

**STORMWATER MANAGEMENT and BEST MANAGEMENT PRACTICES  
FACILITIES MAINTENANCE AGREEMENT**

Ordinance # 5271, City Code 405.247  
O'Fallon, Missouri

636-240-2000

**STORMWATER MANAGEMENT and BEST MANAGEMENT PRACTICES  
FACILITIES MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ hereinafter called the "Landowner", and the City of O'Fallon, Missouri hereinafter called the "City".

WITNESSETH, that

WHEREAS, the Landowner is the owner of certain real property generally described as \_\_\_\_\_ with a St. Charles County tax Map/Parcel Identification Number of \_\_\_\_\_, and as recorded by deed in the land records of St. Charles County, Missouri, Deed Book \_\_\_\_\_ Page\_\_\_\_\_, hereinafter called the "Property".

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

WHEREAS, improvements are being made according to Site Plan/Subdivision Plan known as \_\_\_\_\_, hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City.

WHEREAS, the City and the Landowner, its successor and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of O'Fallon, Missouri require that on-site stormwater management / Best Management Practices (BMP) facilities be constructed and maintained on the Property; and

WHEREAS, the City requires per ordinance #5271 (City Code 405.247) that on-site stormwater management / BMP facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowners and or subdivision 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. Initial Construction: The on-site stormwater management / BMP facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Plan and in accordance with City Ordinance.
2. Maintenance: The Landowner and its successors and assigns, including any homeowners and/or subdivision association, shall, at all times, adequately maintain the on site stormwater management / BMP facilities as approved for that development on the plan. The facilities to be maintained shall include all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing functions as designed, so that these facilities do not adversely affect other elements of the overall storm water system and so that these facilities comply with City Ordinance or other applicable law. Stormwater pipes marked on the plans as "private" are to be maintained by landowner. Storm pipes which are designated as "public" are not the responsibility of the landowner; however, landowner shall take no action to cause damage or adversely affect the public systems and, furthermore, landowner shall continue to maintain the "private" facilities so as not to adversely affect the "public" facilities.

3. Annual Inspections: The Landowner, its successors and assigns, shall inspect the stormwater management / BMP facility and submit an inspection report to the City's Stormwater Coordinator 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, retention/detention and pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.
4. City Authorized to Enter Property: The Landowner hereby grants its consent to the City to enter upon the Property, from time to time, and to inspect the stormwater management / BMP facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies, to verify the annual reports submitted by Landowner and/or to respond to citizen concerns or possible nuisance conditions. 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.
5. Maintenance Schedule: The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management / BMP facilities (including sediment and debris removal) is outlined on the approved plans or as part of this Agreement, the schedule will be followed. In addition to the actions outlined on the maintenance schedule, the Landowner and its successors and assigns shall take further action in order to keep the facilities in good working order; following the maintenance schedule, alone, will not relieve the Landowner of any responsibility to take further actions to ensure proper operation and maintenance of the facilities.
6. Failure to Maintain: In the event the Landowner, its successors and/or assigns, fails to maintain the stormwater management / BMP facilities in good working condition, the City will notify Landowner, its successors and/or assigns, of deficiencies by letter. The Landowner will have ten (10) days from the date of the letter to respond to the City with an adequate plan to make repairs. If adequate repairs are not made by Landowner in a timely manner, Landowner hereby consents and agrees that City may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report; all costs of such repairs shall be billed to the Landowner, its successors and/or assigns. Landowner, its successors and/or assigns shall pay the bill as required by Section 7 of this Agreement. 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 any easement for the stormwater 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. Landowner to Reimburse City: 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 actual costs incurred by the City hereunder. In the event that the City must pursue any action to collect any delinquent payments, Landowner, its successors and assigns, the City shall be entitled to recover all of its collection costs and attorney fees.
8. Liability and Hold Harmless: 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 stormwater management / BMP facilities fail to operate properly.
9. Recording: This Agreement shall be recorded among the land records of St. Charles County, Missouri by the Landowner 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 and or subdivision association. This agreement shall be recorded with the record plat of any development that requires such a plat. If the development does not require that a plat be recorded it shall be recorded prior to approval of the construction plans for the development.

WITNESS the following signatures and seals:

LANDOWNER SIGNATURES:

\_\_\_\_\_  
Company/Corporation/Partnership Name (seal)

BY: \_\_\_\_\_

\_\_\_\_\_  
(Type Name)

\_\_\_\_\_  
(Type Title)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing Agreement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by

\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

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

CITY SIGNATURES:

Passed by Consent of the City Council for the City of O'Fallon, Missouri, This \_\_\_\_\_ Day of  
\_\_\_\_\_, 20\_\_\_\_

BY: \_\_\_\_\_  
Mayor, City of O'Fallon

ATTEST:

\_\_\_\_\_  
City Clerk, City of O'Fallon

Approved as to Form:

\_\_\_\_\_  
City Attorney Date

This foregoing Agreement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by

\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

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

**This page is for contact information only, it is not to be recorded.**

**Subject Property Information:**

Property Location (Address, if applicable): \_\_\_\_\_

Name of Subdivision: \_\_\_\_\_ Plat Number: \_\_\_\_\_

Name of Project on Construction  
Plans: \_\_\_\_\_

Planning and Zoning File Number: \_\_\_\_\_

**Contact Information (Please Type or Print):**

**Applicant:**

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Contract Purchaser (if applicable):**

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Property Owner:**

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Engineer:**

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_