

**City of Hobart – Storm Water Post Construction
LONG-TERM OPERATION AND MAINTENANCE
AGREEMENT**

File No.: _____ Parcel No.: _____

As incorporated in Storm Water Permit No.: _____

Project Name: _____

Primary function or description of activities to be executed at the site:

THIS AGREEMENT, made and entered into this ___ day of _____, 202__

by and between _____

(**OWNER**) and the City of Hobart, Indiana (**CITY**), has also executed this Agreement.

WHEREAS, Ordinance No. 2004-37, now codified as Chapter 152 in the Hobart City Code (Code), was adopted by the City, effective January 5, 2005, and establishes requirements for Storm Water Quality Best Management Practices (BMP) and, in Code Section 152.041, requires that a *Storm Water Quality Management Permit (Permit)* to manage the quality of storm water discharged from areas of urban development and redevelopment; and

WHEREAS, under Codes Section 152.042, the City has the authority to inspect private systems within the City and to order such corrective actions to said private Storm Water Management systems as are necessary to properly maintain the Storm Water Management Systems within the City; and

WHEREAS, Code Sections 152.044 and 152.070 require the BMP's not owned by the City be maintained by the property owner according to the terms of a *Long-term Operation and Maintenance Agreement* (Agreement) that must be executed before a *Permit* is approved; and

WHEREAS, the City has adopted and approved technical guidelines relating to BMP's in the City; and

WHEREAS, the OWNER is the legal title-holder of certain real property (Property), more particularly described as:

WHEREAS, OWNER is wanting to obtain a Permit in order to be able to proceed to improve, build on, develop, or redevelop the Property; and

WHEREAS, the Storm Water Pollution Prevention Plan and Long-term Operation and Maintenance Plan, sealed by _____ a licensed Professional Engineer, dated _____, on file with the City, which is expressly incorporated herein and made a part hereof, as approved by the City, provides for Storm Water Quality Management with BMP's within the confines of the Property; and

WHEREAS, the City and OWNER agree that the health, safety, and general welfare of the residents of the City and the environment require that the City approved BMP's be constructed, installed, operated, and maintained on the Property; and

WHEREAS, the City requires that those BMP's constructed and installed in accordance with the City approved Storm Water Pollution Prevention Plan and Long-term Operation and Maintenance Plan be adequately constructed, installed, operated, and maintained by OWNER.

WHEREAS, an approved Storm Water Pollution Prevention Plan (SWPPP) and Long-term Operation and Maintenance Plan will illustrate and describe the location, type, and extent of all required BMP's, the minimum inspection procedures and schedule, the minimum operation procedures and schedule, and the minimum maintenance activities and schedule, including, but not limited to, when and how to remove accumulated/collected/filtered/amassed/grown excess vegetation, sediment, debris, trash, pollutant and/or forms of pollution from the BMP's.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The onsite Storm Water Quality Best Management Practices shall be constructed by OWNER in accordance with the Storm Water Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan (Plan) approved by the City.
2. OWNER shall operate and maintain the BMP's constructed and installed on the Property in compliance with the City approved Long-term Operation and Maintenance Plan and in good working order as determined by the City.
3. OWNER agrees that appropriate inspections of the BMP's will be performed by a *Qualified Professional as defined and registered by the City*.
4. OWNER agrees that the inspections will be documented and will include the following information:
 - a. A description of the current operational or functional status of the Storm Water Quality BMPs.
 - b. For BMP's that accumulate sediment, trash, debris, and other pollutant(s) or form of pollution, a description of used and remaining capacity (fraction, percentage, depth or volume) of each BMP shall be given to identify when the BMP must be cleaned out.
 - c. Identification of any necessary repairs, sediment/debris removal, or replacement of all or portions of the BMP's.
 - d. The results of any field or laboratory analyses performed.
 - e. Other relevant or unusual observations related to the BMP's.
5. Each year on or about the anniversary of this Agreement, OWNER shall provide City a written report describing the results of any and all inspections of maintenance of and repairs to the onsite BMP's, including the name of the person performing the work and the date thereof. OWNER shall use any form provided by the City for making the report.
6. OWNER shall implement an action plan to prevent premature BMP failure consistent with the provisions of the Long-term Operation and Maintenance Plan.
7. OWNER shall implement an action plan that may exceed the requirements of this Agreement's provisions but are necessary to prevent storm water pollution from leaving the Property.
8. OWNER shall immediately notify City of the breakdown or failure of any onsite BMP that substantially impairs its performance or that results in pollution or excessive surface water leaving the Property.
9. OWNER hereby grants permission to the City, its authorized agents and employees, to enter the Property to inspect the BMP's whenever it deems it necessary to do so. Whenever reasonably possible, the City shall notify OWNER prior to entering the property.
10. In the event OWNER fails to maintain the BMP's in good working order, as determined by the City, in accordance with the requirements of the Storm Water Pollution Prevention Plan and Long-term Operation and Maintenance Plan, the City may enter the Property and take whatever steps it deems necessary to repair or maintain the BMP's. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the Property without first obtaining written approval of the OWNER. It is expressly understood and agreed that the City is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
11. In the event the City, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, OWNER shall reimburse the City upon demand, within ninety (90) days of receipt of an invoice for all costs incurred by the City hereunder. In the event, the OWNER does not reimburse the City within ninety (90) days of receipt; the City may record a lien upon the

