COUNTY OF YORK, VIRGINIA
APPLICATION FOR PERMIT FOR A LAND DISTURBING ACTIVITY

Project File #_____ Date of Application _____

Applicant: _____
(Full Name) (Business Phone)

_____
(Address)

Plan Prepared by _____

Project _____
(Name and Description)

Location _____

GPIN No. _____ Disturbed Area = _____Sq. Ft.

Certified Responsible Land Disturber _____
(Name) (Phone Number)

I hereby certify that I fully understand the provisions of the York County Erosion and Sedimentation Control Ordinance and the conditions of this permit and that I accept responsibility for carrying out the Erosion and Sediment Control Plan for the above-referenced project as approved by the County.

I further grant the right-of-entry onto this property, as described above, to the appropriate personnel of York County for the purpose of inspecting and monitoring for compliance with the aforesaid Ordinance.

_____ _____
(Name of Property Owner - **PLEASE PRINT**) (Signature of Property Owner)

_____
(Date)

Notes: (1) Issuance of this permit does NOT indicate absence of wetlands on this property. It is the Applicant's responsibility to have the site inspected for tidal and non-tidal wetlands AND to protect any wetlands that may be present on site.
(2) It is the applicants' responsibility to coordinate this land disturbing activity with possessor of easements or owners of property affected by this activity and obtain the necessary permission or approval to perform this activity on said easements or property.
(3) If the land disturbance exceeds one acre (2500 square feet in Chesapeake Bay Preservation Areas) then in addition to this permit, a Virginia Stormwater Management Permit (VSMP) is required. For information on the VSMP call 804-443-8230 or go to: www.dcr.virginia .gov/sw/vsmp.htm#regforms.

- Office Use –

Plan Review & Inspection Fee of $_____ paid on _____and received by _____

Surety in the amount of $_____ provided on _____

Surety to be returned to: _____

_____

_____

EROSION AND SEDIMENT CONTROL
OBTAINING A LAND DISTURBING ACTIVITY PERMIT

Before you grade, excavate, fill, or clear land in York County, you may have to obtain a Land Disturbing Activity Permit. To find out if you need one, contact:

Department of Environmental and Development Services
Division of Stormwater
105 Service Drive
P. O. Box 532
Yorktown, Virginia 23690
(757) 890-3752

You will be asked what type of project you plan, where it will be, and the total area of the property and number of square feet to be disturbed.

If your project requires an Erosion and Sediment Control Plan:

I. Submit a plan prepared in accordance with Chapter 10, Section 10-11 of the Code of the County of York, Virginia.

II. Your plan will be reviewed and evaluated. If changes are required, you will be notified and advised of them. A revised plan may be required.

III. Fill out an application and pay a plan review fee of $50 for the first 2,500 square feet of disturbance plus $0.005 for each additional square foot of disturbance up to a maximum fee of $1,000.00.

IV. Upon final approval of the plan, you will be required to post a surety in the form of either a cash escrow, an escrow agreement, a certified or cashier's check, or a letter of credit, and execute a performance agreement. The surety must be obtained for a period of 12 months from the date of the issuance of the Land Disturbing Activity Permit.

V. Your Land Disturbing Activity Permit will then be issued following a pre-construction meeting. Building permits are obtained from the Division of Building Regulation once the LDA permit is issued.

VI. Upon completion of your land disturbing activity and before your surety can be released/returned, you will be required to provide:

- An "as built" plan prepared by a registered Professional Engineer or Certified Land Surveyor showing the completed project.
- Certification by a Professional Engineer attesting that all storm drainage facilities have been completed in accordance with the approved plans.

The following conditions shall apply to all permits:

1. All projects shall conform to the York County Erosion and Sediment Control Ordinance.

2. The York County Division of Utilities must be notified when work commences and when the project is completed.

3. Applicant agrees to be responsible for any and all damages to any other installations already in place as a result of work covered by this permit.

4. Applicant agrees to maintain the work in the manner approved upon its completion.

5. A permit may be denied any applicant, and all permits issued by the County may be revoked, whenever a violation of the York County Erosion and Sediment Control Ordinance exits.

