

POST-CONSTRUCTION INSPECTION AND MAINTENANCE AGREEMENT & EASEMENT FOR STORM WATER BMPS

PLEASE NOTE:

This Inspection and Maintenance Agreement & Easement template is for use in conjunction with the requirements of Chapter 909 of the City of Tiffin Codified Ordinances to ensure the long term operation, maintenance, and funding of storm water best management practices (BMPs).

This agreement template applies to new, site specific BMPs and available design records to facilitate future operation and maintenance conditions.

This Inspection and Maintenance Agreement & Easement, made this ____ day of _____ 20____, by and between _____, (hereinafter referred to as the "Owner") and the City of Tiffin (hereinafter referred to as the "City"), provides as follows:

WHEREAS, the Owner is responsible for certain real estate within the City of Tiffin, Ohio known as Permanent Parcel No. _____ and described on the attached Exhibit A that is developed as _____ (hereinafter referred to as the "Property"); and,

WHEREAS the Owner currently operates a permanent Storm Water Facility (hereinafter referred to as the "Facility") consisting of the following Post-Construction Storm Water Best Management Practices (BMPs): storm water management basins; post-construction water quality features; storm sewer systems leading thereto; and any appurtenances integral to the proper operation of such items; and,

WHEREAS, to comply with **Chapter 909**, Storm Water Management Regulations, of the City of Tiffin Codified Ordinances pertaining to this Facility, the Owner agrees to provide easement rights and maintain the Storm Water Best Management Practices for the above noted project in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants and undertaking of the parties, the parties hereby agree as follows:

A. EASEMENT

1. The Owner agrees to grant, bargain, sell, convey, and release to the City, its successors and assigns forever, the following listed perpetual rights, privileges and easements in, under, upon and over certain real estate as described below and which is part of a parcel fully described in Exhibit A of this agreement.
2. The easement rights granted shall include the permanent right to inspect, maintain, and repair

the Storm Water BMP as further described in Section C of this agreement. The City of Tiffin shall not use the easement area for any purpose inconsistent with the rights granted by this agreement or easement.

3. The easement area is further depicted on the map attached hereto as Exhibit B.
4. The easement area is further depicted on the legal description attached hereto as Exhibit C.
5. City of Tiffin Council authorized the receipt of the easement per Ordinance _____.

B. MAINTENANCE PLANS FOR THE STORM WATER BEST MANAGEMENT PRACTICES

1. The Owner agrees to maintain in perpetuity, commencing with the signing of this agreement, all Post-Construction Storm Water BMPs in accordance with approved Maintenance Plans listed in Section B.2 below and in a manner that will permit the Post-Construction Storm Water BMPs to perform the purposes for which they were designed and constructed. This maintenance requirement includes all pipes and channels built to convey storm water to the Post-Construction Storm Water BMPs, as well as structures, improvements, and vegetation provided to control the quantity and quality of the storm water. Pollutants removed from the storm water BMPs must be properly disposed of in accordance with all applicable Local, State and Federal Regulations.
2. The Owner shall provide a Maintenance Plan for each Post-Construction Storm Water BMP. The maintenance plans shall include a schedule for regular maintenance. The Owner shall maintain, update, and store the maintenance records for the Post-Construction Storm Water BMPs. The minimum specified Maintenance Plans for each Post-Construction Storm Water BMP are as follows:
 - a) Storm Water Pond Maintenance. To be completed MONTHLY.
 - 1) Remove floating debris.
 - 2) Remove woody vegetative growth from pond area including embankments.
 - 3) Remove trash and/or accumulated sediment.
 - 4) Remove obstructions in orifices and/or outlets.
 - b) Storm Water Pond Maintenance. To be completed ANNUALLY.
 - 1) Repair erosion to outfall or spillway.
 - 2) Repair and/or replace damaged structures, such as catch basins, risers, pipes, and headwalls.
 - 3) Repair animal burrows and/or other leaks in the dam structures.
 - 4) Remove debris from overflow spillway and grates.
 - 5) Mow embankments and remove woody vegetation on embankments.
 - 6) Inspect and remove invasive plants.
 - 7) Dredge pond on a 3-year to 7-year cycle or as necessary to retain design capacity.

- c) Infiltration Trench Maintenance. To be completed MONTHLY.
 - 1) Remove debris and or sediment from inlet and outlet pipes.
 - 2) Minimize heavy equipment, including mowers, in the vegetated areas to reduce compaction.
 - 3) Check observation wells 72 hours after rain events twice a year to ensure dewatering between storms is taking place at the facility. Repair as necessary to ensure functionality.
 - 4) Repair washed-out/damaged check dams.

- d) Infiltration Trench Maintenance. To be completed ANNUALLY.
 - 1) Remove sediment in sediment traps and pretreatment swales
 - 2) Check and remove any tree cover over trenches.
 - 3) Remove any aggregate (soil/mineral based) deposits.

