

**LINN COUNTY
PRIVATE STORMWATER FACILITIES OPERATIONS AND MAINTENANCE AGREEMENT**

This Agreement is made and entered into this ____ day of _____, 20____, by and between Linn County (County) and _____ (Owner) whose address is _____.

RECITALS

- A. Owner has developed the private stormwater facilities (Facilities) listed below and shown on attached, and/or referenced, as-built construction drawings in order to satisfy the requirements of Linn County Code Section 860:
-
- B. The Facilities enable development of property while mitigating the impacts of additional surface water and pollutants associated with stormwater runoff prior to discharge from the property to the public stormwater system or waters of the state. The consideration for this Agreement is connection to the public stormwater system and/or Waters of the State.
- C. The property benefited by the Facilities and subject to the obligation of this Agreement is described with the legal description below or in Exhibit A (Property) attached hereto and incorporated by reference.
- D. The Facilities have been designed by a registered professional engineer to accommodate the anticipated volume of runoff and to detain and treat runoff in accordance with Linn County Code, Engineering standards, and Oregon Standard Specifications for Construction, as applicable.
- E. The O & M Plan represents current best management practices for operation and maintenance activities. It is acknowledged that best management practices for O & M activities may change over time.
- F. Even with routine maintenance conducted through the O & M Plan, over time, there is potential for the Facilities to lose treatment capacity through extended filtration and absorption of pollutants.
- G. Failure to inspect and maintain the Facilities can result in an unacceptable impact to the public stormwater system and/or waters of the state.

NOW, THEREFORE, it is agreed by and between the Parties as follows:

1. **INCORPORATION OF RECITALS:** The recitals above are acknowledged and agreed to by all Parties.
2. **CONSIDERATION:** Owner undertakes the obligations set forth herein in consideration of development approval granted by Linn County and acknowledges that said consideration is adequate to support these obligations.
3. **PARTIES:** The terms of this agreement apply to the named Parties, their agents, contractors, successors, and assigns.
4. **O & M PLAN:** Best management practices for O & M activities change over time. The owner will be bound to the most current standard operation and maintenance requirements set forth in the most current version of the County's Engineering Standards or like requirements. It is the County's responsibility to notify the owner of any required modifications to current practices.
5. **TERM:** Owners obligations hereunder are perpetual and may only be modified or eliminated by amendment as described herein.
6. **OWNER INSPECTIONS:** Owner agrees to operate, inspect, and maintain each Facility in accordance with design parameters and the O&M Plan, attached hereto as Exhibit B and incorporated by reference. Owner shall retain a copy of this agreement, the O & M plan, and applicable as-built drawings on site. The owner shall also

maintain a log of all inspection activities on site. The agreements, O & M plan, as-builts, and maintenance log shall be available to the County upon request or during County inspections.

