

**STORMWATER MANAGEMENT FACILITY
MAINTENANCE AGREEMENT**

THIS AGREEMENT is made this _____ day of _____, 20____ by and between _____ (a Minnesota corporation or limited liability company) (“Owner”), and the Valley Branch Watershed District, a political subdivision of the State of Minnesota (“VBWD”).

RECITALS:

- A. Owner owns certain real property situated in Washington County, Minnesota, legally described in **Exhibit A**, and attached hereto (the “Property”).
- B. The Property constitutes the entirety of the land to which VBWD Permit applies.
- C. As a condition of its approval of the development of the Property, VBWD has required that the Owner dedicate and/or grant to the VBWD a perpetual easement for:
 - 1) all floodplains adjacent to existing and future waters and waterways, and
 - 2) all land used for stormwater management facilities.
- D. VBWD requires that the Owner enter into an agreement for the maintenance of the Stormwater Management Facility for the Property (the “Facility”). The Facility includes all above and below ground areas necessary to meet the VBWD stormwater management rules and is located within the boundaries of the Property, as shown on construction plans prepared by Owner, which are attached as **Exhibit B** and incorporated by reference.
- E. Owner hereby warrants and represents to the VBWD that Owner’s interest in the Property is as fee owner. Owner warrants that it has the right and authority to execute this Agreement, and that the person signing this Agreement has authority to bind the Owner to the terms of this Agreement.
- F. The Owner desires to set forth its agreement with respect to the maintenance of the Facility and the cost of such maintenance.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Access Easement. The Owner shall grant to VBWD the necessary easements and rights-of-way and/or maintain perpetual access from public rights-of-way to the Facility for VBWD, its agent, or contractor.

2. Recording. VBWD shall record this Agreement with the Recorder of the County of Washington, Minnesota. The Owner shall pay a \$150.00 processing and filing fee to VBWD upon submission of this Agreement.
3. Assessments. The Owner, for itself and respective successors and assigns, hereby waives any statutory right which it may have to contest any assessment for costs hereunder by VBWD.
4. Through Permit Closeout. Until such time as the permit with VBWD for the project is closed out, the Owner shall inspect the site and each Facility per the Stormwater Pollution Prevention Plan (as amended). If Stormwater Pollution Prevention Plan is not required for the project, the Owner shall inspect the site and each Facility as necessary to ensure compliance with the VBWD permit.
5. Post Construction and Post VBWD Permit Closeout. The Owner will maintain and repair each Facility as follows:
 - a) The integrity and intended function of all Facilities shall be preserved. If applicable, the maintenance shall be accordance with the manufacturer-specified maintenance.
 - b) In the case of hydraulic conveyances and other structures, the hydraulic capacity shall be preserved.
 - c) In the case of Facilities relying on soils and vegetation for stormwater management, the soil permeability shall remain permeable and the vegetation shall remain healthy.
 - d) If necessary, Owner shall undertake at its expense periodic dredging or removal of silt buildup and other deposited materials within the Facility to maintain its treatment capacity and proper operation, as established in the construction plans.
 - e) Owner will annually inform the VBWD of Facility conditions, actions taken and dates of the actions, and repair or maintenance needs.
 - f) VBWD may annually inspect the Facility to ensure that it meets the minimum maintenance standards outlined above.
 - g) Any maintenance needs noted during a VBWD inspection shall be conveyed to the Owner in a Notice of Maintenance Inspection Improvement Requirements mailed to Owner's last known address, and shall be implemented within sixty (60) days of the date of mailing of the Notice. The

Owner shall be solely responsible for the maintenance of the Facility, and shall bear all costs of such maintenance.

- h) If the Owner does not undertake the necessary maintenance, the VBWD may give notice to the Owner by mailing a Notice of Deficiency to the Owner's last known address, detailing the deficiency. If the deficiency has not been corrected within sixty (60) days after mailing of the notice, or Owner has not made arrangements deemed adequate by the VBWD for the deficiency to be corrected within that period, then the VBWD upon five (5) days' notice may correct the deficiency, and may have access to the property during reasonable times for that purpose. The VBWD may contract such maintenance, and the costs incurred by VBWD for contracting such maintenance, including but not limited to reasonable administrative, consultant, and attorney fees, shall be reimbursed to VBWD by the Owner.

- 6. Covenants to Run with the Property. The parties hereto agree that the covenants and obligations contained herein shall run with the Property, and further declare that the Property will be owned, used, occupied, and conveyed subject to the covenants and obligations set forth herein, all of which are binding on all persons owning or acquiring any right, title or interest in the Property and their respective heirs, successors, personal representatives and assigns.

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VALLEY BRANCH WATERSHED DISTRICT

By _____
Edward H. Marchan
Its President

By _____
John Brach
Its Secretary

STATE OF MINNESOTA)
) ss
COUNTY OF WASHINGTON)

The foregoing was acknowledged before me this _____ day of _____, 20____,
by Edward H. Marchan and John Brach, respectively the President and Secretary of the Valley
Branch Watershed District, State of Minnesota.

Notary Public

DRAFTED BY:

GALOWITZ • OLSON, PLLC
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Lake Elmo, MN 55042
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EXHIBIT A

EXHIBIT B