



Prepared By:
 Hamilton County Water Quality Program
 1250 Market St, Chattanooga, TN, 37402
 Inspection & Maintenance Agreement

INSPECTION AND MAINTENANCE AGREEMENT FOR
 PRIVATE STORMWATER MANAGEMENT FACILITIES

Project No:HCL_____ Map & Parcel No.:_____

Project Name & Address: _____

THIS AGREEMENT, made this____day of_____, 20____, by and between_____, hereinafter referred to as the “OWNER(S)” of the following property and Hamilton County Water Quality Program of Hamilton County, Tennessee, hereinafter referred to as the “PROGRAM”,

WITNESSETH

WE, the OWNER(S), with full authority to execute deeds, mortgages, other covenants, do hereby covenant with the PROGRAM and agree as follows:

1. The OWNER(S) covenant and agree with the PROGRAM that the OWNER(S) shall provide for adequate long term maintenance and continuation of the stormwater control measures described in the Long Term Maintenance Plan and shown on the location map, deed of easement drawing or plat attached hereto to ensure that the facilities, are and remain in proper working condition in accordance with approved design standards, rules and regulations, and applicable laws. The OWNER(S) shall perform preventative maintenance activities at intervals described in the inspection schedule included in the Long Term Maintenance Plan along with necessary landscaping (grass cutting, etc.) and trash removal as part of regular maintenance.
2. The OWNER(S) shall submit to the PROGRAM an annual report by July 1st of each year. The report shall document the inspection schedule, times of inspection, remedial actions taken to repair, modify or reconstruct Systems and Facilities, the state of control measures, and notification of any planned change in responsibility for such Systems and Facilities.
3. The OWNER(S) shall submit to the PROGRAM a report every five years of an inspection performed by a qualified professional as specified by the PROGRAM. This report shall be submitted on July 1st and will substitute for the annual report detailed in item #3.
4. The OWNER(S) shall grant to the PROGRAM or its agent or contractor the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the facility.
5. The OWNER(S) shall grant to the PROGRAM the necessary easements and rights-of-way and maintain perpetual access from public rights-of-way to the facility for the PROGRAM or its agent and contractor.
6. If, upon inspection, the PROGRAM finds that OWNER(S) has failed to properly maintain the facilities, the PROGRAM may order the work performed within ten (10) days. In the event the work is not performed within the specified time, the OWNER(S) agrees to allow the PROGRAM to enter the property and take whatever steps it deems necessary to maintain the stormwater control facilities. This provision shall not be construed to allow the PROGRAM to erect any structure of a permanent nature on the land of the OWNER(S) without first obtaining written approval of the OWNER(S).
7. The PROGRAM 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 PROGRAM. The OWNER(S) shall reimburse the PROGRAM upon demand the costs incurred in the maintenance of the facilities.
8. If the OWNER fails to pay the PROGRAM for the above expenses after forty-five (45) days written notice, the OWNER authorizes the PROGRAM to collect said expenses from the OWNER through appropriate legal action and the OWNER shall be liable for the reasonable expenses of collection, court costs, and attorney fees.
9. The OWNER(S) and the OWNER(S) heirs, administrators, executors, assigns, and any other successor in interest shall



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indemnify and hold harmless the PROGRAM and its officers, agents and employees for 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 PROGRAM from the construction, presence, existence, or maintenance of the stormwater control facilities subject to this AGREEMENT. In the event a claim is asserted against the PROGRAM, its officers, agents or employees, the PROGRAM shall notify OWNER(S) and the OWNER(S) shall defend at OWNER(S) expense any suit based on such claim. If any judgment or claims against the PROGRAM, its officers, agents or employees, shall be allowed, the OWNER(S) shall pay all costs and expenses in connection therewith. The PROGRAM will not indemnify, defend or hold harmless in any fashion the OWNER(S) from any claims arising from any failure, regardless of any language in any attachment or other document that the OWNER(S) may provide.

10. The OWNER(S) shall not be able to transfer, assign or modify its responsibilities with respect to this agreement without the PROGRAM’s written prior consent. Nothing herein shall be construed to prohibit a transfer by OWNER(S).
11. 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.
12. The OWNER(S) shall record a plat showing and accurately defining the easements for stormwater control facilities. The plat must reference the Instrument Number where this AGREEMENT and its or attachments are recorded and contain a note that the OWNER(S) is responsible for maintaining the stormwater management facilities.
13. The OWNER(S) shall record this AGREEMENT in the office of the Register of Deeds for the county of Hamilton, Tennessee, and the AGREEMENT shall constitute a covenant running with the land, and shall be binding upon the OWNER(S) and the OWNER(S) heirs, administrators, executors, assigns, and any other successors in interest.

<p>REVIEWED BY:</p> <p>_____</p> <p>FOR THE HAMILTON COUNTY WATER QUALITY PROGRAM, HAMILTON COUNTY, TENNESSEE</p> <p>_____</p>	<p>ATTEST BY OWNERS(S):</p> <p>_____</p> <p>OWNER(S) NAME (PRINTED)</p> <p>BY: _____</p> <p>TITLE: _____</p> <p>OWNER(S) ADDRESS AND PHONE NUMBER</p> <p>_____</p> <p>_____</p> <p>_____</p>
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STATE OF _____

COUNTY OF _____

Before me, _____ of the state and county mentioned, personally appeared _____, with whom I am personally acquainted (or provided to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be president (or other officer authorized to execute the instrument) of _____, the within named bargainor, a corporation, and that such president or officer as such _____, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as _____.

Witness my hand and official seal at office in _____, this _____ day of _____, of the year _____.

