



The Village at
**PROVIDENCE
POINT**
A National Lutheran Community

July 31, 2021

Dr. Sally Nash, Director
City of Annapolis Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, MD 21401

Re: Enforcement of Environmental Provisions at The Village at Providence
Point

Dear Dr. Nash,

Please accept this letter of commitments that are provided by National Lutheran Communities & Services (NLCS) concerning the enforcement of and public input to assure compliance with the traffic and environmental commitments we have made for both the construction phase of The Village at Providence Point (TVPP) and for after its construction and occupancy. This is to assure the public that all environmental laws and regulations and commitments we have made are adhered to during such construction and after occupancy.

We ask that you refer to our July 2, 2021 letter we have filed with you with our commitments on traffic, stormwater management, forest conservation, and eliminating future development of the 175.6 acre site.

**COMPLIANCE WITH SEDIMENT, EROSION CONTROL, STORMWATER
MANAGEMENT, AND TREE PRESERVATION DURING GRADING AND
CONSTRUCTION.**

- NLCS commits that before filing for a grading permit for construction of TVPP to provide the cell phone number and email of the on-site construction manager along with a NLCS hot line toll free number for the project to the City and to Gerald Winegrad or his designee for Concerned Citizens for Proper Land Use so that any questions or discrepancies that might arise during grading and construction can be promptly communicated to our construction manager for explanation or corrections if needed.
- NLCS will also commit to have the construction manager hold off-site periodic meetings, at least every six weeks, with designees of Concerned Citizens for Proper Land Use that may include Dan O'Leary and Jim Urban consultants for the Concerned Citizens group. These meetings will be held close to the site and be conducted to assure compliance with the grading permit, sediment and erosion control and stormwater plans, and the

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The Village at Providence Point is sponsored by National Lutheran Communities & Services, a faith-based, not-for-profit ministry of the Evangelical Lutheran Church in America, serving people of all beliefs. The Village at Providence Point is subject to the final approval of the Maryland Department of Aging.

commitments we have made and the requirements of the City for forest conservation measures and stormwater management systems to be installed, including the 79 micro-bioretenion cells, green roofs, porous pavement driveways, and stream channel restoration. Due to requirements of our insurance carrier, these meetings cannot be held on-site. City inspectors and City officials will meet on site as needed and will be encouraged to attend the periodic meetings with representatives of Concerned Citizens.

- NLCS commits that sediment and stormwater plans filed with the City as part of its grading permit will exceed applicable regulations for sediment and erosion control during the grading and construction process. The plans will include best industry practices to achieve 100% containment of sediment and prevent erosion and release of sediment to tributaries of Crab Creek or from the construction site. The construction manager will install sediment and erosion control measures prior to construction, and will maintain them continuously in good working order during the construction process and the stabilization period so as to prevent any erosion and release of sediment to tributaries of Crab Creek or from the construction site.
- The protection of existing trees that are to be preserved shall be carefully monitored by our construction manager to assure their survival after construction and to assure that the limits of disturbance are not exceeded.

COMPLIANCE WITH TRAFFIC, NO NET LOSS OF FOREST, STORMWATER MANAGEMENT, AND CONSERVATION EASEMENT AND DEED RESTRICTIONS AFTER CONSTRUCTION.

We commit that after the construction of both Phase I and Phase II of TVPP, we will have the Executive Director of TVPP hold on-site periodic meetings, at least every six months, with designees of Concerned Citizens for Proper Land Use to assure compliance with the traffic, stormwater management, forest conservation, and restrictive deed covenants included in our commitment letter to you of July 2 and other requirements as may be included in City approvals of TVPP.

We commit to provide the contact information, including a phone number and email, of our Executive Director for TVPP to the City and to Gerald Winegrad or his designee for Concerned Citizens for Proper Land Use so that any questions or discrepancies that might arise concerning the commitments made and any other requirements as may be included in City approvals of TVPP can be promptly communicated to the Executive Director for explanation or corrections if needed.

