deed of Conveyance reciting that a proportionate share of the above-described covenant of maintenance and cost associated with other of the obligations and duties contained herein runs with each subdivided part of the original tract of land. The Landowner also covenants that any Deed of Conveyance of any such subdivided part shall require that the Grantee become a member of any Property Owner's Association that is created.

8. In an event of emergency involving the Facilities, as determined by the Botetourt County Erosion and Sediment Control Administrator, the County or its agent may enter immediately upon the Property and take whatever reasonable steps it deems necessary to meet the emergency. The County shall notify the Landowner of such emergency and entry as soon as possible but in no event later than twenty-four (24) hours after such entry. Alternatively, the County may notify the Landowner by phone to take whatever reasonable action is necessary within a specified period of time. Should the Landowner fail to respond, or should the Landowner inform the County that it intends not to respond within the specified period of time, the County or its agent may enter immediately upon the land and take whatever reasonable steps it deems necessary to meet the emergency.

9. In the event the County 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 County upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the County hereunder.

10. Any amounts owed to the County and not paid within thirty (30) days of the date of notification shall be the joint and several obligations of the Landowner of record of the Property or any portion thereof served by the Facilities, on the date the liability arose and all of the successors in interest of such Landowner. The full amounts owed shall be liens on the Property and on each and every portion of the



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Property. Liens shall be recorded by the County in the Lien Book, in the Clerk’s office of the Circuit Court of Botetourt County or, if this is not possible for any reason, in a Lien book maintained by and in the office of the Botetourt County Erosion and Sediment Control Administrator

11. This Agreement imposes no liability of any kind whatsoever on the County and the Landowner agrees to hold the County harmless from any liability in the event the stormwater management infrastructure fails to operate properly.

12. In the event a claim is asserted against the County, its agents or employees, the County shall promptly notify the Landowner and Landowner shall defend at its own expense any suit based on such claim. If any judgment or claim against the County, its agents or employees shall be allowed, the Landowner shall pay all costs and expenses immediately.

13. The Landowner shall promptly notify the County when the Landowner transfers its interest in the Property or any portion thereof. The Landowner shall supply the County with a duly executed copy of any document of transfer.

14. Except for the telephone notice in paragraph 8 above, notices required by this Agreement shall be effective as delivered by the US Postal Service. Any notice to the County shall be given to the Botetourt County Erosion and Sediment Control Administrator, 5 West Main Street, Suite 202, Fincastle, VA 24090, and to the Landowner in the name and at the address given below:

To Landowner:            Name: \_\_\_\_\_  
(please print)  
   Address: \_\_\_\_\_  
   \_\_\_\_\_  
   Phone No. (     ) \_\_\_\_\_

*The Landowner agrees to notify the County immediately upon any change of legal status or of address.*

15. This Agreement shall be recorded among the land records of Botetourt County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

16. The laws of the Commonwealth of Virginia shall govern the construction of this Agreement and all claims and actions related to this Agreement shall be filed in the Botetourt County General District Court or the Botetourt County Circuit Court.

17. The Landowner shall submit, attached to this agreement and recorded with the deed a description and plat of the stormwater infrastructure describing all and any type of installed practices and dedicated easements. The attachment shall be on standard letter (8.5x 11) sized paper. This Agreement shall be recorded in the Botetourt County Circuit Court Clerk’s office.



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IN WITNESS OF ALL which the parties hereto have caused this agreement to be executed on their behalf.

Legal Names and Addresses:

By: \_\_\_\_\_ as \_\_\_\_\_  
Duly Authorized Officer Title

on behalf of: \_\_\_\_\_  
Principal

\_\_\_\_\_  
State of Incorporation

\_\_\_\_\_  
Type of Organization

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ IRS ID#: \_\_\_\_\_

State of \_\_\_\_\_:

County/City of \_\_\_\_\_, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_,  
by \_\_\_\_\_, Duly authorized officer, as  
\_\_\_\_\_, Title.

My Commission expires:

\_\_\_\_\_  
Notary Public



**BOTETOURT COUNTY, VIRGINIA**

**ACCEPTED:**

BOARD OF SUPERVISORS OF BOTETOURT COUNTY, VIRGINIA

\_\_\_\_\_, County Administrator

State of \_\_\_\_\_:

County/City of \_\_\_\_\_, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by \_\_\_\_\_, Duly authorized officer, as County Administrator.

My Commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Effective: July 26, 2005