

RESOLUTION NO. RS2019-14

A resolution granting the Metropolitan Department of Water and Sewerage Services authority to enter into Memorandum of Understandings with Metro departments for ongoing maintenance of stormwater control measures on Metro property and exempting Metro departments from the requirement of recording Long Term Maintenance Agreements.

WHEREAS, the Metropolitan Department of Water and Sewerage Services (“MWS”) manages Metro’s MS4 NPDES permit that requires the installation of post-construction stormwater control measures (“SCMs”) on new development and significant redevelopment sites; and,

WHEREAS, MWS approves the Grading Permit applications that contain SCMs; and,

WHEREAS, currently MWS requires property owners, including Metro departments, to enter into a Long Term Maintenance Plan with MWS for SCMs, which are recorded with the Davidson County Register of Deeds, to ensure the post-construction SCMs are properly maintained on new development and significant redevelopment sites; and,

WHEREAS, pursuant to Metro Code Section 2.206.010 the Metropolitan Government of Nashville and Davidson County and all of its various departments, agencies, boards and commissions must comply with all provisions of the Metropolitan Code, unless they are exempt from compliance by resolution requiring twenty-one votes of the metropolitan council for just cause; and,

WHEREAS, currently, Metro Departments are required to record the Long Term Maintenance Plan for each grading permit with the Davidson County Register of Deeds; and,

WHEREAS, entering into one Memorandum of Understanding (“MOU”) with Metro Departments in lieu of requiring each Long Term Maintenance Plan to be recorded at the Davidson County Register of Deeds for each SCM would provide for a more efficient process, in that each Metro department would enter into a single MOU outlining their SCM maintenance obligations, with an updated exhibit list identifying each SCM requiring maintenance; and,

WHEREAS, instead of the individual departments inspecting the SCMs, MWS’ NPDES inspectors, who are well trained and experts on the subject matter, will be responsible for inspecting and reporting maintenance needs to the various departments; and,

WHEREAS, while MWS’ NPDES inspectors will perform the inspection and report maintenance needs, the various Metro Departments entering into MOUs with MWS will remain responsible for any and all costs associated with the ongoing maintenance of their SCMs; and,

WHEREAS, just cause exists for granting MWS the authority to enter into Memorandum of Understandings with Metro departments for ongoing maintenance of stormwater control measures on Metro property, and exempting Metro Departments from the requirement of

recording the Long Term Maintenance Plan agreements with the Davidson County Register of Deeds.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Department of Water and Sewerage Services is authorized to enter into Memorandum of Understandings with Metro departments for ongoing maintenance of stormwater control measures on Metro property, and such Metro departments are exempt from the requirement of recording Long Term Maintenance Plans with the Davidson County Register of Deeds.

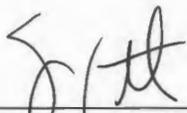
Section 2. Metro departments entering into Memorandum of Understandings with the Metropolitan Department of Water and Sewerage Services will remain responsible for any and all costs associated with the ongoing maintenance of their respective stormwater control measures.

Section 3. Amendments to this legislation shall be approved by resolution.

Section 4. This ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

INTRODUCED BY:

  
\_\_\_\_\_  
Scott A. Potter, Director  
Water and Sewerage Services

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Council Member(s)

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
Assistant Metropolitan Attorney

**Electronic Signature Page**

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

*Angie E. Henderson*

Angie Henderson  
Councilmember, District 34

**MEMORANDUM OF UNDERSTANDING**  
**For Stormwater Permit Compliance at Properties**  
**Managed by [Metro Department]**

THIS MEMORANDUM OF UNDERSTANDING, entered into this \_\_ day of \_\_\_\_\_, 20\_\_, by and between the Metropolitan Department of Water and Sewerage Services (WATER SERVICES) and [Metro Department].