We also commit to fully meet the requirements of the City for the maintenance and inspections of the 79 micro-bioretenion cells, green roofs, porous pavement driveways, and stream channel restoration. The attached set of requirements used by the City Department of Public Works for stormwater maintenance and inspection are indicative of what we would be required to comply with. We would fully implement such requirements understanding how important it is to maintain the micro-bioretenion cells as they may become clogged over time with silt, grease and oil from vehicles, and other debris and fail to function properly.

Further, we commit to assuring that all City requirements for the reforestation of the 27.3 acres of tress removed including street trees are accomplished as required by the approved Forest Conservation Plan and that all City requirements are met for the watering and maintenance of the

tress replanted to assure their survival. The commitment we have made that 124 acres of forest shall remain on the 175.6 acre site in perpetuity, including reforestation, also is to be monitored for compliance.

In consideration of these further commitments and of those of July 2, Gerald Winegrad and Concerned Citizens for Proper Land Use will withdraw opposition to the TVPP project as a result of both sets of our commitments if these commitments are included in and required to be met as part of the approval by the City of the TVPP.

We look forward to continuing to work with you to gain City approval of TVPP and ask that you include these commitments as conditions in the approval process.

Sincerely,

Lawrence R Bradshaw

Lawrence R. Bradshaw, President & CEO



City of Annapolis
 Department of Planning and Zoning
 145 Gorman Street Fl 3
 Annapolis, MD 21401-2529

Permitting@annapolis.gov • 410-260-2200 • Fax 410-263-9158 • TDD use MD Relay or 711 • www.annapolis.gov

Amended and Restated Management Agreement – Stormwater

Tax Account No.* _____
 GRD _____ - _____

THIS AMENDED AND RESTATED MANAGEMENT AGREEMENT (“Agreement”) is made this ____ day of _____, 20____, by and between the City of Annapolis, a municipal corporation of the State of Maryland (“City”) and _____ (the “Property Owner”).

[WHEREAS, the Property Owner owns real property in the City of Annapolis, has applied to the City for a grading permit related to the development of that property, and is entering into this Agreement pursuant to the Code of the City of Annapolis (“City Code”), [Chapter 17.10](#), as may be amended, as part of the City’s grading permit approval process; and]

[WHEREAS, the Property Owner owns real property in the City of Annapolis; and

WHEREAS, _____, the prior owner (“Prior Owner”) of that property applied to the City for a grading permit related to the development of that property, and entered into a Management Agreement - Stormwater pursuant to the Code of the City of Annapolis (“City Code”), [Chapter 17.10](#), as may be amended, as part of the City’s grading permit approval process; and]

WHEREAS, the [Property Owner] [Prior Owner] and City executed a _____ dated _____, _____ for the Property, as defined below, and recorded among the land records of Anne Arundel County, Maryland in liber _____, page ____ (the “Original Agreement”); and

WHEREAS, the components of the Stormwater Management System changed during the course of permit review, construction, and/or since the execution of the Original Agreement; and

WHEREAS, the purpose of this Agreement is to supersede the Original Agreement, and to cause the Original Agreement to be null and void as of the date of this Agreement.

NOW, THEREFORE, in consideration of these premises and the mutual promises and understandings stated herein, and other good and valuable consideration, the sufficiency of which the parties acknowledge, the parties agree as follows:

1. Definitions.

a. "Property" refers to the land in Annapolis, Maryland, known as _____, and described in a deed dated _____, _____ and recorded among the land records of Anne Arundel County, Maryland in liber _____, page ____.

b. "Site Plan" refers to the City-approved “Site, Sediment, Erosion Control, Grading Plan” for the Property prepared by _____, a professional engineering firm or landscape architecture firm licensed in the State of Maryland, the requirements of which, in addition to this Agreement, shall govern the Stormwater Management System to be constructed on the Property. The Site Plan is hereby incorporated into this Agreement by reference.

