

**AGREEMENT TO CONSTRUCT AND MAINTAIN A STORM WATER DETENTION SYSTEM/STORM WATER QUALITY TREATMENT SYSTEM**

**Project Name:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

The undersigned, hereinafter the Grantor, are the owners of the following described real estate, hereinafter referred to as "Real Estate," located in Allen County, Indiana to wit:

*Legal description of the tract of land being impressed with maintenance burden as described on attached Exhibit A. [Cross Reference to Recorded Document(s) \_\_\_\_\_]*

The undersigned plans to construct a storm water management and/or storm water quality treatment system (hereinafter "the STORM SYSTEM") on a portion of the above described real estate as specified in development plans, a copy of which have been filed with the Allen County Department of Planning Services (DPS) and/or Allen County Surveyor's Office (ACSO).

The ACSO, the Grantee, as the governmental entity having power and authority to regulate storm water drainage facilities and systems on real property in Allen County, Indiana, desires that the Grantor, and all of its successors in interest to the Real Estate, maintain and keep in good repair the STORM SYSTEM located on the Real Estate.

In order to induce the ACSO to approve the above referenced development plans, the Grantor does hereby covenant and agree that they will construct (or cause to be constructed) the STORM SYSTEM in accordance with the above referenced plans; and, that they, or its successors in interest to the Real Estate, will be responsible for its perpetual maintenance, repair, or replacement if necessary. Maintenance shall include structural as well as cosmetic activities including, but not limited to, mowing, weed, algae, and mosquito control. All maintenance will be done so as to assure that storm runoff will be detained and that the rate of runoff will not be increased after the improvements have been constructed as contemplated. Maintenance of the storm water quality treatment system will also be done in accordance with the Storm Water Pollution Prevention Plan (SWPPP) and Post Construction Operations & Maintenance Manual and/or Post Construction Plan as approved by the ACSO, and will be done so as to assure that storm runoff exiting the storm water quality treatment system will continue to meet the water quality and total suspended solids requirements of the approved plans.

The ACSO, or its successor agency, shall have the right of entry over, across, and through the Real Estate for the purposes of (i) inspecting and evaluating, and (ii) only in the event Grantor fails to do so after receiving notice as required by this Agreement, maintaining, or repairing the STORM SYSTEM. The ACSO, or its successor agency, shall have the right to order Grantor, or its successors in interest to the Real Estate, to perform its obligations of normal and emergency maintenance, repairs, and/or replacement of the STORM SYSTEM. In the event the Grantor, or its successors in interest to the Real Estate, fails to make appropriate corrections within thirty (30) days of receiving notification from the ACSO in writing of the needed repairs or maintenance, then the ACSO shall have the right, but not the duty, to enter upon the Real Estate and perform such obligations of the Grantor or its successors in interest to the Real Estate and to collect from same the reasonable costs of the repairs or maintenance, administrative fees, any associated attorney fees, and a penalty of 15% of the costs of the repairs and maintenance. If the said owners of record do not pay said costs within thirty (30) days of receiving written notice of same from the ACSO, then the ACSO shall have the right to place a lien upon the Real Estate for the costs incurred by it in the repair and maintenance of the STORM SYSTEM, including interest at the rate of 10% per annum, and attorney fees.

The Grantor, or its successors in interest to the Real Estate, shall indemnify and save harmless the ACSO, its appointed and elected officers, employees, and contractors from and against all loss or expense for the design, construction, maintenance, and operation of the STORM SYSTEM, including but not limited to

judgments, settlements, attorney's fees and costs by reason of claims and demands upon the ACSO or its contractors for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person, or on account of damage to property due to negligence of the Grantor's employees, contractors, or agents. It is further provided that no liability shall attach the ACSO by reason of entering into this contract, except as provided herein.

The covenants contained herein shall constitute covenants to run with all the land comprising the Real Estate and shall be binding upon the Grantor and all other persons and parties claiming through the Grantor, and shall be a limitation on all future owners of said Real Estate. Grantor, upon conveyance of the Real Estate, shall be released from its obligations under this Agreement, with such obligations being assumed by Grantor's successor in interest.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature (Property Owner) \_\_\_\_\_

Company/Affiliation \_\_\_\_\_

Printed Name and Title \_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF INDIANA            )  
  )        **SS**  
COUNTY OF:                 )

Before me, the undersigned, a Notary Public, in and for said County and State personally appeared \_\_\_\_\_ as \_\_\_\_\_ (Title) for \_\_\_\_\_ (Project) and acknowledged the execution of the foregoing Document as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary

Resident of County: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**This instrument was prepared by:** \_\_\_\_\_

**Mail to:** \_\_\_\_\_

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

\_\_\_\_\_

[Signed, printed or stamped name of individual. Note: if signed, please print name also]

## **EXHIBIT A**

Legal description of the tract of land being impressed with maintenance burden: