

After recording return to:
102 W. Main Street
Prattville, AL 36067

BOOK: _____
PAGE: _____

**STATE OF ALABAMA
AND COUNTY OF AUTAUGA/ELMORE**

**STORMWATER OPERATION
MAINTENANCE AGREEMENT
(TRANSFER TO NEW OWNER)**

THIS STORMWATER OPERATION AND MAINTENANCE AGREEMENT (this "**Agreement**") is made and entered into as of _____, 20____ (this "**Effective Date**"), pursuant to the Post-Construction Stormwater Ordinance, Number 2022-014 of the City Code of the City of Prattville, by [OWNER], a _____ (hereinafter known as the "**Owner**"), for the benefit of the City of Prattville (the "**City**").

R E C I T A L S:

A. WHEREAS, [DEVELOPER], _____ (the "**Developer**") was the owner of that certain land lying within the city limits of Prattville described in Exhibit A attached hereto (the "**Property**"), and upon which Developer constructed improvements;

B. WHEREAS, the development of the Property required the construction of a Stormwater Best Management Practices Structure ("**BMPs**"), including stormwater detention ponds or other stormwater control structures, as necessary, and in accordance with plans and specifications (the "**Approved Plans and Specifications**"), and applicable manuals, to serve the Property, each approved by the City; and, the Approved Plans and Specifications are described on Exhibit B hereto;

C. WHEREAS, the City issued to the Developer a Post-Construction Stormwater Permit ("**Permit**"), which allowed Developer to construct, maintain, inspect and operate the BMPs. The City and the Developer entered into that certain Stormwater Operation and Maintenance Agreement ("**Original OMA**"), dated as of _____, 20____ and recorded in the official land records of **Autauga/Elmore** County, Alabama at Book _____, Page _____; and, the Administrator approved the completed construction of the BMPs, and the City issued to the Developer a Certificate of occupancy or final plat approval; and, "Permit" was defined in the Original OMA to mean the Original OMA;

D. WHEREAS, as of the Effective Date Owner, _____ (the "**Owner**") acquired the Property from the Developer;

E. WHEREAS, the City desires to ensure that the BMPs are properly maintained and operated in accordance with the Permit and all other applicable ordinance provisions; and, Section 2 of the Original OMA requires a transferee of the Property to enter into a new stormwater operation and maintenance agreement with the City; and

F. WHEREAS, in compliance with the Original OMA the City and Owner are entering into this Agreement as of the Effective Date.

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the City and Developer hereby agrees as follows:

1 Generally. Owner shall operate and maintain the BMPs in accordance with applicable Permit provisions, the Approved Plans and Specifications, the Alabama Handbook for Erosion Control,

Sediment Control and Stormwater Management on Construction Site and Urban Areas Volume I and II, and all other applicable law.

2 Transfers. Owner agrees that it shall not transfer ownership and/or control of the BMPs unless the proposed transferee shall executed a new stormwater operation and maintenance agreement with the City in substantially the form hereof (a “***new OMA***”). Owner shall remain responsible for the operation and maintenance of the BMPs pursuant to this Agreement until the proposed transferee has executed a new OMA with the City, at which time Owner shall be released from any obligations, hereunder arising, from events or circumstances occurring, thereafter.

3 Right to Construct and Maintain. If the Owner for any reason, or at any time, fails, within thirty (30) days after receiving written notice, to maintain the BMPs as required by this Agreement, or the Permit, the City may perform such maintenance, and the Owner hereby agrees to pay the City or other governmental authority all reasonable costs incurred, and grants and conveys to the City a lien on the Property subordinate only to the lien of any mortgages/deeds of trust now or, hereafter, encumbering the Property. Owner warrants that the lien created by this paragraph has no less than a second priority status, excluding ad valorem property tax and other statutory liens. The City may bring an action at law against the Owner to pay any such sums coming due hereunder or foreclose the lien created herein against the Property in the same manner as prescribed by the laws of the State of Alabama for the foreclosures of mortgages/deeds of trust. Interest at the legal rate, costs, and reasonable attorneys’ fees for representation of the City in such action or foreclosure shall be added to the indebtedness secured by such lien. Upon removal of the BMPs in accordance with applicable law, any applicable provisions of the Permit, and upon inspection and approval of the same by the Administrator, the lien herein granted and conveyed to the City shall be of no further force and effect.

4. Easement for Inspection, Construction and Maintenance. The City and the Owner hereby acknowledge the Easement (as defined in the Original OMA) granted pursuant to the Original OMA, and confirm their agreement to the terms thereof.

