

AGREEMENT

This Agreement (“Agreement”) made and entered into this _____ day of _____, 2015, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "County"), a body politic, and the **Town of Vienna** (the “Town”) (collectively, the “Parties”).

WITNESSETH:

WHEREAS, the Town has been awarded a Stormwater Local Assistance Fund (SLAF) Grant from the Virginia Department of Environmental Quality (“DEQ Grant”) for the Wolf Trap Creek Stream Restoration Project (the “Project”), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Wolf Trap Creek/Difficult Run; and

WHEREAS, the location of the Project is at Longitude 39.905 and Latitude 77.246 and is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 39-1 ((02)) 0006, and 39-1 (05) A1; and

WHEREAS, the Project is within the Chesapeake Bay and Potomac River Watersheds; and

WHEREAS, the Town is part of the County’s Stormwater Service District and the Town and County have entered into an agreement known as the “Cooperative Agreement Between the Fairfax County Board of Supervisors and the Town of Vienna to Share Certain Stormwater Service District Fees and Responsibility for Related Projects” (the “Cooperative Agreement”) to share funds and responsibility to maintain, operate, and improve stormwater systems that affect one another to meet Chesapeake Bay Total Maximum Daily Load (“TMDL”) and other water quality goals. The Cooperative Agreement is attached hereto as Attachment 1 and is incorporated herein by reference; and

WHEREAS, the Town and County agree that under the Cooperative Agreement, Stormwater Service District funds can be used to match the DEQ Grant for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and

WHEREAS, the total cost of the Project is estimated to be eight hundred and ninety thousand dollars (\$890,000); and

WHEREAS, the County intends to contribute four hundred and forty-five thousand dollars (\$445,000.00) from the Fiscal Year 2016 Stormwater Budget for the purpose of supporting the design and construction of the Project; and

WHEREAS, the Town intends to dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project; and

WHEREAS, the DEQ Grant will contribute four hundred and forty-five thousand dollars (\$445,000.00) for the purpose of supporting the design and construction of the Project; and

WHEREAS, notwithstanding the Town's implementation of the Project, pursuant to the Cooperative Agreement, the Town and the County intend that the Project be subject to the Joint Action Plan that is described in paragraphs 15 through 24 of the Cooperative Agreement, which will, in part, result in the allocation of pollutant load reductions credits among the Parties

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if restated as binding provisions of this agreement, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto further agree as follows:

1. The County shall grant to the Town the amount of four hundred and forty-five thousand dollars (\$445,000.00) (the "County Contribution"), upon execution of this agreement.
2. The Town shall dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.
3. The Town shall expend the DEQ Grant of four hundred and forty-five thousand dollars (\$445,000.00) solely for the purpose of supporting the design and construction of the Project when the DEQ Grant is received.
4. The County Contribution shall be used and expended solely for the purpose of design and constructing the Project but shall not be used for the cost of any

feasibility study or acquisition of any lands or easements necessary for the completion of the Project.

5. The Town shall acquire, at its sole expense, any and all land or easements, or other interests in real property, if any, that are necessary to complete the Project.

6. The Town, at its sole expense, shall administer the design and construction contracts, obtain approval of all plans, and obtain all permits necessary for the completion of the Project.

7. In the event that the Town modifies the scope of the Project, which is generally described herein above and in the Town's "Water Division Application for Stormwater Local Assistance Fund (SLAF) – Stormwater Capital Projects," which was submitted to DEQ for the DEQ Grant (the "Plan"), it shall notify the County of such modification within 14 days of its occurrence. If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town shall, within 30 days after written notice by the County of such deviation, reimburse to the County the amount of the County Contribution.

8. The Town shall provide to the County a copy of the final site plan for the Project.

9. The Town shall retain all invoices and all records of payments for any and all services rendered for the design, construction, and any related expenses for completion of the Project, and copies of any such invoices and records of payments shall be provided to the County upon request within three business days after such a request.

10. If at any time the Town abandons or otherwise ceases the Project for any reason, the Town shall immediately return any amount of the County Contribution not expended in accordance with this agreement and all invoices and records of payments related to the Project shall be delivered within 14 days of such abandonment or cessation. "Abandon," as used herein, shall include, but not be limited to, the failure to initiate or the termination of the design or construction before the Project's completion.

11. The Town shall timely pay all Project cost overruns.

12. The Town shall complete the Project not later than two years after this agreement is executed.

13. Pursuant to the Cooperative Agreement, the Project shall be part of the Joint Action Plan that is described in paragraphs 15 through 24 of the Cooperative Agreement. If, however, the Project has been completed before the Joint Action Plan is finalized and approved, then the County shall nonetheless be entitled to its proportion of the total pollutant load reduction credits for the Project as will be established under paragraphs 21 through 23 of the Cooperative Agreement.

14. This agreement can only be modified in writing and signed by both parties.

[Signatures appear on following page]

TOWN OF VIENNA

By: _____
Mayor Laurie A. DiRocco

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Laurie A. DiRocco of the Town of Vienna, this _____ day of _____ 2015, on behalf of the Town of Vienna.

Notary Public

My commission expires: _____

Notary Registration Number: _____

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By: _____
Edward L. Long Jr., County Executive,
Fairfax County, Virginia

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Edward L. Long Jr.,
County Executive of Fairfax County, Virginia, on behalf of the Board of Supervisors of
Fairfax County, Virginia this _____ day of _____ 2015.

Notary Public

My commission expires: _____

Notary Registration Number: _____