

Prepared By: Peter U. Lanfrit, Esq.

**STORMWATER DETENTION  
FACILITY MAINTENANCE AGREEMENT**

**THIS AGREEMENT**, dated \_\_\_\_\_, 2024, is made by and between Devin Developers, LLC, c/o Bhavin Patel, 6 Pointer Place, Kendall Park, New Jersey 08824 (the “Applicant/Owner”) and the Township of Franklin, in the County of Somerset, a municipal corporation of the State of New Jersey, with offices located at 475 DeMott Lane, Somerset, New Jersey 08873 (the “Municipality”).

**WHEREAS**, the Applicant is the owner of a tract or parcel of land located at 11 Bunker Hill Road and 3523 Route 27 in the Municipality and designated on the Tax Map of the Municipality as Block 11.06, Lot 11.01 and Block 20.01, Lot 16.01, respectively, (referred to as the “Property”); and

**WHEREAS**, on \_\_\_\_\_, 202\_\_, the Applicant/Owner received Preliminary and Final Major Subdivision and Site Plan Approval from the Planning Board (the “Board”) of the Municipality to subdivide the property into property with nine lots (eight lots with residential dwellings, the remaining lot will contain an infiltration basin) and an open space area of 45,065 square feet (the “Site”), as more particularly detailed in the Resolution adopted by the Board on \_\_\_\_\_, 2024, as Docket # PLN-21-00019; and

**WHEREAS**, the approved plan of the Site prepared by Accurate Engineering, PC, includes an infiltration basin located on the Site.

**NOW, THEREFORE**, in consideration of one dollar (\$1.00) and other good and valuable consideration, and the agreements and conditions set forth herein, it is mutually agreed by and between the parties hereto as follows:

A. PREVENTATIVE MAINTENANCE

The Owner of the Property shall undertake a preventative maintenance program which shall include grass cutting and maintenance, vegetative cover maintenance, the removal and disposal of trash and debris, sediment removal and disposal, and the elimination of potential mosquito breeding habitat so as to retain the effective utilization of the detention facility for the collection of the stormwater drainage as designed.

Should the Owner fail to properly maintain the Stormwater Detention Facility, then said Owner shall be considered in default and in that event, the Township of Franklin reserves the absolute right to retain immediate ownership and maintenance of the Stormwater Detention Facility for purposes of securing overall public safety and shall further retain the right to charge against the Owner any outstanding maintenance costs which shall be subject to a lien being filed against the Property.

1. Removal and Disposal of Trash and Debris

A regularly scheduled program of debris and trash removal will reduce the chance of components from becoming clogged and inoperable during storm events.

Additionally, removal of trash and debris will prevent possible damage to vegetated areas and eliminate potential mosquito breeding habitats. Disposal of debris and trash must comply with all local, county, state, and federal waste-flow control regulations. Only suitable disposal and recycling sites should be utilized.

2. Sediment Removal and Disposal

Accumulated sediment should be removed before it threatens the operation or storage volume of the Stormwater Detention Facility. Disposal of sediment must comply with all local, county, state, and federal regulations. Only suitable disposal sites should be utilized.

3. Maintenance of Structural Components

The concrete dry well shall be kept in good working condition. Concrete structures that are cracked, chipped or deteriorated to a point that the structural integrity is compromised shall be repaired or replaced.

4. Grass Cutting

A regularly scheduled program of mowing and trimming of grass during the growing season should be tailored to the specific site condition and grass type. In general, grass should not be allowed to grow to a height of greater than six (6) inches between cuttings.

5. Grass Maintenance

Grassed areas require periodic fertilizing, de-thatching and soil conditioning in order to maintain healthy growth. Additionally, provisions should be made to reseed and reestablish grass cover in areas damaged by sediment accumulation, stormwater flow, or other causes.

6. Vegetative Cover Maintenance

Trees, shrubs, and ground cover require periodic maintenance, including fertilizing, pruning, and pest control in order to maintain healthy growth.