Remainder of Page Left Intentionally Blank.

* Additional Tax Account Numbers/Deed References

Tax Account Numbers

Deeds

_____	_____
_____	_____
_____	_____
_____	_____

c. "Stormwater Management System" refers to the (specify how many of each device) to be constructed on the Property, and all components associated therewith. Each reference to Stormwater Management System shall apply to the same extent to each such facility, and the obligations as set forth in this Agreement shall apply to the same extent to each such facility.

Green Roof (A-1)	_____	Wet Extended Detention Pond (P-3)	_____
Permeable Pavement (A-2)	_____	Multiple Pond System (P-4)	_____
Reinforced Turf (A-3)	_____	Pocket Pond (P-5)	_____
Disconnection of Rooftop Runoff (N-1)	_____	Shallow Wetland (W-1)	_____
Disconnection of Non-Rooftop Runoff (N-2)	_____	Extended Detention Shallow Wetland (W-2)	_____
Sheetflow to Conservation Area (N-3)	_____	Pond/Wetland System (W-3)	_____
Rainwater Harvesting/Cistern (M-1)	_____	Pocket Wetland (W-4)	_____
Submerged Gravel Wetland (M-2)	_____	Infiltration Trench (I-1)	_____
Landscape Infiltration (M-3)	_____	Infiltration Basin (I-2)	_____
Infiltration Berm (M-4)	_____	Surface Sand Filter (F-1)	_____
Dry Well (M-5)	_____	Underground Sand Filter (F-2)	_____
Micro-Bioretenention (M-6)	_____	Perimeter Sand Filter (F-3)	_____
Rain Garden (M-7)	_____	Organic Filter (F-4)	_____
Grass/Wet/Bio Swale (M-8)	_____	Pocket Sand Filter (F-5)	_____
Enhanced Filter (M-9)	_____	Bioretention (F-6)	_____
Micropool Extended Detention Pond (P-1)	_____	Dry Swale (O-1)	_____
Wet Pond (P-2)	_____	Wet Swale (O-2)	_____

d. As applicable if the Property Owner consists of two (2) or more individuals or entities:

- (1) Each and any individual and/or entity that comprise the Property Owner shall have joint and several liability for each of the obligations of this Agreement.
- (2) Notice to any individual and/or entity that comprises the Property Owner shall suffice to meet the notice obligations of this Agreement.
- (3) Consent given by any individual and/or entity that comprises the Property Owner pursuant to this Agreement shall suffice to constitute consent of both.

2. Construction.

a. The Property Owner, at its sole cost and expense, shall construct the Stormwater Management System on the Property in accordance with this Agreement, the Site Plan, and the City Code, [Chapter 17.10](#), as may be amended, and all City standards.

b. All impervious areas on the Property, as depicted on the Site Plan, shall drain towards the Stormwater Management System as shown on the Site Plan.]

[The Prior Owner constructed the Stormwater Management System on the Property in accordance with this Agreement, the Site Plan, and the City Code, [Chapter 17.10](#), as may be amended, and all City standards, and the Property Owner has no further obligations related to construction of such Stormwater Management System.]

3. Inspections.

a. After being placed into operation and throughout the life of the Stormwater Management System, the Property Owner shall inspect the Stormwater Management System forty-eight (48) hours after every one-half inch (1/2") storm or greater, or as otherwise necessary, to allow for proper stormwater management on the Property. These inspections shall consist of monitoring the health of plant materials in the Stormwater Management System, and the flow of stormwater and drainage in the Stormwater Management System and on the Property.

b. In addition to the inspections required in Paragraph 3(a) above, the Property Owner shall routinely:

- (1) Inspect the Property for substantial, persistent or chronic erosion, flooding or ponding that in any

manner impacts upon the integrity of the Stormwater Management System; and

- (2) Inspect all gutters, roof leaders and downspouts as frequently as needed to allow for unobstructed flow of stormwater on the Property.

