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Above Space for Recording

After recording return to:  
City of Perry  
Attn: City Attorney  
P.O. Box 2030  
1211 Washington St.  
Perry, GA 31069

## **City of Perry Stormwater Best Management Practices Operations and Maintenance Agreement**

STATE OF GEORGIA  
COUNTY OF HOUSTON

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (hereinafter called the "Landowner") as party of the first part, and the City of Perry, Georgia, a political subdivision of the state of Georgia, (hereinafter called the "City") as party of the second part, each a "party" and collectively the "parties";

### **RECITALS**

- A. The Landowner is the owner of certain real property in the City of Perry, Houston County, Georgia, more particularly described in Exhibit "A" attached hereto and by this reference made a part of this Agreement (the "Property").
- B. The Landowner is proceeding to build and develop the Property.
- C. The Site Plan/ Subdivision Plan known as \_\_\_\_\_ (the "Plan"), a copy of which is attached hereto as Exhibit "B" and by this reference is expressly made a part hereof, as approved by the City, provides for management of stormwater within the confines of the Property through the use of Best Management Practices ("BMP").
- D. The City, and the Landowner, its successors and assigns, including any associated homeowners or property owners association, agree that the health, safety, and welfare of the residents of Perry, Georgia and the protection and maintenance of water quality require that on-site stormwater Best Management Practices be constructed and maintained on the Property.
- E. The City requires, through the implementation of the Plan, that stormwater Best Management Practices as shown on and required by the Plan and the City's Land Management Ordinance be constructed and adequately maintained by the Landowner, its successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual benefits and obligations set forth in this Agreement, the parties hereto agree as follows:

1. For the purposes of this Agreement, the following definitions shall apply:
  - a. "Best Management Practices" or "BMP": activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater recharge and to otherwise meet the purposes of the City's Land Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.
  - b. "Infiltration Trench": A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil or groundwater aquifer.
  - c. "Seepage Pit": An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil or groundwater aquifer.
  - d. "Rain Garden": A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil or underground aquifer.
2. The BMP shall be constructed by the Landowner in accordance with plans and specifications identified in the Plan.
3. The Landowner shall, at all times, adequately operate and maintain the BMP as shown on the Plan in good working order acceptable to the City and in accordance with the specific maintenance requirements noted on the Plan. Such maintenance requirements include properly maintaining all pipes, channels or other conveyances built to convey stormwater to the BMP, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is defined as keeping the BMP and all components thereof in good working condition so that the BMP continues to perform its designed functions. The Stormwater Structural Control Maintenance Checklists found in the latest edition of the *Georgia Stormwater Management Manual* establishes the standard of what good working condition is acceptable to the City.
4. The Landowner shall inspect the BMP and submit an inspection report annually. The purpose of the inspection is to ensure safe and proper functioning of the BMP. The inspection shall cover the entire BMP including embankments, berms, inlet and outlet structures, pond area, access roads, etc. Deficiencies shall be noted in the inspection report.
5. The Landowner hereby grants permission to the City, its authorized agents and employees, to enter upon the Property, at reasonable times, to inspect the BMP whenever it deems necessary. The City shall provide the Landowner copies of any inspection findings and a directive to commence with the repairs if necessary. Whenever possible, the City shall notify the Landowner prior to entering the Property.
6. If the Landowner fails to operate and maintain the BMP as shown on the Plan in good working order acceptable to the City, the City or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain the BMP, including correcting deficiencies identified in the inspection report, and to charge the costs of such repairs to the Landowner. This provision shall not be construed to allow the City to erect any permanent structure on the land of the Landowner outside of the easement for the BMP. It is expressly understood and agreed that the City is under no obligation to maintain or repair such facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
7. The Landowner shall perform all work necessary to keep the BMP in good working order. In the event a maintenance schedule for the BMP (including sediment removal) is outlined on the Plan, the Landowner shall comply with such schedule.
8. If the City, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of such work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the City for all expenses (direct and indirect) incurred within thirty (30) days of receipt of invoice from the City, and if not timely

paid, the City shall place a lien upon the Property for the invoice amount, plus statutorily allowed fees, expenses and costs.

9. The Landowner, its successors and assigns, releases and shall hold harmless the City's employees and designated representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against such employees and representatives from the construction, presence, existence, or maintenance of the BMP by the Landowner or the City. If a claim is asserted against the City, its designated representatives or employees, the City shall promptly notify the Landowner and the Landowner shall defend, at its own expense, any suit based on the claim. If any judgment or claim against any of the City's employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding such judgment or claim. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the BMP fails to operate properly.

10. The City shall inspect the BMP as necessary to ensure their continued functioning.

11. This Agreement shall be recorded at the Superior Court Clerk's Office of Houston County, Georgia, and shall constitute a covenant running with the Property and an equitable servitude, and shall be binding on the Landowner, its successors and assigns, in perpetuity.

IN WITNESS WHEREOF, the parties hereto acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered on the day and year first set forth above.

**LANDOWNER**

By: \_\_\_\_\_  
\_\_\_\_\_ (Printed Name)

\_\_\_\_\_  
Witness

Sworn to and subscribed before me  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**CITY OF PERRY, GEORGIA**

By: \_\_\_\_\_  
\_\_\_\_\_ (Printed Name)  
\_\_\_\_\_ (Title)

\_\_\_\_\_  
Witness

Sworn and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_