



**INSTRUCTIONS, CHECKLIST FOR EASEMENT ELEMENTS AND SAMPLE LANGUAGE**  
**FOR**  
**STORMWATER MANAGEMENT EASEMENT AND STORMWATER**  
**MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT**  
**UPDATED JUNE 2012**

**INSTRUCTIONS**

Most Stormwater Management Permits (SMP) issued by the Department of Public Works (DPW) require the Applicant to prepare and record a document that establishes easements and sets forth certain inspection and maintenance requirements for development project stormwater management (SWM) systems. To assist in that process, the City has prepared these Instructions, accompanying Checklist for Easement Elements and Sample Language for use by the Owner/Applicant.

Please be advised that in providing the Sample Language, the City is not acting as the Owner's attorney. The City advises that all documents be prepared and/or reviewed by the Owner's attorney for compliance with legal requirements and for the Owner's protection. The Stormwater Management Easement and Inspection and Maintenance Agreement document **MUST** include all of the elements listed in the following Checklist for Easement Elements as applicable. In addition, the Owner/Applicant must insert project specific information and include other modifications as appropriate to reflect actual project SWM measures, access to the measures, property ownership and interested party conditions.

**Both the City Attorney and DPW must approve any substantive changes to the attached Sample Language, which will likely increase the City's review and approval times. All parties having an interest in the property must consent in writing to this document. The Sample Language includes standard language to be used.**

The Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement must:

- Be submitted to DPW for coordination. Do not submit the document directly to the City Attorney.
- Be submitted to DPW in conjunction with review of the Stormwater Management Plans once the easement locations and dimensions are established on the SWM Plans and accepted by DPW.
- Include the correct and complete signature, acknowledgments, and consents.
- Include a description/exhibit of the Easement Area(s). These are to be metes and bounds sketch and descriptions prepared by a Surveyor licensed in the State of Maryland, however, in some situations (i.e. green roofs, permeable paving) sketches with graphical representations of the Easement Area(s) are permissible in lieu of a sketch and description. See additional information on the Checklist for Easement Elements.
- Be reviewed for correctness and sufficiency by both DPW and the City Attorney **prior to recordation.**

- Be recorded in the land records of Montgomery County prior to DPW's issuance of a Stormwater Management Permit (SMP.)

INSTRUCTIONS, CHECKLIST FOR EASEMENT ELEMENTS AND SAMPLE LANGUAGE FOR STORMWATER MANAGEMENT EASEMENT AND STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT (CONTINUED)

**CHECKLIST FOR EASEMENT ELEMENTS**

**GENERAL ELEMENTS**

- \_\_\_\_\_ Dated
- \_\_\_\_\_ Signed
- \_\_\_\_\_ Properly Notarized, Acknowledged, etc.
- \_\_\_\_\_ Certification as to Other Parties in Interest (i.e. liens, mortgages, trusts, leases, etc.)
- \_\_\_\_\_ Consents of Other Parties in Interest (i.e. liens, mortgages, trusts, leases, etc.)
- \_\_\_\_\_ Other: Verification of Property Legal Description and Tax ID No(s)

**ELEMENTS FOR TERMS OF EASEMENT AND AGREEMENT**

- \_\_\_\_\_ Easement area(s) to match those shown on the SWM plans and as approved by DPW
- \_\_\_\_\_ Metes and Bounds sketch and description of Easement area(s) and/or
- \_\_\_\_\_ Easement area(s) shown graphically with square footage noted for SWM measures that are not easily described by metes and bounds (i.e. on roofs or in interior courtyards.) Provide an exhibit of the Easement area(s) that graphically shows the relationship of the measures to the buildings, property lines, interior paving and adjacent public streets
- \_\_\_\_\_ Each Exhibit labeled and titled to match information in the Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement (i.e. Exhibit A – Green Roof Easement Area)
- \_\_\_\_\_ Access Easement if needed – include language for access to roofs, interior courtyards, etc. if applicable
- \_\_\_\_\_ No Activity in Easement Area without written consent
- \_\_\_\_\_ Right of City Ingress and Egress
- \_\_\_\_\_ Special Warranty Easement
- \_\_\_\_\_ Construction and Quarterly Inspection of SWM Facility
- \_\_\_\_\_ Authorization for City to inspect and do necessary work on facility and to make an assessment which shall be a lien against the property
- \_\_\_\_\_ Grant of Right of Entry
- \_\_\_\_\_ Indemnification and Hold Harmless Provision
- \_\_\_\_\_ Notification of Transfer of Responsibility
- \_\_\_\_\_ Responsibility as to Water Drainage
- \_\_\_\_\_ Obligations to Run with the Land
- \_\_\_\_\_ Provision for Recordation the recordation requirements set forth in Section 3-501 of the Real Property Article of the Annotated Code of Maryland, as amended
- \_\_\_\_\_ Other: All Parties in Interest Must Sign

