

**12. CONSIDERATION OF A DEED OF EASEMENT AND
MAINTENANCE AGREEMENT WITH ENVIVA PELLETS
SOUTHAMPTON, LLC**

Section 13.5-9 of the Southampton County Code (Stormwater) requires the owner of a site with stormwater facilities to execute an inspection and maintenance agreement that is binding on all subsequent owners of land served by such facility. Among other things, the inspection and maintenance agreement requires the owner to grant an easement providing access to the stormwater management facility at reasonable times for periodic inspection by the director of community development, or his/her contractor or agent, in order to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by the county code. This easement is required to be recorded by the owner in Clerk of the Circuit Court's Office.

Enviva's outside general counsel, Hirschler Fleischer, has prepared the attached legal instrument to satisfy the requirements of Section 13.5-9 of the Southampton County Code. In accordance with Section 15.2-1803 of the Code of Virginia, it is necessary for the Board to authorize acceptance of the instrument and further authorize the County Administrator to execute it on the Board's behalf, subject to approval as to form by the County Attorney.

MOTION REQUIRED: A motion is required to authorize acceptance of the attached instrument and further authorize the County Administrator to execute it on the Board's behalf, subject to approval as to form by the County Attorney.



**BOARD OF SUPERVISORS
SOUTHAMPTON COUNTY, VIRGINIA**

RESOLUTION 1013-12

At a meeting of the Board of Supervisors of Southampton County, Virginia, held in the Southampton County Office Center, Board of Supervisors' Meeting Room, 26022 Administration Center Drive, Courtland, Virginia on Monday, October 28, 2013 at 6:00 p.m.

PRESENT

The Honorable Dallas O. Jones, Chairman
The Honorable Ronald M. West, Vice Chairman
The Honorable Alan W. Edwards, Jr.
The Honorable Carl J. Faison
The Honorable S. Bruce Phillips
The Honorable Barry T. Porter
The Honorable Glenn H. Updike

**IN RE: ACCEPTANCE OF A DEED OF EASEMENT AND STORMWATER
MAINTENANCE AGREEMENT FROM ENVIVA PELLETS SOUTHAMPTON,
LLC**

Motion by Supervisor _____:

BE IT RESOLVED that the Board of Supervisors of Southampton County, Virginia hereby accepts the offer of dedication of the attached Deed of Easement and Maintenance Agreement from Enviva Pellets Southampton, LLC as further illustrated on that certain plat entitled, "MAINTENANCE/DRAINAGE EASEMENT, ENVIVA PELLETS SOUTHAMPTON, LLC, SOUTHAMPTON, VIRGINIA, FRANKLIN DISTRICT, SOUTHAMPTON CO., by Bowman Consulting Group, Ltd. Job No. 9302-02-003, Date: 2013-10-14."; and

BE IT FURTHER RESOLVED that the County Administrator is authorized to execute the Deed of Easement, approved as to form by the County Attorney, indicating the Board's acceptance of the offer of dedication.

Seconded by Supervisor _____.

VOTING ON THE ITEM: YES –

NO –

A COPY TESTE:

Michael W. Johnson, County Administrator/
Clerk, Southampton County Board of Supervisors

Prepared by and return to:
Hirschler Fleischer
725 Jackson Street
Suite 200
Fredericksburg, VA 22401

Tax Map Number: Portion of 92-18

EXEMPT FROM TAXES PURSUANT TO VIRGINIA CODE 58.1-811(3).

DEED OF EASEMENT AND MAINTENANCE AGREEMENT

THIS DEED OF EASEMENT AND MAINTENANCE AGREEMENT (“Agreement”) is made this ___ day of October, 2013, is by and between **ENVIVA PELLETS SOUTHAMPTON, LLC**, a Delaware limited liability company (the “Grantor”); **JOHN F. MCMANUS, TRUSTEE** and **RICHARD E. RAILEY, JR, TRUSTEE**, either of whom may act (collectively, the “IDA Trustee”), whose business address is c/o Hirschler Fleischer, 725 Jackson Street, Suite 200, Fredericksburg, Virginia, 22401, and Railey & Railey Main Street Courtland, VA 23837, respectively; **SOUTHAMPTON COUNTY, VIRGINIA, ACTING BY AND THROUGH THE INDUSTRIAL DEVELOPMENT AUTHORITY OF SOUTHAMPTON COUNTY**, a political subdivision of the Commonwealth of Virginia (the “IDA”); **LAWYERS TITLE REALTY SERVICES, INC.**, a Virginia corporation, as trustee (“Barclays Trustee”), with an address of 7130 Glen Forest Drive, Suite 403, Richmond, VA 23226 and **BARCLAYS BANK PLC**, as Collateral Agent (“Barclays”) with an address of 745 Seventh Avenue, New York, NY 10019; and the **SOUTHAMPTON COUNTY**, Virginia (hereinafter referred to as “County”), Grantee.

RECITALS:

A. Grantor is the owner of certain real property with improvements thereon located in Franklin Magisterial District, Southampton County, Virginia, consisting of 142.470 acres, more or less, being a portion of Southampton County Tax Map Parcel 92-18, and as more particularly shown on that certain plat prepared by Bowman Consulting titled "Boundary Survey of a Portion of the Lands of Industrial Development Authority of Southampton County, Virginia" dated March 12, 2012, as last revised, and recorded in the land records of the Circuit Court of Southampton County, Virginia (“Land Records”) in Plat Book 33, pages 199-201 (the “Property”).

B. The Property is subject to the following deeds of trust: (i) a deed of trust dated June 8, 2012, recorded in the Land Records as Instrument Number 120001372 (the “IDA Deed of Trust”), wherein the Property was conveyed to the IDA Trustee in trust to secure the repayment of certain indebtedness payable unto the IDA as more specifically set forth therein; and (ii) a deed of trust dated November 9, 2012, recorded in the Land Records as Instrument Number 120002745 (the “Barclays Deed of Trust”), wherein the Property was conveyed to the Barclays Trustee in trust to secure the repayment of certain indebtedness payable unto the Barclays as Collateral Agent for the beneficiaries as more specifically set forth therein.

C. Grantor submitted to the County a stormwater management plan prepared by Derris Bradshaw of Mid-South Engineering Co. dated June 13, 2012, that was approved by the Grantee (Lee Copeland) on June 14, 2012, as may be amended or modified from time to time (the "Plan"). The Plan includes, among other features, a system that regulates peak rates of discharge and/or quality of runoff water (the term "*system*" includes any and all components designed to regulate flow, provide storage for runoff water, remove pollutants from runoff water and increase infiltration of runoff water into the soil). The County issued Permit 7030-2012 for the construction of the system in accordance with the Plan.

D. It is the desire and intent of the Grantor to grant to the County a stormwater maintenance and drainage easement in accordance with this Agreement and as shown on that certain plat prepared by Bowman Consulting Group, Inc., titled "Maintenance/Drainage Easement Enviva Pellets Southampton, LLC Southampton, Virginia" dated October 14, 2013, and recorded simultaneously herewith in the Land Records as Instrument Number _____ and which is incorporated herein by this reference (the "Plat").

E. The IDA Trustee and the IDA join in this Agreement to indicate their respective consents and approval to the grant of the access easement and the terms of this Agreement.

F. The Barclays Trustee and Barclays join in this Agreement to indicate their respective consents and approval to the grant of the access easement and the terms of this Agreement.

