

**CITY OF NIXA MISSOURI POST CONSTRUCTION STORMWATER MANAGEMENT PLAN  
MAINTENANCE AGREEMENT AND EASEMENT**

WHEREAS, The Property Owner recognizes that Post Construction Stormwater Best Management Practices (hereinafter referred to as the PCBMPs) must be maintained for the development called \_\_\_\_\_, located in the jurisdiction of the City of Nixa, Missouri; and,

**WHEREAS**, the Property Owner (whether one or more) is the owner of real property described on Exhibit "A" (hereinafter referred to as "the Property"); and,

**WHEREAS**, the City of Nixa, Missouri, (hereinafter referred to as "the City") requires the Property Owner, and its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of the City require that the PCBMPs be constructed and maintained on the property; according to guidelines set forth in the Post Construction Stormwater Management Plan, (hereinafter referred to as "PCSMP").

**NOW, THEREFORE**, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the Property Owner agrees as follows:

1. The PCBMPs shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and approved by the City.
2. The Property Owner must develop and provide the "BMP Maintenance Requirements", attached here to as Exhibit "B", which have been reviewed and approved by the City. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the PCBMPs and include a schedule for implementation of these practices. The PCSMP and the BMP Maintenance Requirements shall indicate that the PCBMPs shall be inspected for function, condition and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be submitted by the Property Owner to the City on an annual basis.
3. The Property Owner, its administrators, executors, successors, heirs, or assigns, shall construct and perpetually operate and maintain, at its sole expense, the facilities in strict accordance with the attached BMP Maintenance Requirements as approved by the City.
4. The Property Owner, its administrators, executors, successors, heirs, or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The City shall provide the Property Owner copies of the inspection findings and a directive to commence with the repairs if necessary.

Property Owner will be required to provide, within seven (7) calendar days, a written response addressing what actions will be taken to correct any deficiencies and provide a schedule of repairs within a reasonable time frame. Whenever possible, The City shall provide notice prior to entry.

5. The Property Owner, its administrators, executors, successors, heirs, or assigns, agree that should it fail to correct any defects in the PCBMPs within a reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City or its designee in its sole discretion, the City or its designee is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City or its designee deems necessary.

The City or its designee shall have the right to recover from the Property Owner any and all reasonable costs the City expends to maintain or repair the PCBMP(s) or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligence or intentional acts of the City. Failure to pay the City or its designee all of its expended costs, after sixty days written notice, shall constitute a breach of the agreement. The City or its designee shall thereafter be entitled to bring an action against the Property Owner to pay, or foreclose upon the lien hereby authorized by this agreement, against the property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery to the successful party.

The Property Owner shall not obligate the City to maintain or repair the PCBMP(s), and the City shall not be liable to any person for the condition or operation of the PCBMP(s).

6. The Property Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnify and hold harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence, repair or maintenance of the PCBMP(s). In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense, by an attorney of the choosing of the City, any suit based on such claim unless due solely to the negligence of the City in which event the City shall be required to defend any such suit at its own expense.

Notwithstanding the foregoing, if any claims are made against both the City and the Property Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit.

If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligence or intentional act of the City.

7. The Property Owner shall not in any way diminish, limit, or restrict the right of the City to enforce any of its regulations or ordinances as authorized by law.

8. This Agreement shall be recorded at the Christian County's Recorders office in Ozark, Missouri and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner(s) has/have executed this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MISSOURI }  
COUNTY OF CHRISTIAN }

I, the undersigned notary public in and for said county in said state, hereby certify that \_\_\_\_\_ whose name as \_\_\_\_\_ of \_\_\_\_\_, a corporation, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents, he/she as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

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

My commission Expires: \_\_\_\_\_

**Exhibit A**

Insert Real Property Description

**Exhibit B**

Insert PCBMP Maintenance Requirements