

Clark County, Indiana

Post-Construction Storm Water Management Ordinance

Ordinance #2006-9

Clark County, Indiana

Ordinance for Post-Construction Storm Water Management

Section I. Applicability

All new development and redevelopment activities that result in the disturbance of one (1) or more acres of land within Clark County, Indiana, including land disturbing activities on individual lots of less than one (1) acre as part of a larger common plan of development of sale, shall develop a post-construction Storm Water Pollution Prevention Plan (SWPPP) which includes provisions necessary for minimizing the impacts of pollutants from the proposed land use.

Section II. Post-Construction Storm Water Pollution Prevention Plan Requirements

A *Storm Water Quality Management Permit* may only be issued after the review and acceptance of a Post-Construction SWPPP. The Post-Construction SWPPP is part of the *Storm Water Quality Management Plan (SWQMP)* and must include the following information:

1. A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to stormwater discharges.
2. Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality Best Management Practices (BMPs). Reference Section IV for acceptable stormwater quality BMPs.
3. A description of BMPs that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.
4. A sequence describing when each post-construction stormwater quality BMP will be installed.
5. Stormwater quality BMPs that will remove or minimize pollutants from stormwater runoff.
6. Stormwater BMPs that will be implemented to prevent or minimize adverse impact to stream and riparian habitat.
7. A narrative description of the maintenance guidelines for all post-construction stormwater quality measures to facilitate their proper long-term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures.

Section III. Buffer Requirements

The SWPPP shall include provisions for buffers.

1. No-Disturbance Buffer

- a. The No-Disturbance Buffer will be used to define areas where land disturbance activities shall not be permitted. Grading clearing and grubbing shall not be permitted in this area, but pruning, trimming and partial removal of standing vegetation is permitted.
- b. The no-disturbance waterway buffer shall be defined as twenty-five (25) feet from the top of the waterway bank as defined by geomorphic shape (not by the current water surface elevation).
- c. The no-disturbance waterway buffer shall be applied to all waterways and drainage systems that drain more than twenty five (25) acres of contributing area or presented on a United States Geological Survey map as a blue line stream.

2. Waterway Buffer

- a. The Waterway Buffer will be used to define areas where land disturbance activities shall be permitted, but construction of any building or structure shall not be permitted.
- b. A waterway buffer shall be applied to all waterways serving more than 25 acres of tributary area or presented on a United States Geological Survey map as a blue line stream.
- c. Automatic exemptions are applied provided erosion prevention and sediment control, water quality and cut-fill policies are adequately addressed. Exemptions shall be applied for:
 - i. roads and utilities crossing waterways.
 - ii. pedestrian trails and walkways proximate to waterways.
- e. The waterway buffer shall be defined as the area contained within a boundary established 25-feet beyond the floodplain boundary as defined by FEMA or 50-feet from the top of waterway bank as defined by geomorphic shape (not by the current water surface elevation) which ever is larger.
- f. At a minimum the waterway buffer shall be at least the width of the no-disturbance buffer, if applicable.
- g. The waterway buffer and floodplain may be used for application of water quality devices. This may only be permitted provided erosion prevention and sediment control, water quality, and cut-fill policies are adequately addressed as determined by Clark County according to the provisions of this Ordinance.

Section IV. Approved Stormwater Best Management Practices (BMPs)

The SWPPP shall include provisions for storm water quality BMPs functioning independently or in combination. Acceptable storm water quality BMPs include:

1. Vegetated Buffers
2. Bioretention Swales
3. Vegetated and Forested Buffer Strips
4. Level Spreaders
5. Infiltration Systems
6. Dry Detention Ponds
7. Wet Detention Ponds
8. Retention Ponds
9. Constructed and Pocket Wetlands
10. Media Filtration and Screening Systems
11. Baffle Boxes and Grit Separators
12. Hydrodynamic Separator Systems
13. Sediment Forebays
14. Oil/Water Separators
15. Vault Storage / Infiltration BMPs (infiltration prohibited within wellhead protection areas)
16. Other measures reviewed and accepted by Clark County.

Section V. BMP Design Requirements and Criteria

The SWPPP shall include provisions for stormwater quality BMPs that are designed to achieve the following design / performance objectives:

1. Reduce Total Suspended Solids (TSS) from the first flush as defined by land use characteristics and contributing area; or, capture and treatment of at least 0.5-inch precipitation applied over the contributing area.
2. Reduce or buffer increases in storm runoff temperature caused by contact with impervious surfaces.
3. Storm water detention/ retention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge over the critical design-storm period. The outlet structure shall be designed as a v-notch weir or other multiple stage configurations capable of controlling the discharge rates for the 2-, 10-, and 100-year design-storm events.
 - a. The *Indiana Drainage Handbook* or the *Indiana Storm Water Quality Manual* should be reviewed and considered when preparing the SWPPP.

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- b. Clark County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by Clark County should be reviewed and considered when preparing the SWPPP. These documents may be applied as standards by which designs are to be prepared and controls implemented. Clark County shall have authority to implement this Ordinance by appropriate regulations, guidance or other related materials. In this regard, technical, administrative, or procedural matters may be modified as needed to meet the objectives defined herein, so long as such modifications as to technical, administrative, or procedural matters are not contrary or beyond the intent of the objectives defined above.
 - i. Regulations, guidance or other related materials that may be given authority by this Ordinance may include, but are not limited to: Best Management Practice (BMP) manuals, design regulations and requirements, submittal checklists, review checklists, inspection checklists, certifications, storm water management manuals and operation and maintenance manuals.
 - ii. Materials may include information deemed appropriate by Clark County including guidance and specifications for the preparation of grading plans, selecting environmentally sound practices for managing storm water, minimum specifications and requirements, more complete definitions and performance standards.
 - iii. The above referenced documents shall not in any way require specific commercially available products. However, they may refer to performance specifications, class of devices, construction, or management practice.
 - iv. The above referenced documents may restrict or prevent the use of specific products, techniques or management practices (that are to be accepted by the public or are deemed to have a negative impact on public infrastructure or the MS4) that have been identified as unacceptable for performance, maintenance or other technically based reasons.
 - v. Documents referenced above may be updated periodically to reflect the most current and effective practices and shall be made available to the public. However, the failure to update the manual shall not relieve any applicant from the obligation to comply with this Ordinance, and shall not prevent Clark County from imposing the most current and effective practices.
4. Soil bioengineering, "green" and other "soft" slope and stream bank stabilization methods shall receive preference over rip rap, concrete and other hard armoring techniques. "Hard" alternatives shall only be permitted when their necessity can be demonstrated given site-specific conditions.
5. Retention - Supportive data must be submitted to justify the type of facility selected. If the facility is designed to retain (volume control) all or a significant portion of runoff (as opposed to temporarily detain), then appropriate soils analyses findings shall be submitted to Clark County. This submission shall also discuss the impacts the facility will have on local karst topography as found through a geotechnical investigation of the site. The facility may be designed to infiltrate runoff to groundwater rather than transmit it downstream under conditions up to a 10-year storm event. It must be able to bypass all other storms up to a 100-year event with a discharge rate equivalent to or less than pre-development conditions without negatively impacting the 100-year floodplain above or below the site. If data

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indicates that the facility can not retain a significant portion of the runoff (95%) then the facility must be sized to detain runoff.

6. Detention facilities may, and are encouraged to, be designed to serve multiple purposes. For example, runoff may be detained under wet-weather conditions, but also serve as common or recreational areas during dry-weather conditions. Where multi-purpose facilities are provided, or where flat grades or poorly draining soils are encountered, provisions for adequate low-flow storm water management system may be required. Where the retention/detention facility is planned to be used as a lake, pond or storm water quality management practice with a permanent pool, water budget calculations shall be performed and submitted to demonstrate that an adequate pool is expected during dry summer months.
7. A licensed Professional Engineer shall stamp all plans for construction. This shall include all proposed improvements or modifications to existing or new storm water infrastructure and other related improvements or modifications.
8. Clark County reserves the right to require superseding or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall storm water quality management program objectives or directives under a watershed improvement or Total Maximum Daily Load (TDML) program.

Section VI. BMP Ownership and Easements

1. Any storm water management facility or BMP which services individual property owners or subdivisions shall be privately owned. General routine maintenance (controlling vegetative growth and removing debris) shall be provided by the owner(s). The owner shall maintain a perpetual, non-exclusive easement that allows for access for inspection and emergency maintenance by Clark County, Indiana. Clark County has the right, but not the duty, to enter premises for emergency repairs.
2. Any storm water management facility or BMP which services an individual subdivision in which the facility or BMP is within designated open areas or an amenity with an established homeowners association shall be privately owned and maintained consistent with provisions of this Ordinance. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Clark County. Clark County has the right, but not the duty, to enter premises for emergency repairs.
3. Any storm water management facility or BMP which services commercial and industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Clark County. Clark County has the right, but not the duty, to enter premises for emergency repairs.
4. All regional storm water management control facilities proposed by the owners, if approved and accepted by Clark County for dedication as a public regional facility, shall be publicly owned and/or maintained.
5. All other storm water management control facilities and BMPs shall be privately owned and/or maintained unless accepted for maintenance by Clark County.
6. Clark County may require dedication of privately owned storm water facilities, which discharge to the Clark County storm water system.

