STORMWATER DETENTION FACILITY MAINTENANCE AGREEMENT

THIS STORMWATER DETENTION FACILITY MAINTENANCE AGREEMENT (hereinafter called "this Agreement"), made and entered into this _____day of _____, 20___, by and between _____ (hereafter called "the Landowner), and the City of Waynesboro, Virginia (hereafter called "the City").

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property, more particularly described as _____ as recorded by deed in the land records of the City in Instrument #_____, (hereafter called "the Property"); and

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

WHEREAS, the Site Plan _____ (hereinafter called "the Plan"), which expressly is made a part hereof, as approved or to be approved by the City, provides for detention of storm water within the confines of the Property; and

WHEREAS, the Plan further provides for the control of the rate of storm water flows from the Property and the protection of water quality downstream; and

WHEREAS, Chapter 30 of the Code of the City of Waynesboro, Virginia provides that in order to protect the health, safety, and welfare of the residents of the county, the present and future owners of the Property agree that the owners shall construct and adequately maintain on-site storm water detention facilities (hereinafter called "the Facilities"); and

WHEREAS, the Facilities shall meet certain minimum City standards, and the present and future owners agree to provide the City with dedicated easements for access to such Facilities; and

WHEREAS, the parties hereto agree that the Landowner, as the owner of the Property, his heirs, successors, and assigns will be responsible perpetually for the maintenance of the Facilities herein described; and

WHEREAS, the parties have reached an agreement on the construction and maintenance responsibilities of the parties for said Facilities and desire that their agreement be reduced to writing;

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 parties acknowledge and agree that the Landowner, as the owner of the property, shall construct the Facilities in accordance with specifications identified in the plan as approved; and in accordance with all applicable City, state, and federal laws, ordinances, regulations and guidelines.

2. The Landowner agrees to maintain the Facilities as shown on the Plan in good working order acceptable to the City, and in accordance with all applicable City, state and federal laws, ordinances, regulations and guidelines.

3. The Landowner agrees to landscape the area surrounding the Facilities, as required by City ordinances and regulations, to maintain such landscaped area, and to keep the Facilities reasonably free of litter and trash.

4. The Landowner, on behalf of himself, his heirs, devisees, successors, and assigns, hereby grants permission to the City, its authorized agents, and its employees, to enter upon the Property and to inspect the Facilities whenever it deems necessary in order to determine if any repairs, maintenance, or cleaning is required to maintain the Facilities in good working order. Whenever possible, the City shall notify the Landowner prior to entering the Property. The Landowner's grant to the City of the right to inspect the Facilities is a perpetual easement appurtenant to the portion of the Property owned by the Landowner as of the date hereof, and runs as a benefit and a burden with said Property owned by the Landowner as of the date hereof.

5. The Landowner further agrees to annually inspect each facility and provide maintenance records showing the date and results of each inspection/repair to the City. Every three years a Professional Engineer shall conduct the inspection and provide a supplemental narrative to the inspection report if necessary. The Landowner shall supply the Public Works Department with a completed City BMP inspection form for each individual BMP by July 1 of each year and not more than 60 days prior.

6. In the event the Landowner fails or refuses to maintain the Facilities in good working order acceptable to the City and in accordance with the terms of this Agreement, after the City has given Landowner written notice of the deficit(s) and provided Landowner thirty (30) calendar days to cure the deficit(s), the City shall have the right to enter upon the Property and take whatever steps it deems necessary to bring the Facilities into compliance with this Agreement. The Landowner and the City agree that if the City determines that the deficit(s) to the Facilities poses an imminent threat to person or property, the City shall not be bound by the foregoing thirty (30) calendar day provision, and shall be allowed to take immediate action to cure the deficit(s). This provision shall not be construed to allow the City to erect any structure of a permanent nature on the Property other than for the sole purpose of storm water detention, as specified under this Agreement. Notwithstanding any other provisions of this Agreement to the contrary, it is expressly understood and agreed that the City is under no obligation to maintain, repair, replace, or improve the Facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.

7. In the event the City expends any funds in performance of the work described in Paragraph 6 above for labor, equipment, usage, supplies, materials, or related expenses to repair, replace, or maintain the Facilities or takes any other action under this Agreement to bring the Facilities or the appurtenant landscaping into compliance with the requirements of this Agreement, the Landowner agrees to reimburse the City, upon demand, within thirty (30) days of receipt thereof, for all costs incurred by the City hereunder. Any charges imposed pursuant to this Paragraph that remain unpaid more than sixty (60) days after receipt thereof by the Landowner shall be subject to interest charges of eighteen percent (18%) per annum {capitalized monthly} until paid.

8. The Landowner, his executors, administrator, assigns, and any other successors in interest, shall indemnify and hold harmless the City, its agents, and its employees, from any and all claims, costs, demands, and causes of action which might arise or be asserted against the

City from the construction, presence, existence, or maintenance of the Facilities by the Landowner or the City. In the event a claim is asserted against the City, its agents, or its employees, the City shall notify the Landowner promptly, and the Landowner shall defend at his own expense any suit based on such claim. If any judgment or claims against the City, its agents, or its employees shall be allowed, the Landowner shall pay all costs and expenses in connection therewith.

9. This Agreement shall constitute a covenant running with the land and shall be binding upon and inure to the benefit of the City, the Landowner as the owner of Property, his successors, executors, assigns, heirs, and any other successors-in-interest. This instrument and the exhibits attached hereto shall be recorded, at the Landowner's expense, among the land records of the Circuit Court of the City of Waynesboro, Virginia, prior to approval of any site plan.

WITNESS the following signatures and seals:

_____
Landowner (Seal)

By: _____

ATTEST: _____

_____ Its _____

Given under my hand this _____day of _____, 20___

COMMONWEALTH OF VIRGINIA, COUNTY/CITY OF _____

This day, _____ personally appeared before me and acknowledged his signature to the above statement.

My commission expires on the _____day of _____, 20_____.

Registration No. _____ _____
NOTARY PUBLIC

THE CITY OF WAYNESBORO, VIRGINIA

By: _____
City Manager (Seal)

ATTEST:

_____

Given under my hand this _____day of _____, 20___

COMMONWEALTH OF VIRGINIA, COUNTY/CITY OF _____

This day, _____ personally appeared before me and acknowledged his signature to the above statement.

My commission expires on the _____day of _____, 20_____.

Registration No. _____ _____
NOTARY PUBLIC