THIS DEED WITNESSETH THAT for and in consideration of One Dollar (\$1.00) cash in hand paid to the Grantor by the County and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby grant and convey unto the County the permanent storm water management and drainage easement (the singular term "easement" when used hereinafter to include the plural if applicable) as designated on the Plat as "Maintenance/Drainage Easement" for access to and for the inspection, maintenance, operation and repair of the system, which easement is beneath, upon, and over strips of land which are shown and designated on the Plat. If the County determines that maintenance or repair of the system is deemed necessary after inspection by the County, the Grantor shall diligently and in good faith perform such maintenance or repair, subject to force majeure. In the event that Grantor fails to commence and diligently pursue the maintenance and repair of the system within thirty (30) days after the receipt of written notice from the County, then the County may perform such maintenance and repair of the system. The Grantor shall reimburse the County for maintenance and repair costs incurred by the County within ten (10) business days after receiving a written request for reimbursement from the County. It is expressly understood and agreed that the County is under no obligation to maintain or repair the system, and in no event shall this Agreement be construed to impose any such obligation on the County.

The IDA Trustee, as authorized to act by the IDA, as shown by its execution hereof, does hereby subordinate the lien of the IDA Deed of Trust to the easement granted herein as shown on the Plat. It is expressly understood that the subordination of the portions of the Property dedicated and granted herein shall not, in any

way, affect the lien of the IDA Deed of Trust upon the other land conveyed thereby and not subordinated herein. The IDA Deed of Trust shall remain in full force and effect as to the land conveyed thereby and not subordinated herein.

The Barclays Trustee, as authorized to act by Barclays, as shown by its execution hereof, does hereby subordinate the lien of the Barclays Deed of Trust to the easement granted herein as shown on the Plat. It is expressly understood that the subordination of the portions of the Property dedicated and granted herein shall not, in any way, affect the lien of the Barclays Deed of Trust upon the other land conveyed thereby and not subordinated herein. The Barclays IDA Deed of Trust shall remain in full force and effect as to the land conveyed thereby and not subordinated herein.

THIS DEED FURTHER WITNESSETH THAT, for and in consideration of the mutual covenants stated below, the County and the Grantor agree as follows:

1. Grantor shall construct the system in accordance with approved Plan and provide as-built data and drawings, soil/geotechnical reports, and other certifications requested by the County in order to document compliance with the Plan.
2. Grantor shall maintain the system in good working order acceptable to the County. Grantor shall perform maintenance inspections of the system on a semi-annual basis or within twenty-four (24) hours after each rainfall of two (2) inches or more.
3. Grantor shall keep written records of inspections and repairs and provide access to those records to the County upon request.

The terms of this Agreement shall be binding upon the heirs, successors and assigns of the Grantor.

[THE REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK]

GRANTOR:

ENVIVA PELLETS SOUTHAMPTON, LLC, a Delaware limited liability company

By: **ENVIVA, LP**, a Delaware limited partnership, its Manager

By: _____(SEAL)
Its: _____

STATE OF _____
COUNTY/CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of October_, 2013, by _____, _____ of Enviva, LP, a Delaware limited partnership, Manager of Enviva Pellets Southampton, LLC, a Delaware limited liability company, on behalf of the company.

My Commission _____ expires on _____
(Reg. #) (Date)

[SEAL]

Notary Public

The County of Southampton, Virginia, acting by and through its County Administrator, he being hereto duly authorized by Resolution No. _____, adopted by the Southampton County Board of Supervisors on the _____, _____, does hereby accept this conveyance of on behalf of the County.

COUNTY OF SOUTHAMPTON, VIRGINIA

By: _____
Michael W. Johnson, County Administrator

APPROVED AS TO FORM:

COUNTY ATTORNEY

STATE OF _____
CITY/COUNTY OF _____, to-wit:

The foregoing deed was acknowledged on this the ____ day of October, 2013, by Michael W. Johnson, County Administrator, Southampton County, Virginia.

[SEAL]

Notary Public
Printed Name: _____
Commission expires: _____
My Registration Number is: _____

BARCLAYS:

BARCLAYS BANK PLC

By: _____(SEAL)

Print: _____

Its: _____

STATE OF VIRGINIA

COUNTY/CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of October, 2013, by _____, _____ of Barclays Bank PLC, on behalf of the company.