Section VII. Coordination with Regional BMPs

1. All properties are expected to implement on-site storm water quality control measures, but the extent of application may be reduced given the availability, proximity and nature of regional storm water quality BMPs.
2. The extent and type of on-site storm water quality management practices implemented must be proportionate to the land use, pollutant discharge potential and proximity to regional storm water quality management practices.
3. For properties where storm water quantity management practices are either not feasible or are not necessary in lieu of regional storm water quantity controls, Clark County has the right to require on-site controls for storm water quality.
4. Clark County encourages regional storm water quantity and/or quality management practices, serving 25 to 250 acres of contributing area, which may be consistently and efficiently managed and maintained. These types of practices will be encouraged in order to replace or reduce the implementation of on-site storm water quantity and/or quality management practices, as determined to be appropriate by Clark County.
5. Where a regional storm water management facility has been established by one (1) or more local governments, or by an authority operating on behalf of one (1) or more local governments, a development or property may participate in said program in lieu of runoff control required by this Ordinance.
 - a. This may be permitted provided that:
 - i. Runoff from the development drains to an approved existing or proposed public regional storm water management facility that will be operational within one (1) year.
 - ii. Participation in the form of contribution of funds, contribution of land, contribution of storm water management facility construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by Clark County.
 - iii. Clark County finds that the storm water quality management plans are in compliance with all other applicable requirements and Ordinances.
 - iv. Each fiscal or in-kind contribution from a development owner participating in a regional storm water quality management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the same watershed in which the development is located.
6. Redevelopment of properties containing on-site storm water quantity management practices may be permitted, at the discretion of Clark County, provided the property and downstream public and private properties, infrastructure or "Waters of the State" are adequately protected by a regional facility(s) from storm water quantity or quality impacts.

Section VIII. Coordination with Master Plans and Watershed Studies

1. If available, each SWPPP shall be evaluated for consistency with the storm water master plan or watershed study for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if storm water quantity and quality management practices can adequately serve the property and limit impacts to

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downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.

2. Special design criteria or requirements may be applied to storm water quality BMPs based on the direction or results of Master Plans, Watershed Studies and/or Total Maximum Daily Load (TMDL) requirements.

Section IX. Storm Water Quality Management Plan Permit Closure

1. A SWQMP shall be considered open and active until a time when Clark County accepts the site conditions, as-built requirements have been completed and a *Long-Term Operation and Maintenance Agreement* has been accepted.
2. Acceptance of site conditions shall be made by Clark County through inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with the SWPPP or objectives stated in this Ordinance, then approval will not be granted.
 - a. Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris, and are designed and operating as appropriate for final site conditions.
 - b. Slopes are permanently stabilized.
 - c. Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.
 - d. Temporary pollution prevention practices have been demobilized or removed and/or affected areas stabilized.
 - e. Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices.
 - f. Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to design volume and condition.
 - g. Other items as deemed to be important by Clark County.

Section X. As-Built Requirements

1. Prior to issuance of a use and occupancy permit, recording of the final plat or final release of bond, the as-built condition (including: invert elevations, size shape and location) of critical storm water management features must be identified and approved.
2. The volume, slopes, configuration, condition and topographic information of all detention, retention and water quality practices shall be certified by a licensed Professional Engineer. This information shall be provided to Clark County, in the form of an as-built drawing or other

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electronic form accepted/required by Clark County. The as-built certification shall indicate if final conditions are consistent with, or exceed, the SWQMP provisions.