4. Routine Maintenance and Repair.

a. The Property Owner, at its sole cost and expense, shall timely perform the following routine maintenance and repairs of the Stormwater Management System:

- (1) Remove any stormwater in any rain garden, as applicable, which remains standing in excess of forty-eight (48) hours after any storm and notify the City pursuant to Paragraph 5(a) below.
- (2) Remove all obstructions to the flow of stormwater and drainage on the Property.
- (3) Replace any plantings that are diseased, dying, dead or otherwise in an irreparably unhealthy condition with the same species as indicated in the Site Plan, or other species as approved by the City.
- (4) Repair or replace any rain barrel, as applicable and as needed.
- (5) Maintain the Stormwater Management System free of all oil, grease, grit, litter, garbage, trash, grass clippings, leaves, limbs, branches and other debris.
- (6) Correct or repair areas of erosion, ponding or flooding on the Property.
- (7) Clean all gutters, roof leaders and downspouts as needed for unobstructed flow of stormwater and drainage on the Property.
- (8) Maintain leaf protection at all roof gutter downspout locations on the Property.
- (9) Maintain, repair and replace the Stormwater Management System as otherwise required by the City and when necessary for proper stormwater management on the Property.

b. All maintenance, repair and replacement of the Stormwater Management System pursuant to this Paragraph and this Agreement shall be subject to the City's inspection and final approval.

5. Problems; Substantial Ineffectiveness, Nonfunctioning or Failure.

a. The Property Owner shall notify the City as soon as reasonably possible if:

- (1) Proper draw down of stormwater is not occurring after two (2) consecutive one-half inch ($\frac{1}{2}$ ") storms or greater;
- (2) If there is significant erosion on the Property adversely affecting proper stormwater management on the Property;
- (3) If the Stormwater Management System has ceased to function as designed; or
- (4) If the Stormwater Management System has become substantially ineffective, nonfunctional or has failed.

b. Upon such notice from the Property Owner, and pursuant to Paragraph 6 of this Agreement, the City shall have a right of entry on the Property to inspect the Stormwater Management System and the Property generally for compliance with the Site Plan, this Agreement and all applicable laws, including all City standards, and to generally monitor stormwater management on the Property.

c. The City shall provide notice to the Property Owner of any finding that stormwater management on the Property is inconsistent or not in compliance with the Site Plan, this Agreement or any applicable laws, including any City standards, and shall specify the remedial action(s) to be taken by the Property Owner.

d. The Property Owner, at its sole cost and expense, and subject to the City's inspection and final approval, shall timely complete all remedial action stated in the City's notice pursuant to Paragraph 5(c) above.

e. In accordance with Paragraph 6 of this Agreement, if the Property Owner shall fail to perform the remedial action(s) required by the City under this Paragraph 5, the City shall have the right to perform all such work at the Property to bring the Stormwater Management System in compliance with the Site Plan, this Agreement, all applicable laws, including all City standards, and proper stormwater management generally. The City shall assess the Property Owner for all costs and expenses associated with this work pursuant to Paragraph 7 of this Agreement.

6. Access to the Property and the Stormwater Management System.

a. At any time during normal business hours and upon reasonable notice of the City to the Property Owner, the Property Owner shall make the Property and the Stormwater Management System available to the City, and its officials,

officers, employees, contractors and agents, for inspection.

b. The Property Owner shall maintain the Property in a manner that shall not impede personnel, vehicular and equipment access to the Stormwater Management System by the City, and its officials, officers, employees, contractors and agents.

c. The Property Owner, at its sole cost and expense, and within a reasonable time after the City requests, shall remove all debris, landscaping, improvements and other items on the Property that impede personnel, vehicular and equipment access to the Stormwater Management System. If the Property Owner shall fail to do so, the City shall have the right to remove any such debris, landscaping, improvements and other items. The City shall assess the Property Owner for all costs and expenses associated with this removal pursuant to Paragraph 7 of this Agreement.

d. If reasonable attempts to provide notice to the Property Owner pursuant to this Agreement fail, or the City determines for any reason, in its sole discretion, that injury to persons or damage to property or public health or safety is imminent and likely to occur pending notice to the Property Owner and an opportunity to perform maintenance, repair or replacement, the City shall have a right of entry on the Property, without providing advance notice, to perform all maintenance, repair or replacement required for compliance with the Site Plan, this Agreement, applicable laws, including all City standards, and proper stormwater management generally. The City shall assess the Property Owner for all costs and expenses associated with this work pursuant to Paragraph 7 of this Agreement.

