

PERPETUAL STORMWATER FACILITY MAINTENANCE AGREEMENT

This plat contains storm water storage facilities known as or shown as detention/ retention ponds or storm water storage facilities on the plat. With regard to future maintenance, it is expressly understood and agreed by the developer and by the owner of any specific lot and/ or tract within the platted subdivision that the developer and/ or owner of lots or tracts shall be responsible for the maintenance of all storm water storage facilities including but not limited to detention and/ or retention ponds as shown on this plat. Specifically, the developer or owner of real property that is served by an onsite or offsite storm water management facility including storm water storage facilities shall be responsible for maintenance, repair and operation, during site development. The developers' responsibility will terminate after a two year period from the issuance of a land disturbance permit upon satisfying two conditions: 1) Successful completion of post construction in accordance with Sections 18-306 and 18-307 of Ordinance # 2004-41 of the City of Cleveland Storm water Regulations specifically Sections 18-306 and 18-307, and 2) The sell or transfer of ownership of 51% of all those lots, tracts and/ or parcels in the platted subdivision. All individual lot, parcel, tract owners in the platted subdivision shall have an easement interest in the storm water storage facilities for water run off from all lots in the subdivision. The private storm water facilities shall include but are not limited to storm water storage facilities, detention and retention ponds, structural and non-structural storm water facilities and open channel conveyances not located within the public right of ways.

The future maintenance, repair and operation of the private storm water facilities shall be the responsibility of all subdivision lot owners of record of those lots shown on the recorded plat. In the event, a subdivision is developed in phases then all subsequently developed lots in the subdivision including all future phases of the subdivision shall share the same easement as those lot owners shown in the initial plat and/ or plats. It being the intent that all lot owners in any particular subdivision; whether in the initial or any later phase shall share equally in the easement rights in and to the storm water storage facilities as well as share equally in the future maintenance and upkeep of the storm water storage facilities. There shall be and is a storm water storage basin easement as to any plat containing a storm water detention basin. This storm water detention basin easement shall be a 20 foot wide access easement. This easement shall be for the purpose of allowing city engineering personnel, storm water inspectors, grading equipment operators, storm water monitoring personnel and/ or other necessary personnel to investigate, inspect, repair and/ or maintain the detention basin or storm water quality structure as needed to determine proper functioning, need for maintenance, maintenance and/ or other necessary repairs and/or situations that may occur in times of emergency or urgent conditions. This twenty (20) foot access easement is as shown on this recorded plat and shall be used as a means of ingress and egress to and from storm water detention basins and must abut on a public right of way for at least twenty (20) feet road frontage and must be easily traversable by potential grading equipment as well as those individuals noted above. This twenty (20) foot storm water detention basin access easement area shall not contain any buildings or structures, large trees or heavy shrubbery, utility poles, manholes, overhead utility lines without adequate clearance, deep

ditches or channels and/ or any other structures or items causing the storm water detention basin to be inaccessible.

However, the property owner is permitted to plant small shrubs of little or no value that can be easily removed or cleared. Small fences may also be placed in this area that can be easily removed. Any fencing should contain a gate through the fence. (Said gate shall be placed there by the lot owner at the expense of the lot owner.) Any structure located upon the storm water detention basin access easement area must be portable and quickly and easily removable. The City of Cleveland shall not be and is not responsible for any damage to any structure, fence, utilities or vegetation located within this storm water detention basin access easement area. The City of Cleveland and/ or its designated agents and/ or officials shall have access over and across this storm water detention basin easement area as they deem the same necessary to inspect and/ or maintain the storm water detention facility. The City of Cleveland shall not be responsible for the repair or replacement of structures, fences, utilities and/ or vegetation located upon the storm water detention basin access easement area. This storm water detention basin easement area is normally intended for heavy equipment access rather than ordinary passenger vehicle access.

Ownership of each private storm water facility shall be equally appropriated to each parcel over which the storm water storage facility lies. However, maintenance of these private storm water facilities serving multiple parcels shall be the cumulative responsibility of every lot and/ or tract owner of record of any plotted lot or tract in the subdivision who shall all have easement rights for water runoff from their individual lots and/ or tracts flow in and to any storm water storage facility and/ or detention or retention pond as shown on the recorded plat in the subdivision. Each lot owner in the subdivision shall share equally in the cost of all maintenance, upkeep and/ or repair of storm water storage facility and/ or detention/ retention pond. However, in the event, damage to the storm water storage facility and/ or detention/ retention pond is caused by the sole negligence of any one individual lot and/ or tract owner, then the individually negligent lot or tract owner shall be solely responsible for the repair of the damage caused by his or her negligence and/ or the acts of his or her agents. In the event, storm water facilities are not properly maintained as set out herein in the City of Cleveland, it shall require the subdivision/ parcel owners of record served to perform the maintenance and the repair at the expense of the parcel owners served by said facilities and pursuant to the terms of Section 18-305, Section 5 (f) (iii). The City may file suit against the lot and/ or tract owners seeking relief from a court of proper jurisdiction to require said lot and/or tract owners to pay for said maintenance and upkeep of these storm water storage facilities as set out herein and/ or as set out in the ordinance. In the event it shall be necessary to file suit then the party or parties found to be in violation of the ordinance and/ or in violation of this maintenance agreement shall be responsible to pay the court costs paid and any attorney fees incurred by the City of Cleveland in having the ordinance and/ or this maintenance agreement enforced.

Dated this _____ day of _____, 20_____.

Developer

