

ACCOUNT NO. 13-00982088

ADDRESS: 12600 Flack Street, Silver Spring, MD 20906

DECLARATION OF COVENANTS

This DECLARATION, made this 6th day of DECEMBER 2010, by and between Washington Metropolitan Area Transit Authority (the "Declarant") and Montgomery County, Maryland (the "County").

WITNESSETH:

WHEREAS, the Declarant desires to make certain improvements within the public right-of-way, being part of that parcel of land conveyed by Union Trust Company of the District of Columbia to Washington Metropolitan Area Transit Authority, by deed dated October 18, 1971 and recorded at Liber 4139 Folio 711 among the Land Records of Montgomery County, Maryland (the "Public Right-of-Way"), said improvements consisting of a 24 inch RCP storm drain outfall per Montgomery County Department of Permitting Services Revocable Agreement No. RA-1141 (the "Improvements").

WHEREAS, the County shall agree to said Improvements promptly upon the execution and due recording of this DECLARATION among the Land Records of Montgomery County.

NOW, THEREFORE DECLARANT covenants the following:

1. The Declarant agrees that all entry upon, and work within, the Public Right-of-Way on the Improvements, including the installation and any major repair or maintenance of the Improvements, shall be performed by a contractor of Declarant who shall, prior to entering the Public Right-of-Way or performing any work therein, give notice to the Director of the Department of Transportation by email at the following email address: mcdot.director@montgomerycountymd.gov at least 10 working days prior to entering upon the Public Right-of-Way or performing any work therein, and such contractor shall as part of such notice agree to indemnify and hold harmless the County against any and all actions, suits, claims, demands, liability, loss or damage arising out of, or in connection with, the installation, repair, or maintenance of the Improvements, and such contractor shall further provide as part of such notice, evidence reasonably satisfactory to the County of general liability insurance naming the County as an additional insured in an amount of not less than one million dollars (\$1,000,000), which general liability insurance shall include contractual coverage for the indemnity provided by the contractor. Declarant may use its own forces to perform minor repairs and routine inspection of the Improvements. The requirements of this paragraph shall not apply to work performed by Declarant's forces.

2. The Declarant agrees, continually and at all times, to maintain in good and safe condition the above described Improvements in the public right-of-way

WRITING SURF- 0.00
RECORDING FEE 0.00
TOTAL 0.00
Clerk's Office
LEK WE 513-2620
DEC 08 2010 10:12 AM

APPROVED BY *[Signature]*

DEC 08 2010

\$ *OMA* RECORDATION TAX PAID

\$ *OMA* TRANSFER TAX PAID

FILED
LORETTA E. KNIGHT
CLERK'S OFFICE
MONTGOMERY CO. MD

2010 DEC -8 A 10:16

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 40622, p. 0140, MSA_CE63_40579. Date available 12/17/2010. Printed 09/20/2021.

NO FEE - MONTG. CO. MD.

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3. The Declarant agrees that should the County order any of the said Improvements in whole or in part to be removed, such removal and replacement shall be at the expense of the County or the subsequent owner of the premises. Provided, however, that no removal shall occur unless and until Declarant has approved a replacement location and design; County or the subsequent owner of the premises has secured funding for the removal and replacement; and all regulatory approvals necessary to replace the Improvements and continue the use of the property served by the Improvements have been received.

Upon execution and recording, this DECLARATION shall run with the land and shall become a binding instrument upon the Declarant and any subsequent representatives, successors or assigns of the Declarant. This Declaration cannot be terminated without the County's approval.

4. This Declaration shall remain in full force and effect until such time as the Improvements are removed in their entirety by the owner or subsequent owner from said Public Right-of-Way. Release of this Declaration may not occur without written approval from the County and the Declarant.

In TESTIMONY WHEREOF, the said Declarant and County have hereunto set their hands and seals the day and year first above written.

**WASHINGTON METROPOLITAN
AREA TRANSIT AUTHORITY**

By: Mark K Meister
Print Name: MARK K MEISTER
Title: CONTRACTING OFFICER
Date: 12/6/10

MONTGOMERY COUNTY, MARYLAND

By: Diane Schwartz Jones
Diane Schwartz Jones
Assistant Chief Administrative Officer
Date: 12/6/10

RECOMMENDED BY:

By: Arthur Holmes
Arthur Holmes, Director
Department of Transportation

Date: 3 DEC 10

**APPROVED AS TO
FORM AND LEGALITY:**

By: John J. Fisher
John J. Fisher
Associate County Attorney

Date: 12/2/10

I hereby certify that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the within instrument was prepared under my supervision.

John J. Fisher
John J. Fisher
Associate County Attorney for
Montgomery County, Maryland

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 40622, p. 0143, MSA_CE63_40579. Date available 12/17/2010. Printed 09/20/2021.

~~STATE OR MARYLAND~~
District of Columbia
~~COUNTY OF MONTGOMERY~~

I HEREBY CERTIFY that on this 6th day of December 2010, before the undersigned officer, a notary public in and for the State and County aforesaid, personally appeared Mark K Weiste, authorized agent or officer of Washington Metropolitan Area Transit Authority and known to me or proven to be the person whose name is subscribed to the within instrument and did acknowledge that he executed the same for the purposes therein contained and signed the same in my presence.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Heaven O'Sullivan
(Notary Public)



My Commission Expires: 7-14-14

STATE OR MARYLAND
COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 6th day of December 2010, before the undersigned officer, a notary public in and for the State and County aforesaid, personally appeared Deane R Schwartz Jones, authorized agent or officer of Montgomery County, Maryland and known to me or proven to be the person whose name is subscribed to the within instrument and did acknowledge that he executed the same for the purposes therein contained and signed the same in my presence.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Julie L White
(Notary Public)



My Commission Expires: 4/30/2013

40622 144

Return original Declaration of Covenants to:

John J. Fisher
Associate County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850