7. Assessment.

a. The City shall assess the Property Owner for all costs and expenses that the City incurs for labor, materials and other services pursuant to this Agreement (each, an "Assessment"), including all reasonable legal fees and costs the City incurs to collect the Assessment, or to otherwise enforce this Agreement, whether in connection with litigation or otherwise. Assessments shall be made payable to "City of Annapolis", and submitted to the Finance Director, Finance Department, City Hall, 160 Duke of Gloucester Street, Annapolis, Maryland 21401.

b. If the Property Owner fails to pay an Assessment within thirty (30) calendar days after the City requests payment, or after final disposition of any reasonable dispute about such Assessment, the City shall have the right to record the Assessment on the annual property tax bill for the Property and collect payment as ordinary property taxes under the City Code with interest at the maximum lawful annual rate.

8. Records.

a. The Property Owner shall maintain all existing and subsequently generated records relating to the construction, inspection, maintenance, repair and replacement of the Stormwater Management System, and produce them to the City upon the City's request.

b. The Property Owner shall maintain records containing the dates and nature of all inspections, maintenance, repair and replacement of the Stormwater Management System, and provide them to the City upon the City's request.

9. Recordation; Binding.

a. It is expressly agreed that this Agreement shall be recorded among the land records of Anne Arundel County at the sole cost and expense of the Property Owner, and that the duties and responsibilities of this Agreement shall run with the title to the Property.

b. Subject to Paragraph 11 of this Agreement, the parties and their respective successors, assigns and purchasers shall be entitled to all of the rights and privileges of this Agreement and shall be bound by all of its duties and responsibilities. All references to the "Property Owner" herein shall be interpreted to specifically refer to all of the Property Owner's successors, assigns and purchasers, without regard to privity with the City under this Agreement.

c. The terms of this Agreement shall be binding upon and shall inure to the benefit of the parties, any successor municipal authorities of the City or any successor quasi-governmental authority. Subject to Paragraph 11 of this Agreement, successor owners of record of the Property and/or the successors and assigns of the Property Owner may assign their benefits, rights, duties and obligations hereunder either as part of the conveyance of the Property as an entirety or severally as part of the conveyances of portions of the Property.

10. Indemnification.

a. The Property Owner shall forever indemnify, defend and hold harmless the City, its elected officials, appointees, directors, employees, agents, contractors and representatives from and against all liability for injuries to persons, including death, and damage to City property and other property arising from acts or omissions of the Property Owner, its officers, agents, employees, contractors, patrons, volunteers, guests or invitees resulting in connection with this Agreement, the Site Plan or the Stormwater Management System.

b. Property Owner indemnification does not limit any immunity which the City, its elected officials, appointed officers, directors, employees, agents, contractors and representatives are entitled to assert, and includes all costs and expenses, including attorney's fees, whether or not related to administrative or judicial proceedings.

c. The City, in its sole discretion, may participate in handling its own defense or exclusively handle its own defense, and select its own attorneys, including the City Attorney. The indemnification for attorney fees applies whether or not the City Attorney or other attorney handles the defense.

11. Assignment.

a. Except in connection with a fee simple transfer of the property, no assignment by the Property Owner of any obligations of this Agreement shall be effective without the City's prior written approval and the prior written acknowledgement of the assignee agreeing to comply with the obligations of this Agreement.

b. Any City-approved assignment shall be in writing which, along with the City's consent and the assignee's acknowledgment, shall be recorded among the land records of Anne Arundel County, Maryland, at the Property Owner's sole cost and expense.