7. **OWNER NOTICE OF FACILITY FAILURE:** Owner shall provide notice to the County if Facilities fail to function as designed. Notice shall be provided within ten (10) days of identifying the failure. Additionally, Owner shall provide immediate notice to the County of any potentially damaging discharge or spill to the Facilities, public storm drain system, or Waters of the State.
8. **DEFICIENCIES:** All aspects in which the Facilities fail to satisfy the O&M Plan, and/or provide the level of treatment intended with their design, shall be noted as "Deficiencies".
9. **OWNER CORRECTIONS:** All Deficiencies shall be corrected at Owner's expense within thirty (30) days after completion of the inspection. In addition to the maintenance practices identified in the O & M Plan, corrections may include replacement of treatment soil, vegetation, drain rock, and/or other system components as applicable if the County determines that the Facility no longer provides the designed level of treatment. If more than thirty (30) days is needed to correct a Deficiency, the County may provide a time extension, in writing, to correct the Deficiency so long as the correction commenced within the initial thirty (30) day period and is diligently prosecuted to completion.
10. **COUNTY INSPECTIONS:** Owner grants County right of entry to inspect the Facilities. County will endeavor to give ten (10) days prior notice to Owner, except that no notice shall be required in case of an emergency. Inspections are not limited to the activities identified in the O & M plan and may include testing as necessary to determine if the Facilities are retaining their designed treatment capacity. County shall determine whether Deficiencies need to be corrected. Owner will be notified in writing of the Deficiencies and shall make corrections within 30 days of the date of the notice.
11. **RIGHT OF ENTRY:** Owner hereby authorizes and consents to the exercise of all entry authority granted to the County pursuant to LCC 860.140 as it now exists, or may hereafter be amended, to permit inspections and testing of the private post-construction stormwater quality facilities. The same rights of entry shall apply to County Corrections.
12. **COUNTY CORRECTIONS:** If correction of all Owner or County identified Deficiencies is not completed within thirty (30) days (or the "time extension" as described in Section 9) after Owner's inspection or County notice, County shall have the right to correct any identified Deficiencies. County shall have access to the Facilities for the purpose of correcting such Deficiencies. Owner shall pay all costs reasonably incurred by County for work performed to correct the Deficiencies (County Correction Costs) following Owner's failure to correct any Deficiencies in the Facilities. Owner shall pay County the County Correction Costs within thirty (30) days of the date of the invoice. Owner understands and agrees that upon non-payment, County Correction Costs shall be secured by a lien on the Property for the County Correction Cost plus interest and penalties. County lien shall take priority over all other liens and encumbrances to the maximum extent permitted by law. County Correction Costs are defined as all County expenses incurred in taking the corrective actions authorized herein. These costs include, but are not limited to, all amounts paid, or to be paid, to third party contractors as well as all direct and indirect County costs including, but not limited to, labor, benefits, equipment, engineering, administrative, and legal costs. Costs will be determined using the County's current cost accounting methodology.
13. **EMERGENCY MEASURES:** If at any time County reasonably determines that the Facilities create any imminent threat to public health, safety or welfare, County is hereby granted immediate right of access and may immediately, and without prior notice to Owner, take measures reasonably designed to remedy the threat. County shall provide notice of the threat and the measures taken to Owner as soon as reasonably practicable, and charge Owner for the cost of these corrective measures.
14. **COVENANT RUNNING WITH THE LAND:** The terms of this agreement shall be recorded with the Linn County Clerk and shall be a covenant running with the land and binding on all owners of the Property present and

future, and their heirs, successors and assigns. Owner shall notify County of any change in property ownership and/or change in the owner representative designated to receive notices in Section 21 below.

- 15. **AMENDMENTS:** The terms of this Agreement may be amended only by mutual agreement of the Parties. Any amendments shall be in writing, shall refer specifically to this Agreement, and shall be valid only when executed by the owners of the Property, County and recorded with the Linn County Clerk.
- 16. **REMEDIES CUMULATIVE:** Remedies provided herein for breach of this agreement are cumulative and in addition to any and all other civil and criminal remedies.
- 17. **VENUE AND ATTORNEY FEES:** Any litigation concerning this Agreement shall be brought in the Circuit Court of the State of Oregon for Linn County and the prevailing party shall be entitled to recover all costs, including reasonable attorney's fees as may be determined by the court, including those on appeal. Citations issued for violations of LCC Chapter 860 as a Class A violation will be enforced pursuant to LCC Chapter 240 and will not be entitled to recover any costs to include attorney' fees.
- 18. **SEVERABILITY:** The invalidity of any section, clause, sentence, or provision of this Agreement shall not affect the validity of any other part of this Agreement which can be given effect without such invalid part or parts.
- 19. **AMBIGUITIES:** Ambiguities in this agreement, if any, shall not be resolved against the drafter.
- 20. **COMPLETE INTEGRATION:** This Agreement is a complete integration of all of the Parties' understandings and expectations of the other with regard to the subject of this Agreement. Prior discussions or representations which are not included in this Agreement are of no effect.
- 21. **NOTICES:** Any notice required or permitted under this Agreement shall be given when actually delivered within three (3) business days following deposit in the United States Mail, certified mail, and addressed as follows:

A. To the Owner: _____

B. To the County: Linn County Road Department
Attn: County Engineer
3010 Ferry St SW
Albany, OR 97322-3998

IN WITNESS WHEREOF, Owner has signed this Agreement.

NOTORIZE DOCUMENT BELOW

INDIVIDUAL OWNER SIGN BELOW

CORPORATE, LLC, PARTNERSHIP, TRUST OR OTHER
LEGAL ENTITY SIGN BELOW

Owner (Individual)

(Entity Name)

Owner (Individual)

By: _____
(Sign here for entity)

Title: _____

LINN COUNTY

APPROVED AS TO FORM

By: _____
(County Engineer)

(County Counsel)

[Use this notary block if OWNER is an individual.]

STATE OF OREGON)
) ss.
County of Linn)

This instrument was acknowledged before me this _____ day of _____, 20____,
by _____

Notary Public

My Commission Expires: _____

[Use this notary block if OWNER is an entity.]

STATE OF OREGON)
) ss.
County of Linn)

This instrument was acknowledged before me this _____ day of _____, 20____,
by _____ (name of person) as _____ (title) of
_____ (name of entity).

Notary Public

My Commission Expires: _____



STORMWATER MANAGEMENT PROGRAM

OPERATION & MAINTENANCE PLAN and CHECKLIST

Monthly Inspection
 Annual Inspection
 Periodic Inspection

All inspections shall be performed annually. It is recommended to perform inspections monthly during wet weather (November thru April) and when there is more than 1/2 inch of precipitation in a 24-hour period.

PLANTER / CURB EXTENSION / SWALE				<input type="checkbox"/> Not Applicable
These vegetated post-construction stormwater quality facilities are designed to accept stormwater runoff from adjacent impervious surfaces. They remove pollutants by filtering runoff through vegetation and soil media. Water should drain through the facility within 24 hours after a storm event. This checklist describes required inspection and maintenance activities to provide for proper facility function.				
Facility	Conditions to Check For	Problem	Maintenance Practices	Complete
General	Sediment depth greater than 2".	Sediment Accumulation in Treatment Area	Remove sediment from vegetated treatment area. Rake to ensure facility is level across bottom and water drains freely through soil media. Replace soil media or vegetation as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Eroded or scoured facility bottom due to flow channelization, or higher flows.	Erosion Scouring	Repair ruts or bare areas by filling with facility soil media; repair or add splash blocks or rock energy dissipaters at curb and pipe inlets; regrade and replant large bare areas; use erosion control measures as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Standing water in the facility between storms that does not drain freely; no standing water should exist within 24 hours after any large storm (1-inch in 24 hours or larger).	Standing Water	Remove sediment or trash blockages and rake soil to clear of debris; remove sediment from clean-outs and clear perforated underdrains as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Evidence of rodents or water piping through facility via rodent holes.	Rodents	Repair facility, fill rodent holes, and remove rodents.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Insects such as wasps and hornets interfere with maintenance activities.	Insects	Remove harmful insects and insect nests as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Visual evidence of trash, debris or dumping.	Trash and Debris	Remove trash and debris from facility.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Any evidence of spills or excess oil, gasoline, contaminants, or other pollutants.	Contamination and Pollution	Remove/cleanup contaminants. Coordinate removal/cleanup with County Heath, Planning & Building, and Roads Departments.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Facility is not receiving flow and/or draining properly; structural malfunction or broken, misaligned or missing parts have created a safety, drainage, and/or other design problem.	Facility Malfunction; Lack of Drainage even after maintenance for sediment or standing water	Repair or replace entire facility or broken/non-functioning elements to meet design standards and plans.	<input type="checkbox"/> <input type="checkbox"/> N/A