The Division of Utilities shall make final inspections of the project. The release of all sureties is contingent upon the findings of such inspections. Release shall occur within 60 days and after disturbed areas are deemed permanently stabilized by the inspector.

_____
(Date)

Mr. John Hudgins, Director
Department of Environmental and Development Services
County of York
P. O. Box 532
Yorktown, Virginia 23690

Dear Mr. Hudgins:

Please be advised that the undersigned, owner(s) of certain property in York County briefly described as _____ has (have) authorized _____ to act as agent on my (our) behalf to acquire a permit for a land disturbing activity and to execute all documents and agreements including, but not limited to, agreements permitting entry upon the herein above-described property by agents of the County. I (we) fully understand my (our) responsibility to ensure compliance with the Erosion and Sediment Control Ordinance of York County.

Sincerely,

_____
(Property Owner)

_____
(Date)

Revised 7/2010

COUNTY OF YORK

EROSION AND SEDIMENT CONTROL DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 201__, by and between _____, (give full legal name or names, state of incorporation if incorporated, type of partnership if a partnership, or marital status if individual) hereinafter referred to as the "Developer", and the COUNTY OF YORK, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County".

W I T N E S S E T H:

WHEREAS, the Developer is the owner/developer (indicate which) of a certain parcel of land located in the County bearing Assessor's Parcel Number(s)_____, hereinafter referred to as the "Property"; and

WHEREAS, the Property is being developed by the Developer into a project known and designated as_____, and has had prepared an erosion and sediment control plan for the said development dated _____, 20___, prepared by _____ which plans (hereinafter called the "Plans") have been approved by the County, are on file in its Department of Environmental and Development Services, and are incorporated herein by reference; and

WHEREAS, the County desires to ensure the proper and timely installation, maintenance, adequate performance, and removal when no longer required, of the erosion and sediment control measures shown on the Plans, hereinafter collectively referred to as the "Control Measures"; and

WHEREAS, the Developer has submitted herewith to the County a letter of credit, cash, cash escrow or certified check (circle which) in the amount of $_____, (hereinafter called the "Surety") securing the installation, maintenance, adequate performance, and removal of the Control Measures;

NOW, THEREFORE, for and in consideration of the foregoing premises and the covenants and agreements herein contained, and in further consideration of the approval of the Plans by the County and the issuance by the County of a permit for the work proposed to be undertaken by the Developer, the parties hereto agree as follows:

1. The County agrees that, upon proper execution of this Agreement by the Developer and the submission to the County of the Surety it will issue a permit for the work described in the Plans proposed to be undertaken by the Developer.

2. The Developer agrees that it will, without cost to the County, on or before the _____ day of _____, 201__, (date must be within one year of agreement date listed above and must be a minimum of two months prior to the expiration date of the letter of credit or cash escrow if used as surety for this agreement) complete the Plans, or cause the Plans to be completed (including proper and timely installation, maintenance, adequate performance, and removal when no longer required of appropriate Control Measures needed as a result of the Developer’s land disturbing activities) to the satisfaction of and to the standards and specifications of the County and all other government agencies and authorities having jurisdiction over the Control Measures, including, but without limitation, the Virginia Department of Conservation and Recreation.

3. The Developer has submitted herewith to the County Surety in the aforesaid amount. If the Surety is a letter of credit, it shall be in the form attached hereto as Exhibit A, be completed in

conformance with the instructions attached thereto, be approved by the County Attorney as to form, content and issuing institution, be acceptable as to amount, effective period, and otherwise to the County Administrator, in order to secure proper and timely installation, maintenance, adequate performance, and removal when no longer required, of the Control Measures and performance of the terms and conditions of this Agreement. Letters of credit shall be in effect for a minimum period of sixty (60) days beyond the date specified in Paragraph 2 above. The County may enter upon the Property to inspect, install, maintain, or remove the Control Measures or to permanently stabilize the site and may draw on the Surety in the following events:

a. The Developer fails to complete the Plans by the date specified in paragraph 2 above.

b. The Developer fails to install, maintain or remove when no longer required the Control Measures to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Control Measures, including but without limitation, the Virginia Department of Conservation and Recreation.

c. The Developer fails to commence construction of the Control Measures in conformance with the requirements specified in the Plans.

d. The insolvency of, appointment of a receiver for, or the filing of a voluntary or involuntary petition in bankruptcy against or by the Developer.

e. Developer breaches any of the terms and conditions of this Agreement.

