

# **Stormwater Management BMPs Maintenance Agreement**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ [Owner Name] of \_\_\_\_\_ [Company Name] with principal offices located \_\_\_\_\_ [Owner/Company Address], hereinafter "Owner".

In accordance with City of Bluffton Uniform Requirements for Construction and Post- Construction Stormwater Management, Ordinance, the Owner agrees to install and maintain stormwater management practice(s) (also known as BMPs) on the subject property, known as \_\_\_\_\_ [Property's Common Name] located at \_\_\_\_\_ [Property's Address], hereinafter "Property" in accordance with Exhibit A. The Owner further agrees to the terms stated in this document to ensure that the stormwater management practice(s) continues serving the intended function in perpetuity. This Agreement includes the following exhibit:

**Exhibit A:** BMP Operation and Maintenance Manual ("Manual").

Note: This agreement and all Exhibits shall be recorded with the deed of property by the Owner at the Bluffton County Recorder's Office and two (2) copies of the recorded document provided to City of Bluffton or designee's Office, hereinafter "Community".

Through this Agreement, the Owner hereby subjects the Property to the following covenants, conditions, and restrictions:

1. The Owner shall be solely responsible for the installation, maintenance, and repair of the stormwater management practices, drainage easements, and associated landscaping identified in the Manual.
2. No alterations or changes to the stormwater management practice(s) identified in the Manual shall be permitted unless they are deemed to comply with this Agreement and are approved in writing by the Community.
3. The Owner shall retain the services of a qualified individual or company to operate and ensure the maintenance of the stormwater management practice(s) identified in the Manual.
4. The Owner shall annually, by December 30th, provide to the Community records of inspections, maintenance, and repair of the stormwater management practices in accordance with the Manual.
5. The Community or its designee is authorized to access the property as necessary to conduct inspections of the stormwater management practices or drainage easements to ascertain compliance with the intent of this Agreement and the activities prescribed in the Manual. Upon written notification by the Community or its designee of required maintenance or repairs, the Owner shall complete the specified maintenance or repairs within a reasonable time frame determined by the Community. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs so that the public health, safety and welfare shall not be endangered nor the road improvement damaged.
6. If the Owner fails to properly maintain the stormwater management practice(s) in accordance with the Manual and this Agreement, the Community is authorized, but not required, to perform the specified inspections, maintenance, or repairs in order to preserve the intended functions of the practice(s) and prevent the practice(s) from becoming a threat to public health, safety, general welfare or the environment. In the case of an emergency, as determined by the Community, no notice shall be required prior to the Community performing emergency maintenance or repairs. The Community may levy the costs and expenses of such inspections, maintenance, or repairs plus a ten percent (10%) administrative fee against the Owner. The Community at the time of entering upon said stormwater management practice for the purpose of maintenance or repair may file a notice of lien in the office of the Register of Deeds of City of Bluffton upon the property affected by the lien. If said costs and expenses are not paid by the Owner, the Community may pursue the collection of same through appropriate court actions and in such a case, the Owner shall pay in addition to said costs and expenses all costs of litigation, including attorney fees.

7. The Owner hereby conveys to the Community an easement over, on, and in the Property or otherwise grants perpetual access rights for the purpose of access to the stormwater management practice for the inspection, maintenance, and repair thereof, should the Owner fail to properly inspect, maintain, and repair the practice(s).
8. The Owner agrees that this Agreement shall be recorded and that the Property shall be subject to the covenants and obligations contained herein, and this Agreement shall bind all current and future owners of the property.
9. The Owner agrees in the event that the Property is sold, transferred, or leased to provide information to the new owner, operator, or lessee regarding proper inspection, maintenance, and repair of the stormwater management practice(s). The information shall accompany the first deed transfer and include this Agreement and all Exhibits. The transfer of this information shall also be required with any subsequent sale, transfer, or lease of the Property.
10. The Owner agrees that the rights, obligations, and responsibilities hereunder shall commence upon execution of the Agreement.
11. The Owner whose signatures appear below hereby represent and warrant that they have the authority and capacity to sign this agreement and bind the respective parties hereto.
12. The Owner, its agents, representatives, successors, and assigns shall defend, indemnify and hold the Community harmless from and against any claims, demands, actions, damages, injuries, costs or expenses of any nature whatsoever, hereinafter "Claims", fixed or contingent, known or unknown, arising out of or in any way connected with the design, construction, use, maintenance, repair or operation (or omissions in such regard) of the stormwater management practice(s) referred to in Exhibit A which are the subject of this Agreement. This indemnity and hold harmless shall include any costs, expenses, and attorney fees incurred by the Community in connection with such Claims or the enforcement of this Agreement.

IN WITNESS WHEREOF, the Owner has executed this Agreement on the day and year first above written.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Company

\_\_\_\_\_  
Title

STATE OF INDIANA            )  
  )  
COUNTY OF BLUFFTON        )

SS:

BEFORE ME, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ Owner subscribed and sworn before this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Commission Expiration Date

\_\_\_\_\_  
County of Residence

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

WHEN RECORDED, RETURN FILE STAMPED COPY TO:

City of Bluffton Board of Works and Public Safety  
128 E Market St  
Bluffton, IN 46714

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