3. This section provides a set of guidelines and standards to ensure all plan submittals in digital format are compatible with the GIS system of Clark County. The goal of these requirements is not to burden the engineering, development and design community, but to standardize submittals to ensure quality and compatibility. The following standards have been developed and once initiated further revisions may be required.
 - a. The media will be legibly labeled with project name and phase; type of drawing (as-built, preliminary, final, etc.); submittal number; file creation date; and contact information (name and phone number).
 - b. As-built drawings shall be submitted in an electronic format of either AutoCad DWG or MicroStation format.
 - c. Submittals shall be spatially referenced to NAD 83, Indiana Stateplane Coordinate System, East Zone, U.S. Survey feet and tied to Grant corners, USGS or HARN monumentation as available.
 - d. Elevations shall be referenced to the NAVD88 vertical datum.
 - e. Drawings elements shall reside in the primary drawing file and not include cells, nodes, blocks or reference files (x-refs).
 - f. All features included in the CAD drawing must be drawn on their own layer and defined in the attribute table by a field named "LAYER," i.e. manholes should be attributed as MH in the field "LAYER."
 - g. Metadata, or data documentation, should be included with each submittal. The metadata should include information outlining the naming convention of each drawing file included in submittal, the type of plans submitted (Drainage or Sewer), a description of each layer in the drawing including names and descriptions of each submitted file, the projection used to define the coordinate information used in the digital submittal, a reference to the Record Number for the plans, date of study/revision date, and any other notes pertinent to submittal.
4. If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the SWQMP provisions, Clark County reserves the right to withhold certification of occupancy or final bond. Furthermore, other enforcement mechanisms, as identified within this Ordinance, may be applied to the permittee or the person certifying the as-built information.
5. If upon inspection by Clark County or its designated representative it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the permittee shall be required to continue inspections and maintenance as described in the SWQMP.

Section XI. Long-Term Operation and Maintenance

1. A SWQMP may not be closed until a *Long-Term Operation and Maintenance Agreement* has been accepted by Clark County.
2. *Long-Term Operation and Maintenance Agreements* shall include a maintenance plan for all storm water quality BMPs in new development or redevelopment that require more than general maintenance (e.g., periodic mowing).
 - a. The plan will be developed to ensure that the storm water quality BMP(s) is (are) kept functional. The maintenance agreement will specify minimum operation and maintenance requirements and intervals to be performed by the property owner.
 - b. The plan shall address schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment pollutants and other forms of pollution.
 - c. The agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).
 - d. The agreement shall be included with property ownership title documents and shall be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.
 - e. The format for the *Long-Term Operational and Maintenance Agreement* is included in Appendix A.
 - f. Storm Water Detention and Retention Maintenance - Care must be taken to ensure that any required detention facilities do not become nuisances or health hazards. Detention and retention facilities should be designed to require minimal maintenance, and maintenance expectations must be clearly stated in a *Long-Term Operation and Maintenance Agreement*.
 - g. When a storm water quality BMP serves more than (1) parcel, an owners' association or binding contract for the purpose of operation and maintenance is required. The owners association shall be responsible for operation and maintenance as directed by this Ordinance.
 - h. The maintenance responsibilities for permanent storm water quality BMPs shall be determined based upon the type of ownership of the property which is controlled by the facilities.
 - i. Single entity ownership – Where the permanent storm water runoff control facilities are designed to manage runoff from property in a single entity ownership, the maintenance responsibility for the storm water control facilities shall be with the single entity owner.

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- A. A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate exclusive of an individual lot owner.
- B. The stated responsibilities of the entity shall be documented in the form of a *Long-Term Operation and Maintenance Agreement*. Terms including owning, operating and maintaining the facilities shall be submitted with plans in application for a *SWQMP* for determination of their adequacy. Approval of a *SWQMP* shall be conditioned upon the approval of these terms. These terms shall be in writing, shall be in recordable form, and shall, in addition to any other terms deemed necessary by Clark County, contain a provision permitting inspection at any reasonable time by Clark County of all facilities deemed critical in the public welfare.
- C. Upon approval of the storm water quality BMPs by Clark County, the facility owner(s) shall demonstrate the ability to guarantee and apply the financial resources necessary for long-term maintenance requirements. The funding mechanism shall be in a form approved by Clark County. Clark County will only accept funding mechanism(s) for long-term maintenance responsibilities that can be demonstrated to be permanent or transferable to another entity with equivalent longevity.
- D. In the event that proposed funding is through an owners association, then it must be demonstrated that the association may not dissolve unless long-term operation and maintenance activities are accepted by another entity with equivalent longevity and adequate funding. Furthermore, the owners association's responsibility must be stated in the association's declaration, covenants, or by-laws, as appropriate.
- E. Unless made specifically clear in the preliminary stages of the site design and construction plan review procedure, it will be assumed that all storm water detention, retention, treatment or storage facilities and/or devices shall be owned, operated and maintained by a single entity as defined above.
 - ii. Clark County Ownership – Where Clark County has accepted an offer of dedication of the permanent storm water quality BMPs, Clark County shall be responsible for operation and maintenance.
 - iii. Maintenance Bond – Clark County may require the posting of a maintenance bond to secure the structural integrity of said facilities as well as the functioning of said facilities in accordance with the approved *SWQMP* for a term of 18 months from the date of acceptance of dedication. A cash contribution can be used as the financial assurance in lieu of a maintenance bond although the contribution must be equivalent to the amount that would be estimated for the maintenance bond.