My Commission _____ expires on _____
(Reg. #) (Date)

[SEAL]

Notary Public

Printed Name

BARCLAYS TRUSTEE: LAWYERS TITLE REALTY SERVICES, INC., a Virginia corporation

By: _____(SEAL)

Print: _____

Its: _____

STATE OF VIRGINIA

COUNTY/CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of October, 2013, by _____, as _____ of Lawyers Title Realty Services, Inc., Trustee, as trustee for Barclays Bank PLC, on behalf of the company.

My Commission _____ expires on _____
(Reg. #) (Date)

[SEAL]

Notary Public

Printed Name

IDA:

**INDUSTRIAL DEVELOPMENT AUTHORITY OF
SOUTHAMPTON COUNTY, VIRGINIA, a
Political Subdivision of the Commonwealth of Virginia**

By: _____(SEAL)
Print: _____
Its: _____

STATE OF VIRGINIA
COUNTY/CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of October, 2013,
by _____, _____ of Industrial
Development Authority of Southampton County, Virginia, a Political Subdivision of the
Commonwealth of Virginia, on behalf of the county.

My Commission _____ expires on _____
(Reg. #) (Date)

[SEAL]

Notary Public

Printed Name

IDA TRUSTEE:

Richard E. Railey, Jr., Trustee

(SEAL)

STATE OF VIRGINIA
COUNTY/CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of October, 2013,
by Richard E. Railey, Jr., Trustee, as trustee Industrial Development Authority of Southampton
County, Virginia.

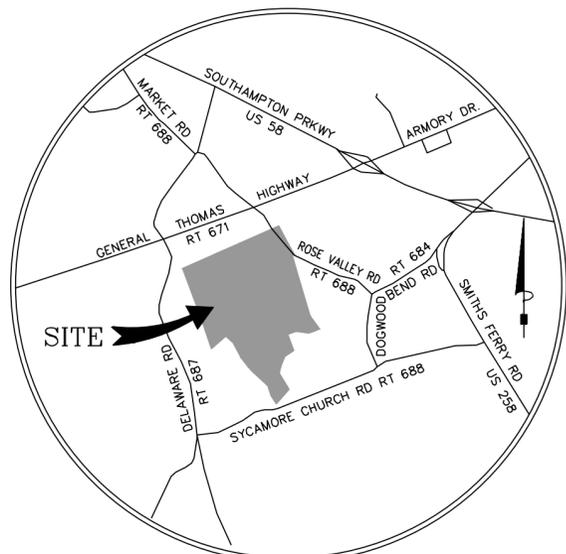
My Commission _____ expires on _____
(Reg. #) (Date)

[SEAL]