PLANTER / CURB EXTENSION / SWALE (Continued)				<input type="checkbox"/> Not Applicable
Facility	Conditions to Check For	Problem	Maintenance Practices	Complete
Check Dams	Scoured flow paths around sides or from underneath check dams; wood rot or holes; check dam is properly attached, aligned and secure; ballast rock on downstream side is in place.	Erosion, Scouring, Flow Undermining	Repair ruts and scour areas with compost or facility soil media; Replace ballast rock; Repair or replace check dam as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Flows unevenly distributed between check dams due to sediment buildup or damaged check dams.	Flow not Distributed Evenly	Remove sediment buildup and repair or replace damaged check dams.	
Inlets / Outlets	Inlet/outlet areas clogged with sediment, vegetation or debris; sediment trap, if present, is ½ or more full; overflow or clean-out pipes are damaged or parts are missing.	Obstructed or Non-working Inlet/Outlet	Remove material to clear inlet and outlet areas, inflow pipes or downspouts, and sediment traps. Clear perforated drain pipe as needed. Repair or replace drain pipe, cap, grate structure or other elements as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Vegetation blocking more than 10% of the inlet or outlet opening.	Vegetation Blockages	Trim or remove excess vegetation and soil. No vegetation should block flow at inlets/outlets or overflows. If removing excess vegetation, protect area from erosion.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Grate is missing or only partially on-place or may have missing or broken grate members	Grate Damage, Missing	Replace or repair any open structure.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Damage to frame, frame not sitting flush, frame not securely attached, fractures or cracks in walls or bottom, or structure settlement.	Damage to Structure	Replace or repair structure to original design standards.	<input type="checkbox"/> <input type="checkbox"/> N/A
Vegetation	Vegetation is dead, stressed, sparse, bare, or soil eroded in more than 10% of the facility.	Dead or Stressed Vegetation and/or Poor Vegetation Coverage	Determine cause of poor growth and correct the condition; replant with containerized plants as needed to meet design density standards.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Nuisance weeds present. Invasive vegetation is present, including but not limited to the following: Himalayan Blackberry; Reed Canary Grass; Teasel English Ivy; Nightshade; Clematis; Cattail Thistle; Scotch Broom.	Invasive Vegetation and Weeds	Remove excessive weeds and invasive vegetation.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Vegetation growth is poor because sunlight does not reach facility.	Excessive Shading	Remove brushy vegetation as needed; re-plant with shade tolerant plants as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
Liner	Exposed or damaged liner with evidence of, or potential for, damage or leakage.	Exposed or Damaged Liner, Leaks from lined facility	Repair or replace liner and restore cover material.	<input type="checkbox"/> <input type="checkbox"/> N/A

DRY PONDS				<input type="checkbox"/> Not Applicable
These facilities provide pre-treatment by settling sediment and large debris. This checklist describes required inspection and maintenance activities to provide for proper facility function.				
Facility	Conditions to Check For	Problem	Maintenance Practices	Complete
General	Evidence of trash or debris.	Trash and Debris	Remove trash and debris.	<input type="checkbox"/> <input type="checkbox"/> N/A
	For facilities not providing detention: Standing water in the facility between storms that does not drain freely. No standing water should be present within 72 hours after any large storm (1-inch in 24 hours or larger). For facilities providing detention: Standing water for a period in excess of design.	Standing Water	Remove sediment or trash blockages and rake soil to clear debris; remove sediment from clean-outs and clear perforated underdrains as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Evidence of spills, or excess oil, gasoline, contaminants or pollutants.	Contaminants and Pollution	Remove/cleanup contaminants. Coordinate removal/cleanup with County Health, Planning & Building, and Roads Departments.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Evidence of rodents or water piping through facility via rodent holes.	Rodents	Repair facility, fill rodent holes, and remove rodents.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Nuisance insects (e.g. wasps, hornets, fire ants) that interfere with maintenance activities.	Insects	Remove insects and nests as needed.	<input type="checkbox"/> <input type="checkbox"/> N/A
Vegetation	Sparse or dying design planting, or when design plantings are not thriving across 80% or more of the design vegetated areas within the pond.	Poor Vegetation Condition/ Coverage	Replace plantings necessary to comply with planting plan requirements.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Nuisance weeds present. Invasive vegetation is present, including but not limited to the following: Himalayan Blackberry; Reed Canary Grass; Teasel English Ivy; Nightshade; Clematis; Cattail Thistle; Scotch Broom.	Invasive Vegetation	Replace plantings necessary to comply with planting plan requirements.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Tree/shrub growth interferes with access for maintenance (e.g. slope mowing, silt removal, vactoring, or equipment movements).	Undesirable Tree/Shrub Growth	Trim Trees/shrubs, minimally, to not hinder maintenance practices.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Dead, dying or diseased trees.	Hazard Trees	Remove and replace dead, dying or diseased trees that have become a hazard. Consult with a certified arborist as necessary, tree removal permits may be required.	<input type="checkbox"/> <input type="checkbox"/> N/A
Embankments	Evidence of erosion/scour or settlement.	Erosion Scour, Settlement	Make repairs following consultation with a licensed Civil Engineer as necessary for assessment and identification of potential corrective actions.	<input type="checkbox"/> <input type="checkbox"/> N/A