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Section XII. Oversight Inspections and Right of Entry – Reference to Construction Ordinance Section XI.

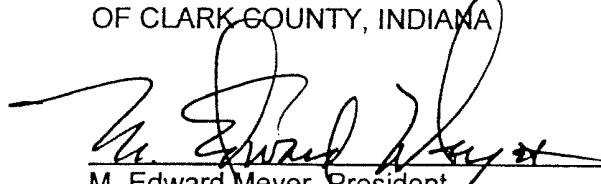
Section XIII. Enforcement and Penalties - Reference to Construction Ordinance Section XII.

Section XIV. Appeals Reference to Construction Ordinance Section XIV.

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SO ORDAINED

BY THE BOARD OF COMMISSIONERS
OF CLARK COUNTY, INDIANA




M. Edward Meyer, President



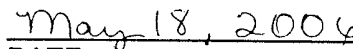
Ralph Guthrie, Commissioner



Vicky Kent Haire, Commissioner



Attested by: Barbara Bratcher Haas, Auditor, Clark County Indiana



DATE

APPENDIX A
STORMWATER LONG-TERM OPERATION AND MAINTENANCE AGREEMENT

File No.: _____ Parcel ID No.: _____

As accepted through SWQMP No.: _____

Project Name: _____

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

THIS AGREEMENT, made and entered into this ____ day of _____, of the year ____, by and between _____ (hereinafter called the "OWNER") and Clark County, Indiana.

WITNESS, that

WHEREAS, Ordinance No. [#####], was adopted [#####] by Clark County, effective [#####], establishing requirements for storm water quality best management practices and a *Storm Water Quality Management Permit (SWQMP)* to manage the quality of storm water discharged from areas of urban development and redevelopment.

WHEREAS, under said Ordinance Clark County shall have the authority to inspect private systems within Clark County and to order such corrective actions to said private storm water management systems as are necessary to maintain properly the storm water management systems within Clark County.

WHEREAS, under said Ordinance it is provided that storm water quality best management practices not owned municipally must be maintained by the property owner according to the terms of *Long-Term Operation and Maintenance Agreement* that must be implemented before a *SWQMP* is approved.

WHEREAS, Clark County has adopted and approved technical guidelines relating to storm water quality best management practices in Clark County.

WHEREAS, the OWNER is the legal title-holder of certain real property, more particularly described as _____ as recorded by deed in the land records of Clark County, in Deed Book _____ at Page _____ (hereinafter called the "Property").

WHEREAS, the OWNER is proceeding to build on, develop or redevelop the property.

WHEREAS, the Stormwater Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan, sealed by _____, a licensed Professional Engineer, dated _____, on file, Clark County, which is expressly made a part hereof, as approved or to be approved by Clark County, provides for storm water quality management within the confines of the property.

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WHEREAS, Clark County and the OWNER agree that the health, safety, and general welfare of the residents of Clark County requires that on-site storm water quality best management practices be constructed, operated and maintained on the property.

WHEREAS, Clark County requires that onsite storm water facilities in accordance with the Stormwater Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan be adequately designed, constructed and installed, operated and maintained by the OWNER.

WHEREAS, an approved Stormwater Pollution Prevention Plan and Long-Term Operation and Maintenance Plan will adequately illustrate the location type and extent of storm water quality BMPs, minimum inspection procedures and schedule, minimum operation procedures and schedule, and anticipated minimum maintenance activities including when and how to remove accumulated/collected/filtered/amassed/grown excess vegetation, sediment, debris, trash, pollutant and/or forms of pollution from the storm water quality best management practices.