INSTRUCTIONS, CHECKLIST FOR EASEMENT ELEMENTS AND SAMPLE LANGUAGE  
STORMWATER MANAGEMENT EASEMENT AND STORMWATER MANAGEMENT INSPECTION  
AND MAINTENANCE AGREEMENT (CONTINUED)

**SAMPLE LANGUAGE**

**STORMWATER MANAGEMENT EASEMENT AND  
STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT**

Made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by

\_\_\_\_\_,  
*(Name of Property Owner - if a partnership or corporation, include the laws under which it is organized)*

hereinafter referred to as the "Owner," for the benefit of the Mayor and Council of Rockville, Maryland, a municipal corporation in the State of Maryland, hereinafter referred to as the "City."

WITNESSETH:

WHEREAS, the Owner is owner of the property, hereinafter referred to as the "Subject Property", described as follows:

*(Insert a verified legal description of the entire property, including both a reference to the deed by which the property was acquired and any plat reference)*

WHEREAS, Owner desires to develop or redevelop all or portions of the Subject Property;  
and

WHEREAS, prior to said developing or redeveloping, the Owner is required by Chapter 19 of the Rockville City Code to provide for certain stormwater management and to obtain sediment control and stormwater management permits ; and

WHEREAS, the Owner has full authority to execute this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement so as to bind the Subject Property and all current and future owners and assigns.

NOW, THEREFORE, in compliance with the requirements of Chapter 19 and in consideration of the issuance by the City of a Stormwater Management Permit and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner does grant, covenant and agree as follows:

## STORMWATER MANAGEMENT EASEMENT

The Owner does hereby grant and convey to the City, its successors and assigns, forever and in perpetuity, a Stormwater Management Easement described as follows:

- *Provide a metes and bounds description of the easement area(s) to match the sketch (Exhibit.) DPW may allow a graphical representation in lieu of a metes and bounds description for some SWM measures, i.e. Green Roof. Consult DPW.*
- *A metes and bounds description of any necessary access easement may also be provided in lieu of the general grant of access in paragraph "SECOND."*
- *If there is more than one area to describe, describe each, provide a label for each and be sure these match the exhibits included later in the document. (i.e. A, B, C)*

Said Stormwater Management Easement more particularly shown on the attached Exhibit (s) *Insert the Exhibit Letter (A, B C, etc.) and title here* which is attached hereto and incorporated herein by reference. Said Stormwater Management Easement is hereby intended to be granted and conveyed together with all the rights, privileges, appurtenances, and advantages thereto belonging or appertaining to their proper use and benefit forever by the City, its successors and assigns.

AND the Owner, for *Insert correct pronoun here (i.e. himself or herself if individual, itself if corporation, etc.)*, and the Owner's heirs, administrators, successors, and assigns, covenants and agrees as follows:

FIRST: That the Owner, without the prior written consent of the City, will neither perform nor permit upon or within the above described Stormwater Management Easement: (i) removal or alteration of the System, (ii) the erection or installation of any structure, building or other improvements, (iii) the excavation or filling of land, or (iv) the installation of trees, shrubs, or other landscaping (excluding grass) unless shown on the issued Stormwater Management Permit.

