



# Montgomery County, Tennessee

## STORMWATER MAINTENANCE AGREEMENT

Project/Property/Site Plan Name: \_\_\_\_\_ Permit No. \_\_\_\_\_

Map: \_\_\_\_\_ Group: \_\_\_\_\_ Parcel: \_\_\_\_\_

Deed Book Volume: \_\_\_\_\_ Page No.: \_\_\_\_\_

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

Landowner(s): \_\_\_\_\_

Landowner's Address: \_\_\_\_\_

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

### WITNESSETH

WHEREAS, Montgomery County, Tennessee ("the County") is required by federal and state surface water quality regulations and its National Pollutant Discharge Elimination System (NPDES) permit to prevent surface water quality degradation from development or redevelopment activities within its jurisdiction, and the County has adopted stormwater quality regulations as required and such regulations are contained in the County Stormwater Management Resolution; and

WHEREAS, Resolution No. 13-2-2 was adopted February 11, 2013 by the Montgomery County Commission, and under said resolution the Building Commissioner shall have the authority to inspect private drainage systems within the County, and to order such corrective actions to said private storm water drainage systems as are necessary to maintain properly the drainage systems within the County; and

WHEREAS, under said resolution it is provided that private storm water drainage systems must be maintained by the property Landowner, and a maintenance agreement must be executed before the development plan is approved; and

WHEREAS, the Landowner is the owner of certain real property identified above; and

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, Site Plan/Subdivision Plan \_\_\_\_\_, prepared by \_\_\_\_\_, dated \_\_\_\_\_, on file at the Building and Codes Department (hereinafter called the "Plan"), which is expressly made a part hereof, as approved or to be approved by the Building and Codes Department, provides for the construction of storm water drainage systems; and

WHEREAS, the County and the Landowner agree that the health, safety, and general welfare of the residents of Montgomery County require that storm water drainage systems be constructed and maintained on the property; and

WHEREAS, the County requires that storm water drainage systems as shown on the Plan be constructed and adequately maintained by the Landowners;

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 stormwater drainage systems shall be constructed by the Landowner in accordance with the plans and specifications in the Plan.
2. The Landowner shall provide adequate long term maintenance and continuation of the stormwater control measures described in the Plan, to ensure that all stormwater facilities are and remain in proper working condition acceptable to the County. The Landowner shall perform inspection and preventative maintenance activities in accord with the Plan and the County's NPDES Permit and Stormwater Regulations and policies.
3. The Landowner shall maintain a copy of the Plan on site, together with a record of inspections and maintenance actions required by the Plan. The Landowner shall document the times of inspections, remedial actions taken to repair, modify or reconstruct the system, the state of control measures, and notification of any planned change in responsibility for the system. The County may require that the Landowner's records be submitted to the County.
4. If it is later determined that the County's NPDES permit clearly directs Landowners or the County to manage stormwater treatment systems differently than specified in the Plan, the direction of the NPDES permit shall override the provisions of the Plan.
5. The Landowner hereby grants to the County the right of ingress, egress and access to enter the Property at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the facilities. The Landowner hereby grants to the County the right to install and maintain equipment to monitor or test the performance of the stormwater control system for quality and quantity upon reasonable notice to Landowner.
6. In the event the Landowner fails to maintain storm water detention facilities as shown on the Plan in good working order acceptable to the County, the County may enter the property and take whatever steps it may deem necessary to maintain said storm water drainage systems. It is expressly understood and agreed that the County is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the County.
7. 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, or materials, the Landowner shall reimburse the County on demand, within a time frame specified by the County for all costs incurred, including reasonable administrative costs and attorney's fees in the event that an action to collect such costs must be instituted.

8. The Landowner and the Landowner's heirs, administrators, executors, assigns, and any other successor in interest shall indemnify and hold the County harmless from any and all damages, accidents, casualties, occurrences, claims or attorney's fees which might arise or be asserted, in whole or in part, against the County from the construction, presence, existence, or maintenance of the stormwater control facilities subject to the Plan and this Agreement. In the event a claim is asserted against the County, its officers, agents or employees, the County shall notify the Landowner, who shall defend at Landowner's expense any suit or other claim. If any judgment or claims against the County shall be allowed, the Landowner shall pay all costs and expenses in connection therewith. The County will not indemnify, defend or hold harmless in any fashion the Landowner from any claims arising from any failure, regardless of any language in any attachment of other document that the Landowner may provide.
9. No waiver of any provision of this Agreement shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
10. The Landowner shall have the facilities inspected in accordance with the County's stormwater resolution and adopted policies, and certify to the County that the constructed facilities conform and purport substantially to the approved Plan. If the constructed condition of the facility or its performance varies significantly from the approved Plan as determined by the County, appropriately revised calculations shall be provided to the County and the Plan shall be amended accordingly.
11. Landowner agrees that the failure to follow the provisions and requirements of the Plan may result in the revocation of previously approved credits to stormwater user fees, or the imposition of such stormwater user fees or of additional stormwater user fees.
12. The Landowner agrees that for any systems to be maintained by a property Landowner's association, deed restrictions and covenants for the subdivision or other development will include mandatory membership in the property. Landowners' association responsible for providing maintenance of the system, will require the association to maintain the stormwater system, will prohibit termination of this covenant by unilateral action of the association, and provide for unpaid dues or assessments to constitute a lien upon the property of a Landowner upon recording a notice of non-payment.
13. This Agreement shall be recorded among the land records of Montgomery County, Tennessee, 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 interest.

WITNESS the following signatures and seals:

By \_\_\_\_\_  
Building and Codes Department

John H Doss  
Montgomery County  
Stormwater Coordinator

By \_\_\_\_\_  
Landowner or Authorized Agent

\_\_\_\_\_  
Name (Print)

STATE OF TENNESSEE        )  
COUNTY OF MONTGOMERY    )

\_\_\_\_\_ personally  
appeared before me, a States of Tennessee Notary Public for the said state and county and affirmed the  
information and executed the instrument here in above for the purposes contained therein.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2018

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

My commission expires: \_\_\_\_\_