

Vincennes Stormwater Management BMPs Maintenance Agreement

THIS STORMWATER MANAGEMENT PRACTICES MAINTENANCE AGREEMENT (“Agreement”) is made this _____ day of _____, 20____, by and between the **City of Vincennes, Indiana acting through its Utilities Services Board**, with principal offices located at 203 Vigo St, Vincennes, IN 47591 (hereinafter “USB”) and _____ (hereinafter “Owner”), with its principal office located at _____.

In accordance with Vincennes Stormwater Ordinance and Technical Standards, the Owner agrees to install and maintain stormwater management practice(s) (“BMP”) on the subject property, located at _____ [Property’s Address], hereinafter “Property” the legal description of which is attached hereto, and incorporated herein, as **Exhibit A**. The owner further agrees to the terms stated in this document to ensure that the stormwater management practices continue serving their intended function in perpetuity. This Agreement includes the following exhibits:

1. **Exhibit A:** Legal description of the real estate for which this Agreement applies (“Property”).
2. **Exhibit B:** Location map(s) showing a location of the Property and an accurate location of each storm water management practice affected by this Agreement.
3. **Exhibit C:** Long-term Maintenance Plan that prescribes those activities that must be carried out to maintain compliance with this Agreement.

Note: After construction has been verified and accepted by the USB for the stormwater management practices, an addendum(s) to this Agreement shall be recorded by the Owner showing design and construction details and Owner shall provide copies of the recorded document to the USB. The addendum may contain several additional exhibits.

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

1. The Owner(s), at its expense, shall secure from any affected owners of land all easements and releases of rights-of-way necessary for utilization of the stormwater practices identified in **Exhibits B and C** and shall record them in the Knox County Recorder's Office. These easements and releases of rights-of-way shall not be altered, amended, vacated, released or abandoned without prior written approval of the USB.
2. The Owner(s) shall be solely responsible for the installation, maintenance and repair of the stormwater management practices, drainage easements and associated landscaping identified in **Exhibit B** in accordance with the Maintenance Plan (**Exhibit C**).
3. No alterations or changes to the stormwater management practice(s) identified in **Exhibit B** shall be permitted unless they are deemed to comply with this Agreement and are approved in writing by the USB.
4. The Owner(s) shall retain the services of a qualified inspector (as described in **Exhibit C** – Maintenance Requirement 1) to operate and ensure the maintenance of the stormwater management practice(s) identified in **Exhibit B** in accordance with the Maintenance Plan (**Exhibit C**).
5. The Owner(s) shall annually, by December 30th, provide to the USB records (logs, invoices, reports, data, etc.) of inspections, maintenance, and repair of the stormwater management practices and drainage easements identified in **Exhibit B** in accordance with the Maintenance Plan. Inspections are required at least after every major rain event.
6. The USB 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 **Exhibit C**. Upon written notification by the USB or their designee of required maintenance or repairs, the Owner(s) shall complete the specified maintenance or repairs within a reasonable time frame determined by the USB. 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.
7. If the Owner(s) does not keep the stormwater management practice(s) in reasonable order and condition, or complete maintenance activities in accordance with the plan contained in **Exhibit C**, the required reporting, or the required maintenance or repairs as set forth herein within the specified time frames, the USB 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 USB, no notice shall be required prior to the Owner prior to performing emergency maintenance or repairs. The USB may levy the costs and expenses of such inspections,

maintenance, or repairs plus a ten percent (10%) administrative fee against the Owner(s). The USB at the time of entering upon the Property for the purpose of maintenance or repair of the stormwater management practices may file a notice of lien in the Knox County Recorder's Office upon the Property. If said costs and expenses are not paid by the Owner(s), the USB may pursue the collection of same through appropriate court actions and in such a case, the Owner(s) shall pay in addition to said costs and expenses all costs of litigation, including attorney fees.