Property for double the amount of the City's invoiced expenses. In the event, the OWNER does not reimburse the City within one year from the recording of a lien upon the Property, the City may then take other legal measures to recover the amount of the lien plus the costs of collection, including court costs and reasonable attorney fees, incurred by the City.

12. It is the intent of this Agreement to guarantee the proper maintenance of the onsite BMP's by the OWNER; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party hereto for any damage alleged to result from or be caused by an onsite BMP.
13. OWNER, its executors, administrators, assigns, and any other successors in interest, shall indemnify and hold the City and its agents and employees harmless for any and all damages, losses, accidents, casualties, occurrences, or claims which might arise or be asserted against the City from the construction, presence, existence, operation, or maintenance of the onsite BMP's by the OWNER or the City unless such damage or loss are caused by the negligence or willful misconduct of the City while on the Property.
14. With the exception of claims resulting from the negligence or willful misconduct of the City, in the event a claim is asserted against the City, its agents, or employees for the construction, presence, existence, operation, or maintenance of the BMP's, the City shall notify OWNER in writing of the claim and OWNER shall defend, at its own expense, any suit based on such claim. If any judgment on such a claim be entered against the City, its agents, or employees, OWNER shall pay such judgment and all costs and expenses in connection therewith, including the City's reasonable attorney fees.
15. This Agreement may only be amended by written agreement of the parties and shall remain in effect until its termination is agreed to in writing by the City.
16. This Agreement and the incorporated Storm Water Pollution Prevention Plan and Long-term Operation and Maintenance Plan shall be recorded in the office of the Lake County Recorder, shall constitute a covenant running with the land, and shall be binding on OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.

This Agreement shall be effective the ____ day of _____, 202__.

_____ (**Owner or duly authorized agent**)

By: _____

_____ **Owner** / _____ **Agent name** (Check One)

_____ **Authorized Signatory**

Before me, a **Notary Public** or other officer authorized to administer oaths and take

acknowledgments in and for Lake County, Indiana, personally appeared

_____, a person

known to me, and acknowledged the execution of the foregoing document on the _____ day of

_____, 202__.

Name: _____

Office: _____

County of Residence: _____

My Commission Expires: _____

City of Hobart, Indiana by its Board of Public Works & Safety

By: _____

Brian Snedecor, President

Dated: _____

Attest: _____

Deb Longer, Clerk/Treasurer

Dated: _____

Before me, a **Notary Public** or other officer authorized to administer oaths and take acknowledgments in and for Lake County, Indiana, personally appeared Brian Snedecor, Mayor and President of the Board of Works of the City of Hobart and Deborah Longer, Clerk-Treasurer of the City of Hobart, a person known to me, and acknowledged the execution of the foregoing document on the

_____ day of _____, 20_____.

Name: _____

Office: _____

County of Residence: _____

My Commission Expires: _____

Parcel/Property Owner:

By: _____

Title: _____

Dated: _____

Before me, a **Notary Public** or other officer authorized to administer oaths and take acknowledgments in and for Lake County, Indiana, personally appeared

_____, a person

known to me, and acknowledged the execution of the foregoing document on the _____ day of

_____, 20_____.

Name: _____

Office: _____

County of Residence: _____

My Commission Expires: _____

(Stamp)

Prepared by:

Name: _____

Title: _____

Address: _____

Company: _____

I certify under the penalties for perjury that I have taken reasonable care to redact all Social Security Numbers in the foregoing document, except as required by law.

Name (Written) _____

Name (Printed) _____

Date: _____