



**COUNTY OF YORK**  
**STORMWATER**  
**DEVELOPMENT AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, (give full legal name or names, state of incorporation if incorporated, type of partnership if a partnership, or marital status if individual) hereinafter referred to as the "Developer", and the COUNTY OF YORK, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County".

**WITNESSETH:**

WHEREAS, the Developer is the owner/developer (indicate which) of a certain parcel of land located in the County bearing GPIN Number(s) \_\_\_\_\_, hereinafter referred to as the "Property"; and

WHEREAS, the Property is being developed by the Developer into a project known and designated as \_\_\_\_\_, and has had prepared a stormwater management plan for the said development dated \_\_\_\_\_, 20\_\_\_\_, prepared by \_\_\_\_\_ which plans (hereinafter called the "Plans") have been approved by the County, are on file in Division of Development Services, and are incorporated herein by reference; and

WHEREAS, the County desires to ensure the proper and timely installation, adequate performance, and , maintenance, of the stormwater control measures shown on the Plans, hereinafter collectively referred to as the "Control Measures"; and

WHEREAS, the Developer has submitted herewith to the County a letter of credit, cash, cash escrow or certified check (circle which) in the amount of \$\_\_\_\_\_, (hereinafter called the "Surety") securing the installation, maintenance, and adequate performance of the Control Measures and the submission following completion of accurate as-built plans;

NOW, THEREFORE, for and in consideration of the foregoing premises and the covenants and agreements herein contained, and in further consideration of the approval of the Plans by the County and the issuance by the County of a permit for the work proposed to be undertaken by the Developer, the parties hereto agree as follows:

1. The County agrees that, upon proper execution of this Agreement by the Developer and the submission to the County of the Surety it will issue a permit for the work described in the Plans proposed to be undertaken by the Developer.
2. The Developer agrees that it will, without cost to the County, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (date must be within one year of agreement date listed above and must be a minimum of two months prior to the expiration date of the letter of credit or cash escrow if used as surety for this agreement) complete the construction of the Control Measures in accordance with the Plans, or cause them to be completed (including proper and timely installation, adequate performance, and maintenance of the stormwater control measures Control Measures needed as a result of the Developer's development) to the satisfaction of and to the standards and specifications of the County and all other government agencies and authorities having jurisdiction over the Control Measures, including, but without limitation, the Virginia Department of Environmental Quality, and thereafter submit to the County accurate as-built plans showing the location and construction details of all Control Measures.

3. The Developer has submitted herewith to the County Surety in the aforesaid amount. If the Surety is a letter of credit, it shall be in the form attached hereto as Exhibit A or Exhibit B, as applicable, be completed in conformance with the instructions attached thereto, be approved by the County Attorney as to form, content and issuing institution, be acceptable as to amount, effective period, and otherwise to the County Administrator, in order to secure proper and timely installation, adequate performance, and maintenance of the stormwater control measures and performance of the terms and conditions of this Agreement. Letters of credit shall be in effect for a minimum period of sixty (60) days beyond the date specified in Paragraph 2 above. The County may enter upon the Property to inspect, install, or maintain Control Measures or to permanently stabilize the site and may draw on the Surety in the following events:

- a. The Developer fails to complete the Control Measures in accordance with the Plans by the date specified in paragraph 2 above.
- b. The Developer fails to install or maintain the Control Measures to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Control Measures, including but without limitation, the Virginia Department of Environmental Quality.
- c. The Developer fails to commence construction of the Control Measures in conformance with the requirements specified in the Plans.
- d. The insolvency of, appointment of a receiver for, or the filing of a voluntary or involuntary petition in bankruptcy against or by the Developer.
- e. Developer breaches any of the terms and conditions of this Agreement.