7. Elimination of Potential Mosquito Breeding Habitats

A mosquito control program shall be established to eliminate potential mosquito breeding habitats. Areas of ponding water, areas of debris and sediment accumulations, and areas of ground settlement provide ideal locations for mosquito breeding and shall be eliminated.

B. AESTHETIC MAINTENANCE

Consistent with the provisions set forth above, the Owner(s) also agree(s) to remove graffiti and otherwise keep the premises groomed so as to retain an aesthetic appearance for the Stormwater Detention Facility.

C. CORRECTIVE MAINTENANCE

The Owners shall undertake a corrective maintenance program which shall include necessary repairs to embankments and side slopes. This damage can be the result of rain or flood events, vandalism, animals, vehicles or neglect.

D. MAINTENANCE SCHEDULE AND SUPPLEMENTAL PROCEDURES

The aforementioned maintenance procedures shall be performed in accordance with the maintenance schedule and procedures outlined in the Operations and Maintenance Manual entitled, "OPERATION AND MAINTENANCE MANUAL" prepared by Stires Associates, P.A., dated January 23, 2023. The Operation and Maintenance Manual shall be kept by the property Owner in a safe and known location. Maintenance and repair activity logs shall be maintained by the property Owner and shall be provided to any appropriate governing authority upon their request.



E. RIGHT OF ACCESS FOR FACILITY INSPECTION

The Owner hereby grants permission for authorized personnel of the Township of Franklin to enter the property upon which the Stormwater Detention Facilities are located for the purpose of inspecting such Facilities. Such inspections shall be made by Township personnel at such times as deemed appropriate by Township Officials and may be conducted without prior notification.

F. EMERGENCY MAINTENANCE AND REPAIRS

In the event that an emergency situation arises that makes it impractical to serve written notice upon the Owner and to provide Owner with a reasonable period for completion of necessary maintenance and repairs, then, and in that event, the Township of Franklin may immediately enter upon the property and perform or cause to be performed such emergency maintenance or repairs that the Township of Franklin, in its sole judgment, deems necessary. All costs incurred by the Township or any other governing authority during emergency maintenance and repair shall be the sole responsibility of, and reimbursed to the appropriate authority by, the property Owner. All costs incurred shall become a lien against the Property which shall be collected in the same manner as property taxes or by any other available manner provided by law.

G. PERMIT APPLICATIONS

In the event that the Township of Franklin or applicable law requires local, county or state permits for the performance of maintenance or repair operations to structures located within the "Detention Facility Easement" on the Property and the Owner of the Property fails to sign the necessary applications within ten (10) days of the written request to do so, the Township Engineer shall be designated to sign the application on behalf of the Owner or Owners.

H. REASONABLE EXERCISE OF RIGHTS

All rights of the Township of Franklin herein above set forth shall be exercised by the Township in a reasonable fashion and in the event of dispute in respect to the foregoing, the issue shall be decided by a court of competent jurisdiction.

1. Danger to Public. In the event that the Stormwater Detention Facility becomes a danger to public safety or public health, or if the Stormwater Detention Facility is in need of maintenance, the Owner will be notified in writing. Upon receipt of such notice, the Owner shall have fourteen (14) days to implement maintenance and repair of the Stormwater Detention Facility in a manner that is approved by the Engineer of the Municipality and the County of Somerset; provided, however, that if the repairs or

maintenance are of an emergent nature, the Owner may be notified by telephone, facsimile, overnight delivery or hand delivery to implement immediate maintenance and repair of the Stormwater Detention Facility. If the Owner fails or refuses to perform such maintenance and repair, the Municipality and the County of Somerset may immediately enter upon the Property with vehicles and equipment and proceed to perform such maintenance and repair and bill the cost thereof to the Owner. In the event of such entry by the Municipality and the County of Somerset, Owner agrees to save, defend, indemnify and hold the Municipality and the County of Somerset harmless from and against any loss, damage, claim, suit or expense caused by or arising from any damage or injury to property or persons arising from or in connection with any of the rights hereby granted to the Municipality and the County of Somerset. All costs incurred shall become a lien against the Property which shall be collected in the same manner as property taxes or by any other available manner provided by law.

2. Notice. Except in cases of emergency as provided herein, any notice related to this Agreement to be given to the Owner or to the Municipality shall be sufficient if given in writing and sent by first class mail, postage prepaid, addressed to the Owner or Municipality at the address set forth at the beginning of this Agreement, unless either party delivers a substitute address to the other party by certified mail, return receipt requested, in which case the notice shall be sent to that address.
3. Successors and Assigns. Wherever in this Agreement any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation. All the terms, covenants and conditions herein contained shall be for and

shall inure to the benefit of and shall bind the respective parties hereto and their heirs, executors, administrators, personal or legal representatives, successors and assigns, respectively.

4. Governing Law. This Agreement shall in all respects be governed and constructed in accordance with the laws of the State of New Jersey.
5. Amendment. The provisions of this Agreement may not be amended, modified or terminated without the express written consent of the Municipality, and no such amendment, modification or termination shall be effective for any purpose unless set forth in writing and signed by the appropriate officials of the Municipality.

**IN WITNESS WHEREOF**, the said parties have hereunto caused this Agreement to be signed by their personal representatives and, if a corporation, have caused their proper seal to be affixed hereto, the day and year first written above.

ATTEST:	DEVIN DEVELOPERS, LLC
By: _____	By: _____
Print Name: _____	Print Name: <u>Bhavin Patel</u>
	Title: <u>Authorized Signatory</u>

<b>ATTEST:</b>	<b>Township of Franklin</b>
_____	_____
Ann Marie McCarthy, Clerk	Phillip Kramer, Mayor

[THE BALANCE OF THIS PAGE WAS INTENTIONALLY LEFT BLANK – ACKNOWLEDGMENT PAGE TO FOLLOW.]

**Acknowledgment**

STATE OF NEW JERSEY

SS:

COUNTY OF MIDDLESEX

I CERTIFY that on \_\_\_\_\_, 2024, Bhavin Patel, Authorized Signatory of Devin Developers, LLC, personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) was the maker of this Stormwater Detention Facility Maintenance Agreement;
- (b) was authorized to and did execute this Stormwater Detention Facility Maintenance Agreement as the Authorized Signatory of Devin Developers, LLC, the entity named in this Agreement; and
- (c) made this Stormwater Detention Facility Maintenance Agreement as owner in fee simple of the real property defined herein; and
- (d) executed this Stormwater Detention Facility Maintenance Agreement as the act of the entity.

\_\_\_\_\_  
Notary Public of New Jersey



**MUNICIPAL ACKNOWLEDGEMENT**

STATE OF NEW JERSEY

SS.:

COUNTY OF SOMERSET

I CERTIFY that on \_\_\_\_\_, 2024, Ann Marie McCarthy personally came before me and this person acknowledged under oath, to my satisfaction that:

- (a) this person is the Clerk of the Township of Franklin, the municipal corporation named in this Agreement;
- (b) this person is the attesting witness to the signing of this Agreement by the proper municipal officer who is Phillip Kramer the Mayor of the Township of Franklin;
- (c) this Agreement was signed and delivered by the Township of Franklin as its voluntary act duly authorized by a proper resolution of its governing body;
- (d) this person knows the proper seal of the Township of Franklin which was affixed to this Agreement; and
- (e) this person signed this proof to attest to the truth of these facts.

\_\_\_\_\_  
Ann Marie McCarthy, Clerk

Signed and Sworn to before me on  
\_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public of New Jersey

RECORD AND RETURN TO:

Louis N. Rainone, Esq.  
Rainone Coughlin Minchello, LLC  
555 U.S. One South, Suite 440  
Iselin, New Jersey 08830