SECOND: That the City, its successors and assigns, shall at all reasonable times have the right, but is not under any circumstances obligated to exercise said right, of ingress and egress along, over, under, thru, to and from such Stormwater Management Easement for the purpose of installing, constructing, reconstructing, maintaining, repairing, inspecting and/or operating a Stormwater Management System and appurtenances thereto; said ingress and egress to be made generally across the Subject Property from any adjacent public road or right-of-way, or along such other lines as the

Owner may designate and as may be acceptable to the City<sup>1</sup> and the Owner's obligation under this paragraph includes providing access to the Stormwater Management Easement for the ***List any interior (i.e. interior courtyard, interior structural measures) or green roof measures*** as shown in ***Insert Applicable Exhibit Letter and Name*** via indoor common areas as needed for the City, its agents and its contractors, and THIRD: That the Owner will warrant specially said Stormwater Management Easement, and will execute such further assurances thereof as may be requisite.

### **STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT**

The Owner does hereby further covenant and agree as follows:

1. The Owner will construct a Stormwater Management System (hereinafter referred to as the "System") within the Stormwater Management Easement described above and shall further provide for the quarterly inspection and necessary maintenance of said System to ensure that it is and remains in proper working condition in accordance with the approved design standards of applicable laws, rules and regulations. City issuance of the Stormwater Management Permit for the Subject Property shall constitute the necessary consent for the construction of the System within the Stormwater Management Easement pursuant to paragraph FIRST above.

2. The City may, but is not obligated to, inspect the System. If, after reasonable notice by the City, the Owner shall fail to construct, repair, maintain, or operate the System in accordance with the approved design standards and with all applicable laws, rules and regulations, the City may, but is not obligated to, enter onto the Subject Property and access the System and perform all necessary construction, repair, maintenance and/or operating work, and may assess the Owner for the cost of said work including penalties. Said assessment shall be a lien against the Subject Property and may be placed on the property tax bill of said property and collected in the same manner as property taxes by the City. If properties other than the Subject Property are also served by the System, the owner(s) of all such property shall be jointly and severally liable for the any cost of associated with any and all work performed by the City. All said properties are jointly and severally subject to the imposition of liens pursuant to the provisions of this paragraph.

3. The Owner shall indemnify and hold harmless the City and all its officers, employees, agents, and servants from any and all claims or damages of any kind to persons or property arising from the installation, construction, reconstruction, maintenance, repair, operation and/or use of the System.

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<sup>1</sup> If DPW approves a specifically delineated access easement instead of a general access easement, remove the general access language and insert the specific metes and bounds description of the access. Be sure there is a coordinating and titled Exhibit with label included in the document.

4. The Owner shall notify the City of the legal and/or equitable transfer of any of the Owner's responsibilities for the System within thirty (30) days of such transfer, and shall supply the City with a copy of any executed documents of said transfer. The Owner shall provide all subsequent owners, successors, assigns and any other party responsible for the maintenance of the System with a copy of this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement with accurate as-built construction plans detailing the System and its appurtenances.

5. This Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement does not in any way relieve the Owner of responsibility for providing stormwater drainage in addition to the on-site Stormwater Management System as may be deemed necessary by the City or other appropriate agency.

6. This Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement (including all terms, covenants and agreements contained herein) shall run with the title to the Subject Property and shall bind the Owner and the Owner's heirs, executors, administrators, successors and assigns.

7. Owner hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Subject Property, other than those for which the holder in interest has signed this document or otherwise consented in writing, to this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement. Owner further certifies that all parties with an interest in the Subject Property necessary to give full effect to this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement have signed, or otherwise consented in writing to, this document.

AND, the Owner does further agree to record this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement in the land records of Montgomery County, Maryland, at the Owner's expense within ten (10) days of the date hereof, and shall provide the City with documentary proof of recordation within five (5) days of said recordation.

IN WITNESS WHEREOF, the Owner has executed this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Signature of Owner (*See Signature Requirements and Sample Acknowledgments*)

**PLEASE REVIEW THE FOLLOWING SIGNATURE REQUIREMENTS AND SAMPLE  
ACKNOWLEDGMENTS TO DETERMINE WHICH IS APPROPRIATE FOR YOUR  
PROJECT. USE PRONOUNS APPROPRIATE TO YOUR SITUATION.**

**FOR INDIVIDUALS**

NOTE: WHERE THE OWNER(S) IS/ARE INDIVIDUALS, THE  
NAMES SHALL BE PRINTED BENEATH THE SIGNATURE  
WITH THE WORD "OWNER" AFTER IT. THE FOLLOWING  
OR SIMILAR ACKNOWLEDGMENT SHOULD BE USED:

STATE OF MARYLAND:

SS:

COUNTY OF MONTGOMERY:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned officer,  
personally appeared \_\_\_\_\_, known to me (or satisfactorily  
proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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

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

**FOR PARTNERSHIP**

NOTE: WHERE THE OWNER IS A PARTNERSHIP, THE NAME OF THE PARTNERSHIP AND ITS TYPE (LIMITED OR OTHERWISE) SHOULD BE ABOVE THE SIGNATURE LINE AND EACH GENERAL PARTNER MUST SIGN WITH THEIR NAMES PRINTED UNDER THE SIGNATURE LINE FOLLOWED BY THE WORDS "GENERAL PARTNER." ONE GENERAL PARTNER MAY SIGN ON BEHALF OF THE PARTNERSHIP IF HE HAS AUTHORITY TO BIND THAT PARTNERSHIP. THE ACKNOWLEDGMENT, SIMILAR TO THE FOLLOWING, SHOULD INDICATE THAT AUTHORITY. AN ACKNOWLEDGMENT SIMILAR TO THE FOLLOWING AND APPROPRIATE TO THE SITUATION SHOULD BE USED.

STATE OF MARYLAND:

SS:

COUNTY OF MONTGOMERY:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself/themselves to be the

\_\_\_\_\_ of \_\_\_\_\_,  
(General Partner or other legal description) (Name of Partnership)

a \_\_\_\_\_ and that he/she/they, as such \_\_\_\_\_,  
(Type of Partnership) (General partner or other legal description)

being authorized so to do, executed the foregoing instrument on behalf of the partnership for the purposes therein contained, by signing the name of the partnership by himself/herself/themselves as said \_\_\_\_\_.  
(General partner or other legal description)

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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

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



**FOR CORPORATIONS**

NOTE: WHERE THE OWNER OF THE PROPERTY IS A CORPORATION, THE NAME OF THE CORPORATION SHOULD APPEAR ABOVE THE SIGNATURE LINE WITH EITHER THE PRESIDENT OR A VICE PRESIDENT SIGNING ON BEHALF OF THE CORPORATION. THE NAME OF THE INDIVIDUAL SHOULD BE TYPED BENEATH HIS OR HER SIGNATURE FOLLOWED BY HIS OR HER TITLE. THE FOLLOWING OR SIMILAR ACKNOWLEDGMENT SHOULD BE USED IN CASE OF A CORPORATION.

STATE OF MARYLAND:

SS:

COUNTY OF MONTGOMERY:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself/themselves to be the \_\_\_\_\_ of \_\_\_\_\_,

(Title of Corporate Officer) (Name of Corporation)  
a corporation, and that he/she/they, as such \_\_\_\_\_ being  
(Title of Corporate Officer)

authorized so to do, executed the foregoing instrument on behalf of the corporation for the purposes therein contained, by signing the name of the corporation by himself/herself/themselves as \_\_\_\_\_.  
(Title of Corporate Officer)

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

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

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

**All parties who have an interest in the property must also consent to this document. This includes all mortgage and noteholders, lienholders, and grantees of other encumbrances that are within the Stormwater Management Easement.**

Sample consent:

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**CONSENTS OF OTHER INTERESTED PARTIES**

The trustees and noteholder<sup>2</sup> named in a certain deed of trust dated \_\_\_\_\_, securing repayment of a loan from \_\_\_\_\_ in the principle amount of \_\_\_\_\_ and recorded among the land records of Montgomery County, Maryland, in Liber \_\_\_\_\_, at folio \_\_\_\_\_, consent to the foregoing Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement and agree that their interests in the Subject Property shall be subordinate and subject thereto.

THIS CONSENT MUST BE SIGNED BY THE APPROPRIATE  
PERSONS AND MUST BE ACCOMPANIED BY THE PROPER  
ACKNOWLEDGMENT, SAMPLES OF WHICH APPEAR ABOVE.

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<sup>2</sup>The noteholder need not sign if the trustee has full authority to sign the consent and bind the noteholder. If the noteholder does not sign, leave out the phrase "and noteholder."