Owner hereby, agrees to release, indemnify, defend, and hold the City, its officials, officers, agents, and employees, harmless from any and all (“***Claims***”) claims, actions, suits, liabilities, losses, costs, expenses, reasonable attorneys’ fees, and costs of litigation, of any nature, whatsoever, excluding claims for special and consequential damages, arising out of, or in any way related to, the BMPs and/or the City’s entry onto the Property and use of the Easement, thereupon, to the extent first arising from and after the Effective Date; provided, however, that Owner shall have no obligations to the City under this sentence to the extent any Claim is a result of the gross negligence of or willful misconduct on the part of the City, its contractors or agents.

5. Restrictive Covenant. All future transferees of the Property shall be subject to the restrictive covenant that they will construct, maintain, repair, and reconstruct the BMPs in conformance with the applicable laws, the Permit, and this Agreement. Such restrictive covenants shall run with the land, provided, however, that with the approval of the Administrator, the Owner may transfer all responsibilities and obligations, hereunder, to another entity having the legal and financial ability and authority to assure fulfillment of Owner’s responsibilities under the Permit and this Agreement, and such transfer shall be complete once the transferee has fully executed a new OMA with the City.

6. Estoppel. The City represents to Owner as of the Effective Date that: (a) the plans and specifications described on Exhibit B hereto are the Approved Plan and Specifications, and the same have not been amended or modified, (b) to the City’s knowledge, immediately prior to the execution and delivery of this Agreement by the City, Developer is not and was not in default or breach of its obligations under the

Original OMA and (c) no sum of money is owed by the Developer to the City under this Agreement as of the Effective Date.

7. Notice. Any notice which any party, hereto, may send to the other pertaining to this Agreement shall be in writing and shall be considered delivered when deposited in the United States mail, certified with postage pre-paid. The addresses are as stated below:

If to the City: City of Prattville
Stormwater Department
102 West Main Street
Prattville, AL 36067

If to the Owner: _____

8. Modification and Amendment. This Agreement may only be amended by a written agreement signed by City and Developer or their respective successors and assigns. This Agreement contains the entire agreement between the parties. There are merged, herein, all prior and collateral representations, promises, and conditions, in connection with the subject matter, hereof. Any representation, promise, or condition not incorporated, herein, shall not be binding upon either party.

9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order will, in no way, affect any other provisions, which shall remain in full force and effect.

10. Beneficiaries of this Agreement. The City is the governmental authority which has jurisdiction over Stormwater Management Permit issuance, and shall be deemed to be a beneficiary of this Agreement, both in its own right, and also for the purpose of protecting the interests of the community and other parties, public or private, in whose favor, or for whose benefit, this Agreement has been provided. This Agreement shall run in favor of the City for the entire period during which this Agreement shall be in force and in effect, without regard to whether the City has, at any time, been, remains, or is an owner of the Property or any portion, thereof. The City shall have the right, in the event of any breach of this Agreement, following notice and a reasonable period to cure, to exercise all the rights and remedies, and to maintain any action or suits at law or in equity, or other proper proceedings, to enforce the curing of such breach of this Agreement to which it may be entitled.

11. Caption Headings. The headings and captions used in this Agreement are used for convenience, only, and shall not be deemed to limit, amplify, or modify the terms of this Agreement.

12. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Alabama. Venue for any litigation pertaining to this Agreement shall be laid in the state of Alabama Circuit Court having jurisdiction.

13. Binding Effect. The parties agree that the terms and provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties, their heirs, executors, administrators, successors in interest, and assigns.

14. Recording. A copy of this Agreement and any modification, thereof, shall be filed in the office of the Autauga county or Elmore county Judge of Probate and in the office of the Stormwater Administrator.

[The remainder of this page is intentionally blank.]

IN WITNESS, WHEREOF, Developer has caused this Agreement to be executed under seal, the day and year first above written.

City of Prattville,
as the City

By: _____
Name:
Title:

[Owner Legal Name],
a _____,
as the Owner

By: _____
Name:
Title:

STATE OF _____

_____ COUNTY

I, the undersigned, a Notary Public in and for said State at Large, hereby certify that _____, whose name as _____ of **CITY OF PRATTVILLE**, a _____, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said company as of the date hereof.

Given under my hand this ____ day of _____, 2026.

[SEAL]

NOTARY PUBLIC

My commission expires: _____

STATE OF _____

_____ COUNTY

I, the undersigned, a Notary Public in and for said State at Large, hereby certify that Francis Lively, whose name as President and Authorized Signatory of **[OWNER LEGAL NAME]**, a _____, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said company as of the date hereof.

Given under my hand this ____ day of _____, 2026.

[SEAL]

NOTARY PUBLIC

My commission expires: _____

EXHIBIT A
DESCRIPTION OF THE PROPERTY

[This will be a legal description of the entire property]

EXHIBIT B
DESCRIPTION OF THE APPROVED PLANS AND SPECIFICATIONS

[This will be the description of the prior Developer's previously approved and recorded OMA and Easement.]