DRY PONDS (Continued)				<input type="checkbox"/> Not Applicable
Facility	Conditions to Check For	Problem	Maintenance Practices	Complete
Inlets/outlets	Inlet/outlet areas clogged with sediment, vegetation or debris; Sediment trap, overflow or clean-out pipes are damaged, or parts are missing.	Obstructed or Non-Working Inlet/Outlet/ Overflow	Remove debris and material as necessary from all features and repair features as necessary to allow for proper function.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Grate is missing or only partially on-place or may have missing or broken grate members	Grate Damage, Missing	Replace or repair any open structure.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Damage to frame, frame not siting flush, frame not securely attached, fractures of cracks in walls or bottom, or structure settlement.	Damage to Structure	Replace or repair structure to original design standards.	<input type="checkbox"/> <input type="checkbox"/> N/A
Pond Bottom	If sediment accumulation effects proper function or exceeds 6 inches in forebay or treatment cell.	Sediment Accumulation	Remove as necessary to maintain proper function.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Evidence of erosion/scour.	Erosion/scour	Repair eroded area with like material. Consult with a licensed Civil Engineer as necessary for assessment and identification of potential corrective actions.	<input type="checkbox"/> <input type="checkbox"/> N/A
Liner	Exposed or damaged liner with evidence of, or potential for, damage or leakage.	Exposed or Damaged Liner, Leaks from lined facility	Repair or replace liner and restore cover material.	<input type="checkbox"/> <input type="checkbox"/> N/A

WATER QUALITY MANHOLE/STRUCTURE				<input type="checkbox"/> Not Applicable
These facilities provide pre-treatment by settling sediment and large debris. This checklist describes required inspection and maintenance activities to provide for proper facility function.				
Facility	Conditions to Check For	Problem	Maintenance Practices	Complete
General	Material exceeds 50% of sump depth or one foot below the Tee or Snout.	Trash, Debris and Sediment	Remove trash, debris, and sediment.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Tee or Snout is not securely attached to manhole wall.	Structural Damage	Securely attach snout or tee to wall and outlet pipe.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Structure is not upright (allow up to 10% from plumb).		Ensure structure is in correct position.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Connections to outlet pipe are not watertight.		Repair or replace structure to work as designed.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Any holes or cracks in the structure (other than designed).		Repair/replace structure as needed to original design.	<input type="checkbox"/> <input type="checkbox"/> N/A
Manhole	Mechanism cannot be opened by one maintenance person with proper tools; bolts into frame have less than 1/2 inch of thread (may not apply to self-locking lids).	Locking Mechanism not Working	Replace/repair as necessary to ensure mechanism opens appropriately.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Cover is missing or only partially in place	Cover not in Place	Replace cover and/or secure cover in place.	<input type="checkbox"/> <input type="checkbox"/> N/A
	One maintenance person cannot remove lid using normal lifting pressure; cover makes access for maintenance difficult.	Cover Difficult to Remove	Ensure cover can be removed by one maintenance person.	<input type="checkbox"/> <input type="checkbox"/> N/A
	Ladder is unsafe (missing rungs, loose rungs, misalignment, rust, cracks).	Ladder Rungs Unsafe	Repair or secure ladder immediately. Ladder must meet design standards and allow safe access for maintenance.	<input type="checkbox"/> <input type="checkbox"/> N/A

Date of Inspection: _____ **Inspected By:** _____