Notary Public

My Commission Expires: _____

TO BE COMPLETED BY HAMILTON COUNTY WATER QUALITY PROGRAM:

**STATE OF TENNESSEE
COUNTY OF HAMILTON**

Before me, _____ of the State and County mentioned, personally appeared _____, with whom I am personally acquainted (or provided to me on the basis of satisfactory evidence), and who acknowledged themselves to be the Program Manager of the HAMILTON COUNTY WATER QUALITY PROGRAM or their designee and as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Witness my hand and official seal at office in _____, this _____ day of _____.

Notary Public

My Commission Expires: _____



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The Following Pages for “DECLARATION OF RESTRICTIONS AND COVENANTS FOR STORMWATER FACILITIES AND SYSTEMS” are to be completed for projects in **Fee-Simple** only.



DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
STORMWATER FACILITIES AND SYSTEMS

Project No.: _____

Being on the Property conveyed to _____, the deed for which is of record in Instrument No. _____, R.O.H.C., Tennessee.

_____ (individually or collectively, the “Declarant”), the owner of the real property described in Exhibit(s) _____ attached hereto and incorporated herein by reference (the “Property”), does hereby covenant, agree and declare as follows:

1. Declarant is lawfully seized of the Property and possessed of said land in fee simple and has good right to make the following declarations and covenants.
2. Declarant has prepared and submitted to The Program a Long Term Maintenance Plan (the “Plan”) acceptable to The Program, a copy of which is attached hereto, and shall thereafter provide for adequate long term maintenance and continuation of the stormwater control measures described in the Plan to ensure that all stormwater facilities (“Facilities”) and systems (“Systems”) required by the Plan are and remain in proper working condition in accordance with the Plan and with all applicable rules, regulations and laws. Declarant shall perform preventative maintenance activities at intervals described in the inspection schedule included in the Plan along with necessary landscaping (grass cutting, etc.) and trash removal as part of regular maintenance.
3. Declarant shall submit to The Program an annual report by July 1st of each year. The report shall document the inspection schedule, times of inspection, remedial actions taken to repair, modify or reconstruct Systems and Facilities, the state of control measures, and notification of any planned change in responsibility for such Systems and Facilities.
4. Declarant shall submit to The Program a report every five years of an inspection performed by a qualified professional as specified by The Program. This report shall be submitted on July 1st and will substitute for the annual report detailed in item #3.
5. Declarant hereby accords to The Program and its employees, agents and contractors a perpetual right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the Systems and Facilities.
6. Declarant hereby accords to The Program and its employees, agents and contractors a perpetual right of entry for access from public rights-of-way to the Systems and Facilities.
7. If, upon inspection, The Program determines that Declarant has failed to properly maintain the Systems and Facilities in accordance with the Plan, the Declarant acknowledges that The Program will in that event have the authority to order Declarant to perform such maintenance within ten (10) days. In the event the maintenance is not performed within the specified time, Declarant shall allow The Program to enter the property and take all reasonable steps to maintain the Systems and Facilities. Declarant acknowledges that Declarant understands that The Program is under no duty or obligation to maintain or repair the Systems and Facilities. Declarant shall reimburse The Program in full and upon demand for all costs incurred by The Program in the maintenance or repair of the Systems and Facilities and shall be liable to The Program for the reasonable costs of collection, including without limitation court costs and attorney fees.
8. Declarant shall reimburse The Program in full upon demand in the amount of any judgment rendered against The Program due to Declarant’s failure to perform the obligations created by this instrument.



9. The Property may be used for any lawful purpose desired after the construction of all of the Systems and Facilities, provided that structural change, in the opinion of The Program (the discretion to give such opinion on behalf of The Program may be exercised by the Program Manager of the Hamilton County Water Quality Program, or the Manager's designee), will not destroy, weaken or damage them or interfere with their operation or maintenance. Additionally, prior to any changes or additions to or relocation of the improvements, the Declarant, successors and/or assigns must demonstrate to the satisfaction of the Hamilton County Water Quality Program Manager that any such proposed change, addition, or relocation will not eliminate the improvement or interfere with or significantly change its needed operation, or otherwise pose a danger to the public health or safety. A map depicting any approved change, addition, or relocation of the improvements shall be recorded with reference to this instrument number.
10. These restrictions and covenants under this instrument shall become void if the structures on the property are demolished, the property is prepared for redevelopment, and the Program Manager certifies that all portions of the public storm water system on or immediately adjacent to the property have been restored to the existing condition as of the day of the execution of this instrument.

Upon the recording of this Declaration by the Declarant in the office of the Register of Deeds for the county of Hamilton, Tennessee, the foregoing restrictions and covenants shall run with the land and shall be binding on Declarant and all subsequent owners of the Property (or any portion thereof) and shall inure to the benefit of and be enforceable by The Program, its successors and assigns (although The Program's failure to exercise its enforcement rights in any particular situation shall not be deemed a waiver of them). Declarant, for itself and its successors in interest, further covenants to warrant and forever defend The Program's enforcement rights regarding the foregoing restrictions and covenants against the adverse claims of all persons. Any plat recorded at or after the date of the filing of this Declaration shall reference the instrument number where this Declaration and its attachments are recorded and contain a note that the Declarant is responsible for maintaining the Systems and Facilities. The foregoing covenants and restrictions may not be modified or amended except by a recorded instrument signed by Declarant and The Program (the discretion to do so on behalf of The Program may be exercised by the Manager), or their respective successors or assigns, and shall not be extinguished by merger of title or otherwise.

WITNESS my/our hand(s), this ___ day of _____, 20_____.

Declarant

Declarant

**STATE OF TENNESSEE
COUNTY OF HAMILTON**

On this _____ day of _____, 20 _____, before me personally appeared _____, to me known to be the person (or persons) described in and who executed the foregoing instrument, and acknowledged that such person (or persons) executed the same as such person (or person's) free act and deed.

_____, Notary Public

My Commission Expires _____.