4. In the event that the County draws on the Surety, it may use such funds to install, maintain, or remove the Control Measures or cause them to be installed, maintained, or removed. The County may also use such funds to permanently stabilize the site from further erosion such that Control Measures are no longer required. The Developer shall be liable to the County for any and all costs of installing, maintaining, or removing the Control Measures or for permanently stabilizing the site, which shall be in excess of the Surety. It is the purpose and intent of the parties that the amount of the Surety shall have been determined to be sufficient to defray not only the anticipated cost of taking the above mentioned actions but also a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the estimated cost of completing the above actions, and any and all other reasonable costs which the County has incurred or may conclude, in its sole discretion, are to be incurred. The Developer hereby acknowledges that an administrative fee in the above amount is reasonable compensation to the County for its costs in drawing on the Surety and, when necessary, causing the above actions to be completed.

The Developer acknowledges and agrees that the County is under no obligation to give any notice to the Developer of expiration of any letter of credit furnished hereunder or of its intent to draw down such letter of credit or on any form of Surety in any of the events specified in this Agreement.

5. The County shall, upon drawing on any funds represented by the Surety, deposit the same in an interest-bearing account to the extent not needed to cover expenditures made or reasonably anticipated to be made in the near future, but the County shall have no responsibility to deposit or maintain any of such funds in an account at the maximum interest available. Upon completion of the necessary actions, as determined by the County, and payment of all expenses incurred by the County in connection therewith, any unexpended funds, including any interest earned thereon, shall be returned to the Developer.

6. The County shall not be liable to the Developer or to any third party for the manner in which the actions listed in paragraph 4 above are completed nor for any delay in effecting the same, the fact that the cost of performing such work is in excess of or less than the amount made available by drawing down the funds or any part thereof represented by the Surety, or that the County has drawn

on the entire amount of said Surety even though it subsequently develops that the entire amount was not required to carry out the provisions of this Agreement.

7. The Developer acknowledges that the County is under no obligation to extend the time herein provided for completion of the Plans by the Developer. However, in the event that the County unilaterally agrees in writing to do so, such writing shall, without more and without formal execution of any other agreement by the parties, constitute such an extension, and all of the terms of this Agreement shall continue in effect for the duration of such extension insofar as they are not inconsistent with the terms of the extension; provided, however, that no extension shall be effective until or unless the Developer furnishes to the County a new or amended Surety conforming to the requirements of paragraph 3 above. The County may require that the amount of the Surety be increased if an extension is permitted.

8. It is mutually understood and agreed that if the Developer shall faithfully execute all requirements of this Agreement and all relevant laws and regulations, and shall indemnify, protect and save the County, its officers, agents and employees harmless from all loss, damage, expense or cost by reason of any claim made or suit or action instituted against the County, its officers, agents or employees on account of or in consequence of any breach on the part of the Developer, all of which the Developer hereby covenants to do, then the Surety shall be released by the County to the Developer; provided, however, that release of the Surety shall not in any way or to any extent release, diminish or otherwise reduce any obligation or liability of the Developer provided in this Agreement.

9. The Developer does further hereby agree to indemnify, protect and save the County, its officers, agents, and employees harmless from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of any facility shown on the Plans as to be dedicated to the County or other governmental entity until such time as the said facilities shall be accepted as a part of the County's systems, or those of its agencies, or the State System of Secondary Highways, as the case may be.

