

THIS AGREEMENT, made this ____ day of _____, 20____, by and between _____, hereinafter referred to as the "OWNER(S)" and the City of Creedmoor, North Carolina, hereinafter referred to as the "CITY",

WITNESSETH, that

WHEREAS, the OWNER is the owner of certain real property described as _____ as recorded by deed in the land records of Granville County, (Granville County Map/Parcel Identification Number)

Deed Book _____ Page _____, Parcel Identification Number _____ hereinafter called the "Property".

WHEREAS, the OWNER 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 CITY, provides for treatment of stormwater within the confines of the property; and

WHEREAS, the CITY and the OWNER, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of Creedmoor, North Carolina, require that on-site structural stormwater BMP facilities be constructed and maintained on the Property; and

WHEREAS, the CITY requires that on-site structural stormwater Management facilities as shown on the Plan be constructed and adequately maintained by the OWNER, 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 structural stormwater Management facilities shall be constructed by the OWNER, its successors and assigns, in accordance with the plans and specifications identified in the Plan.
2. The OWNER, its successors and assigns, including any homeowners association, shall adequately maintain the structural stormwater BMP facilities in accordance with the approved Operation and Maintenance Manual(s). This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions.
3. The OWNER, its successors and assigns, shall ensure the structural stormwater BMP facility is inspected by a qualified professional and shall submit an inspection report. The inspection report shall be due annually 30 days from the date of the final structural stormwater Management facilities construction inspection. 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.
4. The OWNER, its successors and assigns, hereby grant permission to the CITY, its authorized agents and employees, to enter upon the Property and to inspect the structural stormwater Management facilities whenever the CITY deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The CITY shall provide

the OWNER, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.

5. In the event the OWNER, its successors and assigns, fails to maintain the structural stormwater Management facilities in good working condition acceptable to the CITY, the CITY 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 OWNER, its successors and assigns. This provision shall not be construed to allow the CITY to erect any structure of permanent nature on the land of the OWNER outside of the easement for the structural stormwater Management facilities. It is expressly understood and agreed that the CITY 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 CITY.
6. For all structural stormwater Management facilities which are to be or are owned and maintained by a property owner's association or similar entity, the OWNER and the association shall enter into an escrow agreement with CITY. The agreement shall contain all of the following provisions:
 - a. Acknowledgment that the association shall continuously operate and maintain the structural stormwater Management facilities.
 - b. Establishment of an escrow account which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater control measures and devices of the particular site plan or subdivision. If structural stormwater Management facilities are not performing adequately or as intended or are not properly maintained, the CITY, in its sole discretion, may remedy the situation, and in such instances the CITY shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural stormwater Management facilities; provided that, the CITY shall first consent to the expenditure.
 - c. Both OWNER contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of stormwater permits, whichever shall first occur, the OWNER shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the structural stormwater Management facilities. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the stormwater control measure or device. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the property owners association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
 - d. Granting to the CITY a right of entry to inspect, monitor, maintain, repair, and reconstruct structural stormwater Management facilities.
 - e. Allowing the CITY to recover from the association and its members any and all costs the CITY expends to maintain or repair the stormwater control and management facility or to correct any operational deficiencies. Failure to pay to the CITY all of its expended costs, after thirty (30) days written notice, shall constitute a breach of the agreement. The CITY shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien herein authorized by the agreement against the property, or both in the case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

- f. A statement that this agreement shall not obligate the CITY to maintain or repair any stormwater control measure or device, and that the CITY shall not be liable to any person for the condition or operation of structural stormwater Management facilities.
 - g. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the CITY to enforce any of its ordinances as authorized by law.
7. The OWNER, 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 structural stormwater Management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
 8. In the event the CITY, 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 OWNER, its successors and assigns, shall reimburse the CITY upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the CITY hereunder.
 9. This Agreement imposes no liability of any kind whatsoever on the CITY and the OWNER agrees to hold the CITY harmless from any liability in the event the structural stormwater Management facilities fail to operate properly.
 10. This Agreement shall be recorded among the land records of Granville County, North Carolina, and shall constitute a covenant running with the land, and shall be binding on the OWNER, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written:

 Name of Company/Corporation/Partnership/Individuals (Seal if corporation)

By: _____
 (Type Name and Title)

STATE OF NORTH CAROLINA
 COUNTY OF _____

The foregoing Agreement was acknowledged before me this day of _____, 20_____,

By: _____

 NOTARY PUBLIC

My Commission expires _____

CITY OF CREEDMOOR, NORTH CAROLINA

City of Creedmoor

(Seal)

By: _____
(Type Name)

(Type Title)

STATE OF NORTH CAROLINA
COUNTY OF _____

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

By: _____

NOTARY PUBLIC

My Commission expires _____

Approved as to Form:

City Attorney

Date