

**FOREST CONSERVATION OFF-SITE
MAINTENANCE AND MANAGEMENT AGREEMENT**

This Agreement made and entered into this _____ day of _____, 20__ by and between _____ (Applicant), _____ (Owner) _____ (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 _____ (*identify the plan/ type of plan*) plan review with the Planning Board, the application was captioned _____ Plan # _____ "Plan");

WHEREAS, Owner holds title to certain real property described as _____ (*address or brief description of the land*) and recorded in the land records of Montgomery County, Maryland at Book _____ Page _____ [OR Shown in Plat Book _____ Plat _____] ("Property");

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 Code, Chapter 22A (as amended) ("Forest Conservation Law"), which requires a forest conservation plan ("FCP"), and as approved by the Board in this case, provides for variance mitigation tree(s) and/or the afforestation or reforestation ("Forestation") to certain offsite areas, other than the property proposed for development;

WHEREAS, the Applicant has identified and acquired various easement rights to certain offsite areas that 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 Book _____, Page _____;

WHEREAS, the Board requires full compliance with the Plan and the FCP, including assurance that the Easement will be adequately maintained, managed and monitored for 5 years, unless reduced pursuant to Section 22A-12(h) of the Forest Conservation Law, by the Applicant, from the date of satisfactory inspection of the forest planting required by the forest conservation plan to ensure variance mitigation tree and/or 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 variance mitigation tree(s) and/or 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 FCP, shown in Attachment A hereto, attached and incorporated herein.

2. The Owner shall provide the Board, or its designee reasonable access to the Easement Areas, i) to make routine inspections, or ii) to provide maintenance of the Forestation in the event the Applicant is found in default of such obligations as required under this Agreement.

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 FCP compliance. Upon acceptance of the plantings, the Inspector will provide the Applicant with written notice of the Maintenance and Management Period.

4. The Applicant shall maintain and manage the forest plantings in accordance with the FCP. 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 Maintenance and Management Period as necessary.
- * providing protection devices such as fencing, signage, and interpretive signs as necessary to prevent the destruction or degradation of the planting site.

5. The Applicant shall monitor the Easement Areas for the duration of the Maintenance and Management Period and shall replace any reforestation plantings that die within that Maintenance and Management 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 section 22A.00.01.08.E(3) of the Forest Conservation Regulations. The Applicant shall monitor the variance mitigation tree(s) planted on the Property for the duration of the Maintenance and Management Period and the Applicant shall replace all variance mitigation tree(s) that die within the Maintenance and Management Period so as to ensure compliance with survival requirements stated in section 22A.00.01.08.E(3) of the Forest Conservation Regulations.

6. The Owner shall provide a cost estimate to the Planning Director, or their designee, to cover the cost of planting, which must include site preparation, periodic maintenance, plants and plant materials, labor to install the plantings, signage, fencing if necessary, and maintenance for the entire length of the maintenance and management period [Attachment B], or a cost estimate equal to the current in lieu fee rate for each square foot of planting required.

7. 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 Maintenance and Management Period. The security must be posted prior to any clearing or land disturbing activities as provided in the Plan. Up to half of the security may be released after the planting has been completed if, the Inspector has determined that the FCP has been followed and the stock is properly planted and in

good condition.

8. The Applicant is required to provide, on a semiannual basis, evidence of FCP compliance and that the financial security is in full force and effect. The semiannual report must be submitted directly to the appropriate inspector.

9. The Applicant must notify the Inspector at the end of the Maintenance and Management Period to schedule a final inspection. After verifying FCP compliance, the Inspector shall issue to the Applicant a written notice of completion. If the Inspector has determined that the survival requirements have been met, the financial security and this Agreement may be released upon final inspection.

10. 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 shall be recorded among the Land Records of Montgomery County, Maryland and shall be noted on the record plat (if applicable) for the Property burdened thereby.

11. This Agreement may be reviewed at 2425 Reddie Drive, 14th Floor, Wheaton, Maryland.

IN WITNESS WHEREOF, the parties have executed this Agreement for the purposes contained herein.

[SIGNATURE PAGES FOLLOW]

APPLICANT

Signature

Date

Type/Print Name

NOTARY STATEMENT

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.

SEAL

Signature of notary public

My commission expires _____

OWNER

Signature

Date

Type/Print Name

NOTARY STATEMENT

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.

SEAL

Signature of notary public

My commission expires _____

Christina Sorrento, Chief
Intake and Regulatory
Coordination Division

Date

NOTARY STATEMENT

State of _____

County of _____

On this _____ day of _____, _____ before me, the undersigned individual, personally appeared Christina Sorrento, who acknowledged to be the Planning Director's Designee, of Montgomery County Planning Department, 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.

SEAL

Signature of notary public

My commission expires _____

The Maintenance and Management Agreement is hereby released on _____ day of _____
20____.

Chief, Intake and Regulatory Coordination Division