

(CORPORATE VERSION)

AGREEMENT TO MAINTAIN
STORMWATER FACILITIES AND TO IMPLEMENT A
POLLUTION SOURCE CONTROL PLAN
BY AND BETWEEN THE CITY OF OLYMPIA
(HEREINAFTER "THE CITY") AND
_____, AND
ITS HEIRS, SUCCESSORS, OR ASSIGNS
(HEREINAFTER "OWNER")

Any and all owners are equally and fully responsible for the entire system as a more particularly described below.

The upkeep and maintenance of stormwater facilities and the implementation of pollution source control best management practices (BMPs) is essential to the protection of water resources in the City of Olympia and Puget Sound. All property owners are expected to conduct business in a manner that promotes environmental protection. This Agreement contains specific provisions with respect to maintenance of stormwater facilities and use of pollution source control BMPs. The authority to require maintenance and pollution source control is provided by ordinance.

LEGAL DESCRIPTION:

Whereas, Owner has constructed improvements, including but not limited to, buildings, pavement, and stormwater facilities on the property described above. In order to further the goals of the City to ensure the protection and enhancement of City water resources, the City and Owner hereby enter into this Agreement. The responsibilities of each party to this Agreement are identified below.

OWNER SHALL:

- (1) Implement the Stormwater Facility Maintenance Program included herein as Attachment "A".
- (2) Implement the Pollution Source Control Program included herein as Attachment "B".
- (3) Maintain a record (in the form of a log book) of steps taken to implement the programs referenced in (1) and (2) above. The log book shall be available for inspection by City staff at Owner's business during normal business hours. The log book shall catalog the action taken, who took it, when it was done, how it was done, and any problems encountered or follow-on actions recommended. Maintenance items ("problems") listed in Attachment "A" shall be inspected on a monthly or more frequent basis as necessary. Owner is encouraged to photocopy the individual checklists in Attachment A and use them to complete the monthly

inspections. These completed checklists would then, in combination, comprise the monthly log book.

- (4) Submit an annual report to the City regarding implementation of the programs referenced in (1) and (2) above. The report must be submitted on or before May 15 of each calendar year and shall contain, at a minimum, the following:
 - (a) Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.
 - (b) Time period covered by the report.
 - (c) A chronological summary of activities conducted to implement the programs referenced in (1) and (2) above. A photocopy of the applicable sections of the log book, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with Owner, include a copy of the invoice for services.
 - (d) An outline of planned activities for the next year.
- (5) Prevent any unauthorized modifications to stormwater facilities, including protected soil or vegetated areas serving a stormwater management function, and prevent them from being dismantled, revised, altered, or removed except as necessary for maintenance, repair, or replacement. Any such maintenance actions will be reported and covered under item 4 above and shall be approved of by the City of Olympia. Modifications to the stormwater quantity control and stormwater quality system must be approved in advance by the City and may require the submittal of revised design drawings, supporting calculations, modifications to maintenance agreements, and applications for permits.

THE CITY WILL, AS RESOURCES ALLOW:

- (1) Provide technical assistance to Owner in support of its operation and maintenance activities conducted pursuant to its maintenance and source control programs. Said assistance shall be provided upon request and at no charge to Owner.
- (2) Review the annual report and conduct occasional site visits to discuss performance and problems with Owner.
- (3) Review this agreement and program attachments with Owner and modify as necessary.
- (4) The City will supplement maintenance of bioretention facilities installed for stormwater code compliance within the right-of-way. The City will enter bioretention facilities in the City's maintenance program after the first three (3) years of plant establishment. The Owner is solely responsible for the first three years of plant establishment. City maintenance focuses on function, not aesthetics and includes removal of noxious weeds and rehabilitating the system should the ponded area hold water for more than 48 hours past the end of a rain event. Maintenance for aesthetic purposes is the responsibility of the adjacent property owner. *(Include this item only with developments constructing bioretention facilities associated with frontage improvements)*

REMEDIES:

- (1) If the City determines that maintenance or repair work is required to be done to the stormwater facility existing on the Owner property, the City shall give the Owner within which the drainage facility is located, and the person or agent in control of said property if different, notice of the specific maintenance and/or repair required. The City shall set a reasonable time in which such work is to be completed by the persons who were given notice. If the above required maintenance and/or repair is not completed within the time set, written notice will be sent to the persons who were given notice stating the City's intention to perform such maintenance and bill Owner for all incurred expenses. The expenses charged to the Owner shall become a charge on the Owner's stormwater utility bill and may be collected by the City in the manner authorized for collection of such utility bills.
- (2) If at any time the City determines that the existing system creates any imminent threat to public health or welfare, the City may take immediate measures to remedy said threat. No notice to the persons listed in (1), above, shall be required under such circumstances.
- (3) The Owner grants authority to the City for access to any and all stormwater system features for the purpose of inspection, and performing maintenance or repair as may become necessary under Remedies (1) and/or (2). **For stormwater facilities located within a City drinking water (wellhead) protection area, authority for access is also granted for purposes of providing pollution prevention outreach to residents, employees, and contractors. Access may include but is not limited to: interpretive sign installation, model home displays, demonstration sites, conducting interviews and surveys, observing practices, and distributing informational materials.**
- (4) The persons listed in (1) above shall assume all responsibility for the cost of any maintenance and for repairs to the stormwater facility. Such responsibility shall include reimbursement to the City within 30 days of the receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by the City will be borne by the parties responsible for said reimbursements.
- (5) The owner hereby grants to the City a lien against the above-described property in an amount equal to the cost incurred by the City to perform the maintenance or repair work described herein.

This Agreement is intended to protect the value and desirability of the real property described above and to benefit all the citizens of the City. It shall run with the land and be binding on all parties having or acquiring from Owner or their successors any right, title, or interest in the property or any part thereof, as well as their title, or interest in the property or any part thereof, as well as their heirs, successors, and assigns. They shall inure to the benefit of each present or future successor in interest of said property or any part thereof, or interest therein, and to the benefit of all citizens of the City.

Dated at _____, Washington, this _____ day of _____, _____.

OWNER

By: _____
Authorized Agent for Owner

STATE OF WASHINGTON)
 } ss)
COUNTY OF THURSTON

On this day and year above personally appeared before me, a Notary Public in and for the State of Washington duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____ and acknowledge the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year first above written.

Notary Public in and for the State of
Washington, residing in _____
My Commission Expires: _____

Dated at _____, Washington, this _____ day of _____, _____.

CITY OF OLYMPIA

By: _____
Authorized Agent for City

STATE OF WASHINGTON)

COUNTY OF THURSTON) ss
)

On this day and year above personally appeared before me, _____, to me known to be acting as Authorized Agent for _____, a Municipal Corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said Municipal Corporation for the uses and purposes therein mentioned and on oath states he is authorized to execute the said instrument.

Given under my hand and official seal this _____ day of _____, _____.

Notary Public in and for the State of
Washington, residing in _____

My Commission Expires: _____

APPROVED AS TO FORM:

City Attorney