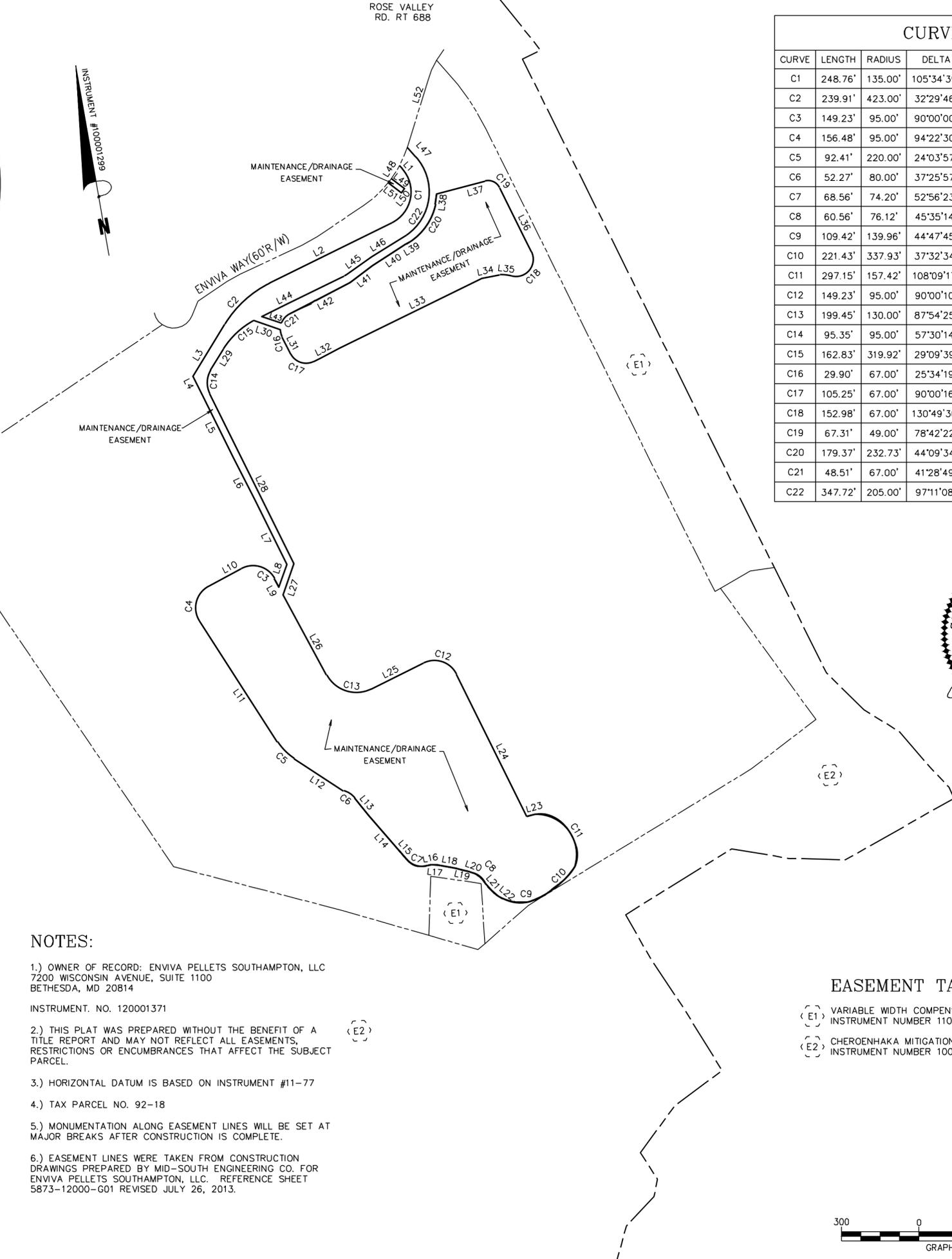
Notary Public

Printed Name

5151208-4 036434.00008



VICINITY MAP
SCALE: 1" = 5000'±



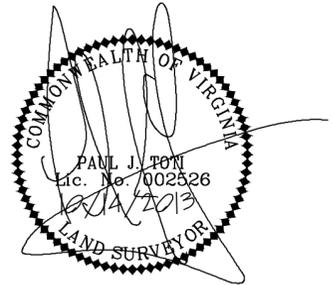
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	DIRECTION
C1	248.76'	135.00'	105°34'39"	177.78'	215.03'	N 20° 57' 06" E
C2	239.91'	423.00'	32°29'46"	123.28'	236.71'	N 57° 29' 33" E
C3	149.23'	95.00'	90°00'00"	95.00'	134.35'	S 63° 21' 09" E
C4	156.48'	95.00'	94°22'30"	102.55'	139.38'	N 24° 27' 36" E
C5	92.41'	220.00'	24°03'57"	46.89'	91.73'	N 34° 45' 37" W
C6	52.27'	80.00'	37°25'57"	27.10'	51.34'	N 46° 34' 56" W
C7	68.56'	74.20'	52°56'23"	36.95'	66.15'	S 56° 55' 18" E
C8	60.56'	76.12'	45°35'14"	31.99'	58.98'	S 39° 16' 33" E
C9	109.42'	139.96'	44°47'45"	57.68'	106.66'	S 75° 39' 34" E
C10	221.43'	337.93'	37°32'34"	114.85'	217.49'	N 61° 37' 05" E
C11	297.15'	157.42'	108°09'17"	217.28'	254.96'	N 27° 11' 53" W
C12	149.23'	95.00'	90°00'10"	95.00'	134.35'	S 61° 15' 30" E
C13	199.45'	130.00'	87°54'25"	125.34'	180.46'	S 62° 18' 22" E
C14	95.35'	95.00'	57°30'14"	52.12'	91.39'	S 12° 29' 33" W
C15	162.83'	319.92'	29°09'39"	83.22'	161.07'	S 56° 51' 11" W
C16	29.90'	67.00'	25°34'19"	15.20'	29.66'	N 3° 28' 25" W
C17	105.25'	67.00'	90°00'16"	67.01'	94.76'	N 61° 15' 43" W
C18	152.98'	67.00'	130°49'30"	146.43'	121.85'	S 49° 10' 59" W
C19	67.31'	49.00'	78°42'22"	40.18'	62.14'	S 55° 34' 57" E
C20	179.37'	232.73'	44°09'34"	94.41'	174.96'	N 44° 00' 33" E
C21	48.51'	67.00'	41°28'49"	25.37'	47.45'	N 51° 48' 08" E
C22	347.72'	205.00'	97°11'08"	232.47'	307.51'	S 16° 45' 30" W