12. Waiver.

a. No delay or omission on the part of the City to exercise any right or option granted to the City under this Agreement, in any one or more instances shall constitute a waiver of the City's rights hereunder and each such right or option shall remain continuously in full force and effect.

b. The Property Owner hereby understands and agrees that this Agreement shall not waive any rights, powers or remedies that the City may have pursuant to the City Code, at law or in equity.

13. No Partnership.

Nothing contained in this Agreement shall be construed in a manner to create any relationship between the parties other than expressly specified herein, and the parties shall not be considered partners or co-venturers for any purpose on account of this Agreement.

14. Severability.

In the event any one or more of the provisions of this Agreement shall for any reason be held by a court or other lawful authority to be invalid, illegal or unenforceable, in whole or in part or in any other respect, the remaining provisions hereof shall not be affected thereby, and the Agreement shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.

15. Governing Law.

This Agreement and its interpretation shall be governed by Maryland law. The venue for all actions pursuant to this Agreement shall be the Courts of Anne Arundel County, Maryland. The parties waive trial by jury in all actions brought pursuant to this Agreement.

16. Captions and Headings.

The captions and headings contained in this Agreement are included herein for convenience of reference only and shall not be considered a part hereof and are not in any way intended to limit or enlarge the terms hereof.

17. Integration; Modification.

a. **This Agreement is the final and entire agreement of the parties concerning all matters having to do with the Stormwater Management System, and shall supersede the Original Agreement which shall be null and void as of the date of this Agreement.** The parties acknowledge that there are no other understandings or representations, oral or written, regarding the subject or matters having to do with the Stormwater Management System.

b. None of the terms or provisions of this Agreement may be changed, waived, or modified exempt by written instrument executed by both parties hereto.

18. Counterparts.

This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

19. Notice.

Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or such other address and/or such other individual as a party may identify in writing to the other party:

To the City: Department of Public Works
145 Gorman Street, 2nd Floor
Annapolis, Maryland 21401
Attn: Director

With a Copy to:

City Attorney
160 Duke of Gloucester Street
Annapolis, Maryland 21401

To the Property Owner:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed under Seal as of the day and year written below.

PROPERTY OWNER:

Witness By: _____ (Seal)
Name: _____
Title: _____

Witness By: _____ (Seal)
Name: _____
Title: _____

STATE OF MARYLAND, COUNTY OF _____, to wit:

I HEREBY CERTIFY that on the ____ day of _____, 20____, before the subscriber, a Notary Public in and for the State and County aforesaid personally appeared _____, known to me or satisfactorily proven to be the person whose signature is above, and he/she has signed this Management Agreement in my presence and acknowledged that he/she is authorized to sign this Management Agreement, and that it is his/her free and voluntary act made for the purposes set forth therein.

AS, WITNESS my hand and Notarial Seal.

Notary Public _____ My Commission expires _____

STATE OF MARYLAND, COUNTY OF _____, to wit:

I HEREBY CERTIFY that on the ____ day of _____, 20____, before the subscriber, a Notary Public in and for the State and County aforesaid personally appeared _____, known to me or satisfactorily proven to be the person whose signature is above, and he/she has signed this Management Agreement in my presence and acknowledged that he/she is authorized to sign this Management Agreement, and that it is his/her free and voluntary act made for the purposes set forth therein.

AS, WITNESS my hand and Notarial Seal.

Notary Public _____ My Commission expires _____

ATTEST:

CITY OF ANNAPOLIS:

Regina C. Watkins-Eldridge, MMC, City Clerk

By: _____ (Seal)
Gavin Buckley, Mayor

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

Office of Law
D. Michael Lyles, City Attorney

Return to:

Ashley E. Leonard
City of Annapolis
Office of Law
160 Duke of Gloucester Street
Annapolis, MD 21401