

STORM WATER MANAGEMENT/ BMP FACILITIES AGREEMENT

Lorain, Ohio

STORMWATER MANAGEMENT/BMP FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20_____, by and between _____ hereinafter called the "Landowner", and the City of Lorain, hereinafter called the "City".

WITNESSETH, that WHEREAS, the Landowner is the owner of certain real property described as parcel _____ as recorded by deed in the land records of Lorain County, Ohio, Instrument # _____ hereinafter called the "Property".

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, the Site Plan for the property located at _____ and known as _____,
(address) (name of project on improvement plans)
hereinafter called the "Plan", a copy of which has been marked as Exhibit A and is attached hereto and expressly made a part hereof, as approved or to be approved by the City, provides for detention of storm water within the confines of the property; and

WHEREAS, the City and the Landowner, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of the City of Lorain, require that on-site storm water management/BMP facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site storm water management/BMP facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowners association.

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 above recitals are incorporated herein and made a part hereof.
2. The on-site storm water management/BMP facilities shall be constructed by the Landowner, or caused to be constructed, its successors and assigns, in accordance with the plans and specifications identified in the Plan.
3. The Landowner, its successors and assigns, including any homeowners association, shall adequately maintain, or cause to be maintained, the storm water management/BMP facilities. This includes all pipes

and channels built to convey storm water to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the storm water. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions. The **City of Lorain Post-Construction Minimum Maintenance Standards** are to be used to establish what good working condition is acceptable to the City.

4. The Landowner, its successors and assigns, shall inspect, or cause to be inspected, the storm water management/BMP facility and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.
5. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the storm water management/BMP facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The City shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.
6. In the event the Landowner, its successors and assigns, fails to maintain the storm water management/BMP facilities in good working condition acceptable to the City, and fails to commence cure of such failure within thirty (30) days of notice to Landowner or, having timely commenced such repairs, fails to diligently pursue such efforts to completion, the City may enter upon the Property and take whatever steps are reasonably necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. In the event that failure to maintain the property has resulted in a deficient condition of the Stormwater Management/BMP Facility that presents an immediate threat to the safety, health, and/or welfare of the resident of the City of Lorain or damage to property, the City may proceed without notice to the property owner. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for the storm water management/BMP facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
7. The Landowner, its successors and assigns, will perform, or cause to be performed, the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the storm water management/BMP facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.

8. 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, the Landowner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all reasonable costs incurred by the City hereunder.
9. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the storm water management/BMP facilities fail to operate properly.
10. This Agreement shall be recorded among the land records of Lorain County, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

_____,
(insert entity and type of legal entity)

By:

By: _____
Name:
Title:

This is an acknowledgment certificate; no oath or affirmation was administered to the signer with regard to this notarial act.

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____,
20__, by _____,
the _____ of _____,
on behalf of the company.

By: _____

Printed Name: _____

Notary Public

My Commission Expires: _____

City of Lorain, Ohio

By: _____

Name:

Title: City of Lorain Safety Service Director

This is an acknowledgment certificate; no oath or affirmation was administered to the signer with regard to this notarial act.

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____.

By: _____

Printed Name: _____

Notary Public

My Commission Expires: _____