LINE	LENGTH	DIRECTION
L1	16.72'	N 31° 50' 13" W
L2	529.19'	N 73° 44' 26" E
L3	236.62'	N 41° 14' 40" E
L4	91.18'	N 16° 15' 34" W
L5	260.65'	N 16° 15' 34" W
L6	189.02'	N 17° 10' 08" W
L7	276.54'	N 16° 15' 34" W
L8	94.61'	N 28° 44' 26" E
L9	37.74'	S 18° 21' 09" E
L10	144.15'	N 71° 38' 51" E
L11	559.29'	N 22° 43' 39" W
L12	228.78'	N 46° 47' 36" W
L13	88.46'	N 28° 47' 05" W
L14	173.85'	S 31° 13' 15" E
L15	52.14'	S 30° 27' 06" E
L16	36.16'	N 89° 52' 57" E
L17	36.78'	S 74° 35' 14" E
L18	61.70'	S 69° 30' 47" E
L19	50.70'	S 65° 21' 09" E
L20	16.03'	S 62° 04' 10" E
L21	37.65'	S 30° 27' 03" E
L22	36.31'	S 39° 58' 02" E
L23	33.44'	S 85° 24' 01" W
L24	616.81'	S 16° 15' 25" E
L25	228.39'	N 73° 44' 26" E
L26	354.21'	S 18° 21' 09" E

LINE	LENGTH	DIRECTION
L27	128.21'	S 28° 44' 26" W
L28	738.89'	S 16° 15' 34" E
L29	96.80'	S 41° 14' 40" W
L30	108.44'	N 61° 15' 34" W
L31	69.58'	N 16° 15' 34" W
L32	82.67'	S 71° 42' 48" W
L33	615.07'	S 73° 47' 35" W
L34	71.11'	S 88° 25' 41" W
L35	45.68'	N 73° 25' 48" W
L36	217.17'	S 16° 13' 46" E
L37	193.47'	N 85° 03' 52" E
L38	40.58'	N 18° 27' 40" E
L39	19.15'	N 68° 26' 49" E
L40	153.43'	N 67° 08' 18" E
L41	109.86'	N 62° 51' 08" E
L42	264.51'	S 72° 29' 01" W
L43	80.04'	S 61° 15' 34" E
L44	248.92'	S 73° 44' 29" W
L45	121.77'	S 64° 32' 47" W
L46	158.27'	S 68° 20' 14" W
L47	50.18'	S 31° 37' 46" E
L48	60.06'	S 41° 52' 30" W
L49	64.10'	S 42° 47' 03" E
L50	20.01'	S 48° 31' 15" W
L51	63.64'	N 42° 47' 03" W
L52	356.72'	S 28° 36' 36" W

NOTES:

