

FOREST CONSERVATION OFF-SITE  
MAINTENANCE AND MANAGEMENT  
AGREEMENT

This Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (Applicant) \_\_\_\_\_(address) and the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission (the "Board").

WHEREAS, the Applicant sought to develop certain property situated in Montgomery County, Maryland and was required to submit an application for \_\_\_\_\_plan review with the Planning Board, the application was captioned \_\_\_\_\_Plan # \_\_\_\_\_("Plan");

WHEREAS, the Plan, in accordance with applicable state and county law, was reviewed and approved by the Planning Board, expressly subject to certain terms and conditions of approval;

WHEREAS, in order to obtain this approval the Applicant is required to comply with the provisions of Montgomery County's Forest Conservation Law, Chapter 22A (as amended);

WHEREAS, the forest conservation plan required by the Forest Conservatin Law, hereinafter called the "FCP" as approved by the Board, provides for required offsite afforestation or reforestation ("Forestation") to comply with current forest conservation ordinances;

WHEREAS, the Applicant has identified and acquired various easement rights to certain offsite areas, other than the property proposed for development, which are suitable for the placement of a forest conservation easement which will meet the requirements of the forest conservation law ("Easement Areas");

WHEREAS, the right of the Applicant to provide the conservation easement and the acceptance by the owner of the property being burdened by the limitations and obligations set forth in the easement are established by a Conservation Easement Agreement recorded among the Land Records of Montgomery County, Maryland at Liber\_\_\_\_\_, Folio\_\_\_\_\_, and incorporated herein;

WHEREAS, the Board requires full compliance with the Plan and that the Easement be adequately maintained, managed and monitored for two years (5 years if in a Special Protected Area-SPA) by the Applicant to ensure forest protection and establishment.

THEREFORE, in consideration of the foregoing premises which are incorporated herein as substantive provisions of this Agreement, the parties agree to the following terms and conditions:

1. The forestation shall be planted by \_\_\_\_\_ (*the Applicant or an agent of the Applicant responsible for performing tree planting and care*), in accordance with the final specifications of the Plan, shown in Attachment A hereto, attached and incorporated herein.
2. The Board, or its designee, may enter upon the Property at any reasonable time to make routine inspections from the execution of this Agreement continuing through the end of the two-year (5 years if in an SPA) maintenance period to the areas of the afforestation and/or reforestation for the purpose of inspection or for the purposes of maintenance should the owner default.

3. Upon completion of all required plantings, the Applicant shall notify the Board's Forest Conservation Inspector ("Inspector") to schedule a post planting inspection for Plan compliance. Upon acceptance of the plantings, the Inspector will provide the Applicant with written notice of the maintenance and management commencement date.

5. The Applicant shall maintain and manage the forest plantings in accordance with the Plan. This shall include but is not limited to:

- \* planting native plant species compatible with the existing habitat.
- \* watering, fertilizing, controlling competing vegetation and protecting plants from disease, pests and mechanical injury during the initial planting and through the two-year (5 years if in a SPA) maintenance period as necessary.
- \* providing protection devices such as fencing, retainer walls, raised sidewalks and interpretive signs as necessary to prevent the destruction or degradation of the planting site.

6. The Applicant shall monitor the forestation site of the Property for two years (5 years if in an SPA) and shall replace any plantings that die within that two year (5 years if in a SPA) period to a minimum standard of 100 trees per acre or at least 75% of the total trees planted per acre (whichever is greater), so as to ensure compliance with survival requirements stated in the Forest Conservation Regulations.

7. The Applicant is required to provide, on a semiannual basis, evidence of Plan compliance and that the financial security is in full force and effect.

8. The Applicant must notify the Board's Inspector at the end of the two-year (5 years if in an SPA) maintenance period to schedule a final inspection. After verifying Plan compliance, the Inspector shall issue to the Applicant a written notice of completion.

9. The Applicant shall provide financial security in the form of a letter of credit or bond in a form approved by the Board's Office of the General Counsel, in the amount of \$\_\_\_\_\_, estimated to cover the cost of plantings, installation and maintenance for two years (5 years if in a SPA). The security must be posted prior to any clearing or land disturbing activities on the Property.

10. Up to half of the security may be released after the planting has been completed if, the Planning Director has determined that the planting Plan has been followed and the stock is properly planted and in good condition.

11. After the second year, or the fifth year in a SPA, if the Inspector has determined that the survival requirements have been met, the financial security may be released upon final inspection.

12. A legal, permanent protection mechanism approved by the Board for all forestation area(s) in the form of a conservation easement, deed restriction, covenant, or dedication is attached to this Agreement in the form of the record plat for this Property attached hereto as Attachment B.

13. This Agreement shall be recorded by the Applicant in the Land Records of Montgomery County, Maryland and shall constitute a covenant running with the land and shall be binding on the Applicant, its administrators, heirs, executors, and other successors in interest.

April 2009

14. This Agreement may be reviewed at 8787 Georgia Avenue, Silver Spring, Maryland.

Witness the following signatures:

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief, Environmental Planning Division

\_\_\_\_\_  
Date

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ before me, the undersigned individual, personally appeared \_\_\_\_\_, who acknowledged to be the \_\_\_\_\_, of \_\_\_\_\_, and that as such being authorized to do so, executed the foregoing instrument for the purposes therein contained.

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

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

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

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ before me, the undersigned individual, personally appeared \_\_\_\_\_, who acknowledged to be the \_\_\_\_\_, of \_\_\_\_\_, and that as such being authorized to do so, executed the foregoing instrument for the purposes therein contained.

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

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

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

The Maintenance and Management Agreement is hereby released on \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Chief, Environmental Planning Division