

----- SPACE ABOVE FOR RECORDER'S USE -----

**STATE OF GEORGIA  
COUNTY OF CHEROKEE**

**Inspection, Maintenance and Access Easement Agreement**  
(Please type or print legibly)

**WHEREAS**, the owner of the property (the "Property Owner"), which is currently \_\_\_\_\_, recognizes that the detention facility or facilities and/or the water quality device or devices (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called, \_\_\_\_\_, located in Land Lot(s) \_\_\_\_\_, District(s) \_\_\_\_\_, of Cherokee County, Georgia; and,

**WHEREAS**, the Property Owner is the owner of real property more particularly described on the attached Exhibit "A," incorporated herein by reference (hereinafter referred to as "the Property"); and,

**WHEREAS**, Cherokee County (hereinafter referred to as "the County") and the Property Owner, or its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of the County require that the facilities be constructed and maintained on the property; and,

**WHEREAS**, the County's Development Regulations require that facility or facilities as shown on the approved development plans and specifications be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns and further require that the Property Owner enter into an Inspection and Maintenance Agreement containing the terms set forth in the Development Regulations.

**NOW, THEREFORE**, for and in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid at and before the sealing and delivery of this agreement and in consideration of the agreements and covenants contained in this document and the following terms and conditions, the parties hereto agree as follows:

**SECTION 1.**

The facility or facilities shall be constructed by the Property Owner in accordance with the approved plans and specifications for the development.

**SECTION 2.**

The Property Owner, its administrators, executors, successors, heirs or assigns shall maintain the facility or facilities in good working condition in a manner compliant with County requirements, and in accordance with the schedule of long term maintenance activities agreed hereto and attached hereto and incorporated herein by reference as Exhibit "B."

**SECTION 3.**

The Property Owner, its administrators, executors, successors, heirs or assigns hereby grants an access easement, as shown on Exhibit "C," attached hereto and incorporated herein by reference, to the County, its authorized agents and employees, to enter upon the property at reasonable times and in a reasonable manner for the purpose of inspection of the facility or facilities. Whenever possible, the County shall provide notice prior to entry. The Property Owner shall grant such right of access to Cherokee County to allow the County to inspect, observe, maintain, and repair the facility as deemed necessary by the County. The purpose of this easement is to allow the County, its authorized agents and employees, access for maintenance activities regarding the Water Quality Best Management Practice (BMP) facility in accordance with the terms of this Agreement or as otherwise authorized by law, and to prevent development of the property within the easement following issuance of the Certificate of Occupancy or in the case of a residential subdivision, the approval of the Final Plat, without written permission from the Cherokee County Engineering Department.

**SECTION 4.**

In the event the Property Owner, its administrators, executors, successors, heirs or assigns fails to maintain the facility or facilities as shown on the approved plans and specifications and in accordance with the maintenance schedule incorporated in this Agreement, the County, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) containing the information required by any and all applicable County Ordinances and Regulations and a reasonable opportunity for the Property Owner to correct the identified noncompliances, may correct a violation of the approved plans and specifications or maintenance schedule by performing the necessary work to place the facility in proper working condition. In this instance, the County may assess the current Property Owner for the cost of such repair work, which assessed cost shall be a lien on the property and may be placed on the ad valorem tax bill for the property and collected in the ordinary manner for such taxes. This provision shall not be construed to allow the County to erect any structure of a permanent nature on the property. It is expressly understood and agreed that the County is under no obligation to maintain or repair the facility or facilities, and in no event shall this Agreement be construed to impose any such obligation on the County.

**SECTION 5.**

The actions described in the foregoing section are in addition to, and not in lieu of, any and all legal remedies available to the County as a result of the Property Owner's failure to maintain the facility or facilities.

**SECTION 6.**

It is the intent of this Agreement to insure the proper maintenance of the facility or facilities by the Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or caused by storm water runoff.

**SECTION 7.**

Sediment accumulation resulting from the normal operation of the facility or facilities will be addressed in accordance with the maintenance schedule set forth in Exhibit "B" or in the approved plans and specifications. The Property Owner will make accommodation for the removal and disposal of all accumulated sediments. Disposal will be provided onsite in a reserved area(s) or will be removed from the site. Reserved area(s) shall be sufficient to accommodate for a minimum of two dredging cycles.

**SECTION 8.**

The Property Owner shall use the standard BMP Operation and Maintenance Inspection Report attached to this agreement and incorporated herein by reference as Exhibit "D," and by this reference made a part hereof, for the purpose of a minimal annual inspection of the facility or facilities by a qualified inspector. In accordance with any and all applicable County Ordinances and Regulations, the current Property Owner designates \_\_\_\_\_ as the person responsible for carrying out the inspection and maintenance. Future Property Owners shall designate their responsible party in writing to the County upon assuming ownership.

**SECTION 9.**

The Property Owner, its administrators, executors, successors, heirs and assigns hereby indemnifies and holds harmless the County and its officers, authorized agents and employees from and against any and all damages, accidents, casualties, occurrences or claims ("Claims") which might arise or be asserted against the County from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner or the County, except that this provision shall not apply to the extent that the Claims result from or arise out of the negligent or willful misconduct of the County or its officers, authorized agents and employees. In the event a Claim subject to indemnity under this provision is asserted against the County, its officers, authorized agents or employees, the County shall promptly notify the Property Owner, and the Property Owner shall defend, at its own expense, any suit based on such Claim. If any judgment or Claims subject to indemnity under this provision against the County, its officers, authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith.

**SECTION 10.**

This Agreement shall be recorded among the deed records of the Clerk of Superior Court of Cherokee County, shall constitute a covenant running with the land in perpetuity, and shall be binding on the Property Owner, its administrators, executors, heirs, assigns and any other successors in interest.

**SECTION 11.**

This Agreement may be enforced by proceedings at law or in equity by or against the parties hereto and their respective successors in interest.

**SECTION 12.**

Invalidation of any one of the provisions of this Agreement shall in no way affect any other provisions and all other provisions shall remain in full force and effect.

**MAINTENANCE AGREEMENT SO AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**CURRENT PROPERTY OWNER:**

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_.

\_\_\_\_\_

By: \_\_\_\_\_

Unofficial Witness

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

[CORPORATE SEAL]

Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARIAL SEAL)

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**[SIGNATURES CONTINUE ON NEXT PAGE]**

Signed, sealed and delivered  
in the presence of:

**CHEROKEE COUNTY, GEORGIA**

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_(SEAL)

Name: \_\_\_\_\_

Title: **County Engineer** (Per resolution passed by BOC  
7/20/2005)

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

My Commission Expires: \_\_\_\_\_

(NOTARIAL SEAL)

Attachments:

Exhibit A (Plat and Legal Description)

Exhibit B (Maintenance and Inspection Schedule)

Exhibit C (Access Easement Legal Description)

Exhibit D (Standard BMP Operation and Maintenance Inspection Report)

**EXHIBIT 'A'**

**PLAT AND LEGAL DESCRIPTION OF SUBJECT PROPERTY**

**EXHIBIT 'B'**

**MAINTENANCE AND INSPECTION SCHEDULE**

**EXHIBIT "C"**

**ACCESS EASEMENT LEGAL DESCRIPTION**



**EXHIBIT "D"**

**FACILITY MAINTENANCE REPORT**