**WITNESSETH**

WHEREAS, the Tennessee Department of Environment and Conservation issued the Metropolitan Government of Nashville and Davidson County (Metro) a Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit under the authority of the Tennessee Water Quality Control Act of 1977 (T.C.A 69-3-101 *et seq.*) and the delegation of authority from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, *et seq.*); and

WHEREAS, WATER SERVICES manages Metro's MS4 NPDES permit that requires the installation of post-construction stormwater control measures (SCMs) on new development and significant redevelopment sites, which require ongoing/periodic inspection and maintenance; and,

WHEREAS, WATER SERVICES approves the Grading Permit applications for [METRO DEPARTMENT] projects that contain SCMs.

NOW, THEREFORE, IN CONSIDERATION OF THESE PROMISES AND OF THE COVENANTS AND AGREEMENTS CONTAINED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. [METRO DEPARTMENT] will, in lieu of recording a Long Term Maintenance Plan (LTMP) with the Davidson County Register of Deeds, specific to each developed site requiring a Grading Permit, will adhere to the following general Long Term Maintenance Agreement (LTMA) for all [METRO DEPARTMENT] owned or operated SCMs:
  - a. [METRO DEPARTMENT] will be responsible for performing maintenance on all SCMs installed per the Grading Permit requirements of Metro's Stormwater Management Manual, Volume 1. Exhibit 1 provides a list of all SCMs owned or operated by [METRO DEPARTMENT]. This list will expand based on future development involving new or modified SCM installations.
  - b. [METRO DEPARTMENT] will permit WATER SERVICES personnel to enter properties owned or managed by [METRO DEPARTMENT] for purposes of inspecting SCMs to determine overall functionality and maintenance needs. WATER SERVICES will schedule site visits with [METRO DEPARTMENT] personnel and will adhere to all [METRO DEPARTMENT] safety and security requirements.
  - c. WATER SERVICES will evaluate Exhibit 1 each year to determine if amendments are required to include additional SCMs. Exhibit 1 will only be amended when Grading Permits have been completed and signed-off by WATER SERVICES, and the SCM locations have been added into the Metro Geographic Information System (GIS) SCM mapping geodatabase. Prior to inspecting, WATER SERVICES will provide [METRO DEPARTMENT] personnel with a copy of the latest version of Exhibit 1.
  - d. WATER SERVICES will perform annual inspections of all SCMs listed in Exhibit 1 and will provide [METRO DEPARTMENT] one SCM Inspection Report by March 31<sup>st</sup> of each year. The SCM Inspection Report will provide a summary of all SCM inspection findings and specifically list any required maintenance of each structure.
  - e. [METRO DEPARTMENT] will continue to perform routine maintenance throughout the year such as mowing ponds, clearing debris from outlet structures, or other measures described in the

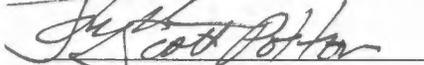
site specific LTMA, regardless of the WATER SERVICES SCM Inspection Report. WATER SERVICES SCM Inspection Reports are intended to identify maintenance issues outside of ongoing routine maintenance. [METRO DEPARTMENT] will also be responsible for performing any necessary maintenance identified within the WATER SERVICES SCM Inspection Report within a reasonable timeframe. The general timeframe for the completion of necessary maintenance should be from 3-6 months from the date the WATER SERVICES SCM Inspection Report is provided to [METRO DEPARTMENT] - depending on the nature of the needed maintenance.

- f. When and if [METRO DEPARTMENT] intends to convey the property to another party, [METRO DEPARTMENT], at that time, shall have the subsequent purchaser execute a long-term SCM operation and maintenance agreement with WATER SERVICES.
- g. This MEMORANDUM OF UNDERSTANDING sets forth the entire agreement between the parties with respect to this matter and shall govern the duties and obligations of both parties. Either party may terminate this agreement within 90 days of delivery of written notice to the other party.

METROPOLITAN DEPARTMENT OF  
WATER AND SEWERAGE SERVICES

[METRO DEPARTMENT]

AGREED BY:



Scott Potter, Director  
Dept. of Water and Sewerage Services

AGREED BY:

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[METRO DEPARTMENT]