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 on-site storm water quality best management practices shall be constructed by the OWNER in accordance with the SWPPP and Long-Term Operation and Maintenance Plan.
2. The OWNER shall operate and maintain the storm water quality BMPs as directed by the Long-Term Operation and Maintenance Plan in good working order acceptable to Clark County for a minimum of five (5) years after completion/build-out of the development. The County may accept responsibility for the BMP at the conclusion of this agreement or may require an extended agreement.
3. The OWNER agrees that inspections will be performed by a *Qualified Professional*.
4. The OWNER agrees that inspections will be documented and include the following information:
 - a. A description of the current operational or functional status of the storm water quality BMPs. For structures that accumulate sediment, trash, debris other pollutant or form of pollution, an indication of used and remaining capacity (fraction, percentage, depth or volume) shall be given to identify when the BMP must be cleaned out.
 - b. Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the storm water system(s).
 - c. The results of any field or laboratory analyses performed.
 - d. Other relevant or unusual observations related to the system(s).
 - e. Action plan to prevent premature storm water system failure as consistent with the Long-Term Operation and Maintenance Agreement(s) provisions.
 - f. Action plan to prevent the premature system failure that exceeds the Long-Term Operation and Maintenance Agreement(s) provisions, but are necessary to prevent storm water pollution from leaving the site.

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5. The OWNER hereby grants permission to Clark County, its authorized agents and employees to enter the property to inspect the storm water quality best management practices whenever it deems necessary. Whenever possible, Clark County shall notify the OWNER prior to entering the property.
6. In the event the OWNER fails to maintain storm water quality best management practices in accordance with the SWPPP and Long-Term Operation and Maintenance Plan in good working order acceptable to Clark County, Clark County may enter the property and take whatever steps it deems necessary to repair or maintain said storm water quality best management practices. This provision shall not be construed to allow Clark County to erect any structure of a permanent nature on the land of the OWNER without first obtaining written approval of the OWNER. It is expressly understood and agreed that Clark County 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 Clark County.
7. In the event Clark County, 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 OWNER shall reimburse Clark County upon demand, within ninety (90) days of receipt thereof for all costs incurred by Clark County hereunder. In the event, the OWNER does not reimburse Clark County within ninety (90) days of receipt; Clark County may apply a lien upon the property for double the expense to Clark County. In the event that the OWNER does not reimburse Clark County within one year from the application of a lien upon the property then Clark County may take other legal measures to recover costs, including associated legal costs, incurred by Clark County.
8. It is the intent of this Agreement to guarantee the proper maintenance of onsite storm water quality best management practices by the OWNER; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by storm water management practices.
9. The OWNER, its executors, administrators, assigns, and any other successors in interest, shall indemnify and hold Clark County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against Clark County from the construction, presence, existence, operation or maintenance of the storm water quality best management practices by the OWNER or Clark County.
10. In the event a claim is asserted against Clark County, its agents, or employees for the construction, presence, existence, operation or maintenance of the storm water quality best management practices by the OWNER, Clark County shall notify the OWNER and the OWNER shall defend at its own expense any suit based on such claim. If any judgment or claims against Clark County, its agents, or employees shall be allowed, the OWNER shall pay all costs and expenses in connection therewith.
11. This Agreement as attached by the SWPPP and Long-Term Operation and Maintenance Plan shall be recorded among the land records of Clark County, and shall constitute a covenant running with the land, and shall be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.

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12. This Agreement as attached by the SWPPP and Long-Term Operation and Maintenance Plan shall be recorded among real property title documents for the said property, and shall constitute a covenant running with the land, and shall be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.

WITNESS the following signatures and seals:

Clark County, Indiana

By _____ By _____
Stormwater Program Superintendent

ATTEST:

Prepared by: _____

I, _____, a Notary Public in and for Clark County and State aforesaid, whose commission expires on the ____ day of _____, of the year _____, do certify that _____ whose names are signed to the foregoing Agreement bearing date of the ____ day of _____, of the year _____, have acknowledged the same before me in my said Clark County and State aforesaid.

GIVEN under my hand this ____ day of _____, of the year _____.

Notary Public

(STATE OF INDIANA)
(CLARK COUNTY)

I, _____, a Notary Public in and for the County and State aforesaid, whose commission expires on the ____ day of _____, of the year _____, do certify that _____, (Acting) *[elected official]*, whose name is signed to the foregoing Agreement bearing date of the ____ day of _____, of the year _____, has acknowledged the same before me in my said Clark County and State aforesaid.

GIVEN under my hand this ____ day of _____, of the year _____.

Notary Public