8. The Owner(s) hereby conveys to the USB an easement over, on, and in the Property described in **Exhibit A** for the purpose of access to the stormwater management practice(s) for the inspection, maintenance and repair thereof, should the Owner(s) fail to properly inspect, maintain and repair the practice(s).
9. The Owner(s) agrees that this Agreement shall be recorded and that the land described in **Exhibit A** shall be subject to the covenants and obligations contained herein, and this Agreement shall bind all current and future owners of the Property.
10. The Owner(s) 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 **Exhibits B** and **C** and this Agreement. The transfer of this information shall also be required with any subsequent sale, transfer or lease of the Property.
11. The Owner(s) agree that the rights, obligations and responsibilities hereunder shall commence upon execution of the Agreement.
12. The parties 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.
13. The Owner, its agents, representatives, successors and assigns shall defend, indemnify and hold the USB 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 storm drainage system referred to in the permit as **Exhibit C** hereto, appurtenances, connections and attachments thereto which are the subject of this Agreement. This indemnity and hold harmless shall include any costs, expenses and attorney fees incurred by the USB in connection with such Claims or the enforcement of this Agreement.

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

Owner

By: _____

Its: _____

STATE OF _____)
)
COUNTY OF _____)

SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, and the foregoing instrument was subscribed and sworn before me on this _____ day of _____, 20__.

Signature

Printed Name
Notary Public

_____ County of _____
Commission Expires on: _____
My Commission No.: _____

Exhibit A – Legal Description (Sample)

The following description and site plan identify the land parcel(s) affected by this Agreement.

[Note: An example legal description is shown below. This exhibit must be customized for each site, including the minimum elements shown. It must include a reference to a Subdivision Plat, Certified Survey number, or Condominium Plat, and a map to illustrate the affected parcel(s).]

Project Identifier: (Name of subdivision)

Acres: (Number of Acres)

Date of Recording: Date plat is recorded. Recorded Deed if not Subdivision Plat.

Map Produced by: (Name of Engineering Firm preparing plans)

Type of Stormwater Management Practice(s): (retention Basin/Detention Basin/Bio Swales/etc.)

Legal Description: (Legal description of property involved. If no land division is involved, enter legal description as described on the property title here.)

Exhibit B – Location Map (Sample)

Stormwater Management Practices Covered by this Agreement

[This exhibit must be customized for each situation. Map scale must be sufficiently large enough to show necessary details.]

The stormwater management practices covered by this Agreement are depicted in the reduced copy of a portion of the construction plans, as shown below. The practices include the following; [describe each stormwater management practices that are included within the development named below].

All of the noted stormwater management practices are located within drainage easements.

Subdivision Name: (Name of subdivision)

Stormwater Management Practices: (Describe each Stormwater Management Practice)

Location of Practices: (Describe location of each Stormwater Management Practice)

Titleholders: (Name of each person that has a legal interest in the Property.) For privately owned stormwater management practices, the names of the titleholder(s) must include all parcels that drain to the facility which is the subject of this Agreement.

Plan View of Stormwater Practices

Attach site plan that shows all easements and stormwater management practices here.

Drainage Easement Restrictions: Shaded Area on map indicates a drainage easement for stormwater collection, conveyance and treatment. No buildings or other structures are allowed in these areas. No grading or filling is allowed that may interrupt stormwater flows in any way. See **Exhibit C** for specific maintenance requirements for stormwater management practices within this area. See Subdivision plat or details on location.

Exhibit C – Stormwater Practice Maintenance Plan (Sample)

This **Exhibit C** explains the basic function of each of the stormwater practices listed in **Exhibit B** and provides the minimum specific maintenance activities and frequencies for each practice. The maintenance identified by the Owner should follow the maintenance activities listed in the manufacturers' or manufacturer's specifications or as detailed below. Vehicle access to the stormwater practices is shown on **Exhibit B**. Any failure of a stormwater practice that is caused by lack of maintenance will subject the Owner(s) to enforcement of the provisions listed in the Agreement by the City of Vincennes.

This exhibit must be customized for each site. The minimum elements of this **Exhibit C** include: a description of the drainage area and the installed stormwater management practices, a description of the specific maintenance activities for each practice which should include in addition to specific actions:

- Employee training and duties (describe details).
- Routine Service Requirements.
- Operating, inspection and maintenance schedules.
- Detailed construction drawings showing all critical components and their elevations.
- Define or identify the qualified inspector.

References:

Place all reference materials used to detail the maintenance requirements and operating requirements of the stormwater management practice