10. This Agreement shall be binding upon the Developer and the Developer's successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals:

DEVELOPER:

* *

INDIVIDUAL OR INDIVIDUALS

______________________________(SEAL)

______________________________(SEAL)

* *

CORPORATION

Attest

By: __________________________(SEAL)
President
(Attach copy of corporate resolution authorizing execution)

____
Secretary

* *

PARTNERSHIP

By: __________________________(SEAL)
Partner

By: __________________________(SEAL)
Partner

* *

LIMITED LIABILITY COMPANY

By: __________________________(SEAL)
Manager

* *

Approved as to form:

____
County Attorney

COUNTY OF YORK, VIRGINIA

By: ______________________________________
Director, Environmental & Development Services

(FORM LETTER TO BE PLACED ON BANK LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT NO. (1)

(2)

County of York
c/o James O. McReynolds
County Administrator
P. O. Box 532
Yorktown, Virginia 23690

Re: (3) (13)

Gentlemen:

We hereby establish our Irrevocable Letter of Credit No. (1) in your favor, for the account of (3), available by your drafts drawn at sight on us up to the aggregate amount of (4), each such draft accompanied by the following document:

Your written statement certifying that (3) has defaulted in the performance of the terms and conditions of (5) Agreement with you, dated the (6) day of (6), 20(6), and that you are, in consequence, entitled to the amount of the accompanying draft.

All drafts drawn under this letter of credit must be marked "Drawn under (7) Letter of Credit No. (1) dated (2)."

This credit is valid until (8) and drafts drawn hereunder, if accompanied by document as specified above, will be honored if presented on or before that date to (9) at (10) or, if said bank is not doing business at that address, then to any other address or location of said bank or its successor.

Except as otherwise expressly stated herein, this credit is subject to the "Uniform Customs and Practice for Documentary Credits", fixed by International Chamber of Commerce Publication No. 400, 1983 revision.

Very truly yours,

(7)

By: (11)

(12)

EXPLANATION OF NUMBERS (1) THROUGH (13):

(1) Number assigned to letter of credit by bank.

(2) Date issued.

(3) Name of person, corporation, or partnership submitting letter of credit.

(4) Amount of letter of credit written in words and numerals, i.e., Fifty thousand and no/100 dollars ($50,000.00).

(5) Insert "his", "her", "its" or "their", as appropriate.

(6) Date shown on agreement.

(7) Name of bank.

(8) Expiration date of letter of credit.

(9) Name and address of bank.

(10) Address of bank or branch thereof where letter of credit is to be presented. No letter of credit will be acceptable unless it may be presented at a bank office in York County or James City County or in the City of Newport News, Hampton, Williamsburg, Norfolk, Virginia Beach, Chesapeake, or Richmond.

(11) Signature of authorized officer of bank.

(12) Title of authorized officer of bank.

(13) Name of project.

(Sample -actual Escrow Agreement to be prepared on bank or other institutional stationery)

_____
(Date)

County of York
Environmental and Development Services
P.O. Box 532
Yorktown, Virginia 23690

Gentlemen:

RE: _____

Please be advised that our customer, _____, has established with us as escrow agent an escrow fund in the amount of _____ _____ and 00/100 dollars ($_____) as security for (their) (its) (his) performance in accordance with the provisions and conditions of land Disturbing Activity Permit No. _____, issued or to be issued by you under the Erosion and Sediment Control Ordinance of York County, and in accordance with the terms and conditions of the customer's Erosion and Sediment Control Development Agreement with York County dated the _____ day of _____, 20_____.

In consideration of your issuing such permit in behalf of our customer, this is to certify that said amount of $_____ will remain under our control in escrow and available only to you upon demand, delivered or mailed to (insert name and address of financial institution), provided that such demand must be so mailed or delivered no later than _____. The demand shall allege failure on the part of the permit holder to perform in accordance with the terms of the permit or performance agreement but any dispute as to the accuracy of such allegation shall not affect your right to the full amount held in escrow hereunder. It is understood that the establishment of this escrow fund is a prerequisite to the issuance of such permit and that it was or will be issued in reliance thereon.

Sincerely,

By: _____

Title: _____

Agreed to: _____

Customer: _____

_____

_____