



City of Cedar Rapids
Stormwater Best Management Practices Cost-Share Program
Maintenance Agreement Form

STORMWATER MANAGEMENT/BMP FACILITIES AGREEMENT

THIS AGREEMENT, is made and entered into this _____ day of _____, 2015, by and between _____ hereafter called the “Landowner”, and the City of Cedar Rapids, Iowa, a Municipal Corporation of the State of Iowa, hereinafter called the “City”.

WITNESSETH:

WHEREAS, the Landowner is the fee simple owner of certain real property located at _____ as shown on Exhibit A attached to this agreement (“the Property”); and,

WHEREAS, the City has adopted Cedar Rapids Municipal Code Chapter 72 providing for stormwater management within the City of Cedar Rapids; and

WHEREAS, the City has also adopted a program to facilitate the creation and maintenance of private stormwater best management practices facilities (“BMP facilities”) including a cost-sharing incentive whereby the City will reimburse 50% of approved cost up to \$2,000 per program; and

WHEREAS, the Landowner, on behalf of itself and its successors and assigns, has proposed to implement a BMP facility on the Property pursuant to the Plan as specified on Exhibit B attached hereto and by this reference incorporated herein, and has requested the City reimburse it for approved and qualifying costs as determined by the City and consistent with the City’s program; and

WHEREAS, the City requires that BMP facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns.

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. The Landowner will construct or otherwise establish a BMP facility on the Property in accordance with the plans and specifications identified in the Plan, and as specified on Exhibit B attached hereto and by this reference incorporated. Landowner agrees that neither it, nor its agents, successors or assigns shall remove, alter or modify the BMP facility for five (5) years from the date of this Agreement unless prior written authorization is obtained from the City and incorporated into this Agreement by amendment hereof.
2. Upon completion of the BMP facility the City shall upon receipt of proof to the City’s satisfaction of the Landowner’s expenditures in establishing the BMP facility reimburse the Landowner 50% of the costs as approved by the City not to exceed \$2,000.

3. The Landowner, its successors and assigns shall at its own expense adequately repair, reconstruct and maintain the BMP facilities in good working condition and in accordance with the original design and the Plan, acceptable to the City so that they are performing their design functions.

4. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the BMP facilities whenever the City deems necessary in the event of an emergency and other times upon 48 hours advanced notice to the Landowner. The purpose of inspection is to evaluate the condition of the BMP facility, follow-up on reported deficiencies and/or to respond to citizen complaints. 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. The Landowner, its successors and assigns, will perform the work necessary to keep the BMP facilities in good working order as appropriate. In the event a maintenance schedule for the BMP facilities is outlined on the Plan, the schedule will be followed.

6. In the event the Landowner, its successors and assigns, fails to maintain the BMP facilities, and begin maintenance or repair of the BMP facilities within fourteen (14) days of receiving direction to do so from the City and fails to restore the BMP facilities to good working condition acceptable to the City within thirty (30) days of receiving such notice, the City may take any one action, or seek any other remedy available at law or in equity in order to obtain compliance. Specifically, the City may enter upon the Property, permission for which to do so is expressly granted by the Landowner, its successors and assigns, and take whatever steps are reasonably necessary to correct deficiencies identified in the inspection report and to charge the documented costs of such repairs to the Landowner, its successors and assigns. The Landowner will reimburse the costs expended by the City no later than thirty (30) days after receiving notice to do so from the City. It is expressly understood and agreed that the City is under no obligation to maintain or repair the BMP facilities, and in no event shall this Agreement be construed to impose any such obligation on the City. The City, in exercising its rights hereunder, shall make a reasonable attempt to do so in a manner so as to minimize interference with commercial operations on the Property when practicable.

7. 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 documented costs incurred by the City hereunder.

8. 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 BMP facilities fail to operate properly.

9. This Agreement shall be recorded in the offices of the Linn County, Iowa Recorder and the conditions and covenants herein are covenants running with the land, and shall perpetually bind the Property and are made for the benefit of the City and all persons who now or who may hereafter own any portion of the Property and the City and/or such owners are hereby specifically given the right to enforce such covenants and conditions.

10. The Landowner further covenants and agrees that upon the sale or other conveyance of the whole or any part of the Property shown in Exhibit A, it will insert in the deed or other instruments of sale or conveyance, as a real covenant running with and binding the land perpetually, a requirement that the grantee and all future assigns or successors in title or interest will accept and assume responsibility for its proportionate share of the cost of repairing and maintaining the BMP facilities and will perform all of the above-referenced covenants and conditions. The Landowner further covenants and agrees that the deed or other instruments of sale or conveyance shall specifically contain all the covenants and conditions set forth above and that all grantees will sign such deed or other instruments of sale or conveyance accepting responsibility for the performance of such covenants and conditions.

IN WITNESS WHEREOF, _____, has caused his/her name to be hereunto subscribed and the City of Cedar Rapids has caused its name to be hereunto subscribed by its City Manager and attested by its City Clerk, all as of the date first above written.

LANDOWNER

By: _____
Print and Sign Name

Title: _____

STATE OF IOWA)
) ss:
COUNTY OF LINN)

The foregoing instrument was acknowledged before me this _____ day of

_____, 2015 by _____

Notary Public and Registration Number

My commission expires: _____

CITY OF CEDAR RAPIDS, IOWA

By: _____
City Manager

ATTEST: _____
City Clerk

The foregoing instrument was acknowledge before me this _____ day of _____, 2015, by Jeff Pomeranz and Amy Stevenson, City Manager and City Clerk respectively of the City of Cedar Rapids, Iowa, a municipal corporation of the State of Iowa, on behalf of the Corporation.

Notary Public and Registration Number

My commission expires: _____