4. In the event that the County draws on the Surety, it may use such funds to install or maintain the Control Measures or cause them to be installed or maintained, and to cause as-built plans to be created. The Developer shall be liable to the County for any and all costs of installing or maintaining the Control Measures or providing as-built –plans which shall be in excess of the Surety. It is the purpose and intent of the parties that the amount of the Surety shall have been determined to be sufficient to defray not only the anticipated cost of taking the above mentioned actions but also a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the estimated cost of completing the above actions, and any and all other reasonable costs which the County has incurred or may conclude, in its sole discretion, are to be incurred. The Developer hereby acknowledges that an administrative fee in the above amount is reasonable compensation to the County for its costs in drawing on the Surety and, when necessary, causing the above actions to be completed.

The Developer acknowledges and agrees that the County is under no obligation to give any notice to the Developer of expiration of any letter of credit furnished hereunder or of its intent to draw down such letter of credit or on any form of Surety in any of the events specified in this Agreement.

5. The County shall, upon drawing on any funds represented by the Surety, deposit the same in an interest-bearing account to the extent not needed to cover expenditures made or reasonably anticipated to be made in the near future, but the County shall have no responsibility to deposit or maintain any of such funds in an account at the maximum interest available. Upon completion of the necessary actions, as determined by the County, and payment of all expenses incurred by the County in connection therewith, any unexpended funds, including any interest earned thereon, shall be returned to the Developer.

6. The County shall not be liable to the Developer or to any third party for the manner in which the actions listed in paragraph 4 above are completed nor for any delay in effecting the same, the fact that the cost of performing such work is in excess of or less than the amount made available by drawing down the funds or any part thereof represented by the Surety, or that the County has drawn

on the entire amount of said Surety even though it subsequently develops that the entire amount was not required to carry out the provisions of this Agreement.

7. The Developer acknowledges that the County is under no obligation to extend the time herein provided for completion of the Control Measures shown in the Plans or the submission of as-built plans by the Developer. However, in the event that the County unilaterally agrees in writing to do so, such writing shall, without more and without formal execution of any other agreement by the parties, constitute such an extension, and all of the terms of this Agreement shall continue in effect for the duration of such extension insofar as they are not inconsistent with the terms of the extension; provided, however, that no extension shall be effective until or unless the Developer furnishes to the County a new or amended Surety conforming to the requirements of paragraph 3 above. The County may require that the amount of the Surety be increased if an extension is permitted.

8. It is mutually understood and agreed that if the Developer shall faithfully execute all requirements of this Agreement and all relevant laws and regulations, and shall indemnify, protect and save the County, its officers, agents and employees harmless from all loss, damage, expense or cost by reason of any claim made or suit or action instituted against the County, its officers, agents or employees on account of or in consequence of any breach on the part of the Developer, all of which the Developer hereby covenants to do, then the Surety shall be released by the County to the Developer; provided, however, that release of the Surety shall not in any way or to any extent release, diminish or otherwise reduce any obligation or liability of the Developer provided in this Agreement.

9. The Developer does further hereby agree to indemnify, protect and save the County, its officers, agents, and employees harmless from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of any facility shown on the Plans as to be dedicated to the County or other governmental entity until such time as the said facilities shall be accepted as a part of the County's systems, or those of its agencies, or the State System of Secondary Highways, as the case may be.

10. This Agreement shall be binding upon the Developer and the Developer's successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals:

DEVELOPER:

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INDIVIDUAL OR INDIVIDUALS

_____	_____
Print Name	Signature
_____	_____
Print Name	Signature

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CORPORATION

Attest

_____	By: _____
Secretary	President (Print Name)
	_____
	Signature

*(Attach copy of corporate resolution authorizing execution)*

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PARTNERSHIP

	By: _____(SEAL)
	Partner (Print Name)
	_____
	Signature
	By: _____(SEAL)
	Partner (Print Name)
	_____
	Signature

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LIMITED LIABILITY COMPANY

	By: _____(SEAL)
	Manager (Print Name)
	_____
	Signature

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Approved as to form:

COUNTY OF YORK, VIRGINIA

\_\_\_\_\_  
County Attorney

By: \_\_\_\_\_  
Deputy Director, Public Works