- OWNER OF RECORD: ENVIVA PELLETS SOUTHAMPTON, LLC
7200 WISCONSIN AVENUE, SUITE 1100
BETHESDA, MD 20814
- THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT REFLECT ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT AFFECT THE SUBJECT PARCEL.
- HORIZONTAL DATUM IS BASED ON INSTRUMENT #11-77
- TAX PARCEL NO. 92-18
- MONUMENTATION ALONG EASEMENT LINES WILL BE SET AT MAJOR BREAKS AFTER CONSTRUCTION IS COMPLETE.
- EASEMENT LINES WERE TAKEN FROM CONSTRUCTION DRAWINGS PREPARED BY MID-SOUTH ENGINEERING CO. FOR ENVIVA PELLETS SOUTHAMPTON, LLC. REFERENCE SHEET 5873-12000-G01 REVISED JULY 26, 2013.



EASEMENT TABLE:

- (E1) VARIABLE WIDTH COMPENSATORY MITIGATION EASEMENTS
INSTRUMENT NUMBER 110001990 & 11-77
- (E2) CHEROENHAKA MITIGATION EASEMENT
INSTRUMENT NUMBER 100001299, PG. 24



Bowman
CONSULTING

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MAINTENANCE/DRAINAGE
EASEMENT
ENVIVA PELLETS SOUTHAMPTON, LLC
SOUTHAMPTON, VIRGINIA
FRANKLIN DISTRICT
SOUTHAMPTON CO.

CITY PROJECT NUMBER	
PLAN STATUS	
DATE	DESCRIPTION
DRAWN	PJT
SCALE H: 1"=300'	CHKD
SCALE V: N/A	
JOB No. 9302-02-003	
DATE : 2013-10-14	
FILE No.	
SHEET 1	OF 1

[suby](#) | [gh{w](#)

§ 15.2-1803. Approval and acceptance of conveyances of real estate.

Every deed purporting to convey real estate to a locality shall be in a form approved by the attorney for the locality, or if there is no such attorney, then a qualified attorney-at-law selected by the governing body. No such deed shall be valid unless accepted by the locality, which acceptance shall appear on the face thereof or on a separately recorded instrument and shall be executed by a person authorized to act on behalf of the locality. The provisions of this section shall not apply to any conveyance of real estate to any locality under the provisions of Article 6 (§ [481505573](#) et seq.) of Chapter 22 or prior to December 1, 1997.

(Code 1950, § 15-709.1; 1958, c. 360; 1962, c. 623, § 15.1-286; 1968, c. 416; 1977, c. 584; 1980, c. 215; 1984, c. 87; 1997, c. [8; .](#).)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

Sec. 13.5-9. - Stormwater facility maintenance agreements.

Prior to the issuance of a land disturbance permit, the applicant or owner of the site must execute an inspection and maintenance agreement binding on all subsequent owners of land served by the stormwater facility, which shall include the following:

- (1) *Maintenance easement agreement.* The maintenance easement agreement shall provide for access to the stormwater management facility at reasonable times for periodic inspection by the director, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement agreement shall be recorded by the owner in the land records of the county. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, the property owner shall grant, after given notice and the opportunity to accompany the inspection, to the director, or his/her designee, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.
- (2) *Maintenance plan.* The design and planning of all stormwater management facilities shall include detailed maintenance procedures to ensure their continued function. These plans shall be included in the inspection and maintenance agreement and will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (3) *Landscaping plan.* The inspection and maintenance agreement shall include a detailed landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice. The landscaping plan must also describe who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.
- (4) *[Recorded by the owner.]* The inspection and maintenance agreement shall be recorded by the owner in the land records of the county.
- (5) *[Correcting a violation.]* The inspection and maintenance agreement shall also provide that, if after notice by the director to correct a violation requiring maintenance work and satisfactory corrections are not made by the owner(s) within a reasonable period of time as determined by the director, or their contractor or agent, may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties and there shall be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the county.

(Ord. of 10-27-08)