- e) Bioretention Area Maintenance. To be completed MONTHLY.
 - 1) Minimize heavy equipment, including mowers, in the vegetated areas to reduce compaction.
 - 2) Remove and replace any diseased or dead plant material. If specific species are not successful in the bioretention area, replace as appropriate to ensure full vegetation as designed.
 - 3) Remove weeds/invasive species.

- f) Bioretention Area Annual Maintenance. To be completed ANNUALLY.
 - 1) Replace mulch at a depth of no greater than 3" and cover the entire area.
 - 2) Remove compacted mulch prior to new mulch placement.
 - 3) Repair any areas that have eroded.
 - 4) Ensure cell is dewatering within 1.66 days or 40 hours as required by the Ohio EPA and not bypassing facility. Repair as necessary to ensure functionality.

- g) Maintenance Plans for all Storm Water Best Management Practices with decentralized design criteria shall be developed to comply with the latest edition of the Ohio Department of Natural Resources Division of Soil and Water Conservation "Rainwater and Land Development Manual" or similar document of applicable Best Management Practices published by the State of Ohio.

3. The Owner shall perform all maintenance in accordance with the above Maintenance Plans and shall complete all repairs identified through regular inspections, and any additional repairs as requested in writing by the City of Tiffin.

C. INSPECTION AND REPAIRS OF STORMWATER BEST MANAGEMENT PRACTICES

1. For the service life of the facility, the Owner shall inspect all Post-Construction Storm Water BMPs serving the Property at least once per year in accordance with Chapter 909 of the City of Tiffin Codified Ordinances. Annual Inspection Reports prepared by storm water certified person

(e.g., P.E., CESSWI), as approved by the City Engineer, are due to the City prior to March 1st of each calendar year, or within sixty (60 days) from a written request of the City.

2. The Owner grants the right to the City to enter the Property and to inspect all aspects of the Post-Construction Storm Water BMPs and related drainage appurtenances whenever the City deems necessary. The City shall provide the Owner copies of the inspection findings and a directive to commence with the repairs if necessary.
3. The Owner shall make all emergency repairs within ten (10) days of their discovery through Owner inspections or through a request from the City. The Owner shall make all repairs deemed non-emergency by the City within thirty (30) days of their discovery through Owner inspections or through a request from the City. If repairs will not occur within this applicable time period, the Owner must receive written approval from the Tiffin City Engineer for an alternate repair schedule.
4. In the event of the following:
 - i. Any default or failure by the Owner in the performance of any of the covenants and warranties pertaining to the maintenance of the Post-Construction Storm Water BMPs
 - ii. Owner failure to maintain the Post-Construction Storm Water BMPs in accordance with the approved design standards and Maintenance Plan
 - iii. An emergency as determined by the City

The City shall provide reasonable notice to the Owner, and may enter the property and take whatever steps necessary to correct deficiencies and to charge the cost of such repairs to the Owner. The Owner shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual cost incurred by the City. All costs expended by the City in performing such necessary maintenance or repairs shall constitute a lien against the properties of the Owner. Nothing herein shall obligate the City to maintain the Post-Construction Storm Water BMPs.

D. FUNDING

The Owner agrees to secure and maintain funding for the perpetual inspection, operation, and maintenance of the Post-Construction Storm Water BMPs listed in this Inspection and Maintenance Agreement & Easement.

E. INDEMNIFICATION

1. The Owner hereby agrees that it shall save, hold harmless, and indemnify the City and its employees and officials from and against all liability, losses, claims, demands, costs and expenses arising from, or out of, default or failure by the Owner to maintain the Post-

Construction Storm Water BMPs, in accordance with the terms and conditions set forth herein, or from acts of the Owner arising from, or out of, the construction, operation, repair or maintenance of the Post-Construction Storm Water BMPs.

2. The parties hereto expressly do not intend by execution of this Inspection and Maintenance Agreement & Easement to create in the public, or any member thereof, any rights as a third party beneficiary or to authorize anyone not a party hereof to maintain a suit for any damages pursuant to the terms of this Inspection and Maintenance Agreement & Easement.
3. This Inspection and Maintenance Agreement & Easement shall be a covenant that runs with the land and shall inure to the benefit of and shall be binding upon the parties hereto, their respective successors and assigns, and all subsequent owners of the property.
4. The current Owner shall promptly notify the City when the Owner legally transfers any of the Owner's responsibilities for the Post-Construction Storm Water BMPs. The Owner shall supply the City with a copy of any document of transfer, executed by both parties.
5. Upon execution of this Inspection and Maintenance Agreement & Easement, it shall be filed in the Tiffin City Engineer's office and recorded in the Seneca County Recorder's office. The Owner shall also provide for the City a copy of the property deed for their records.

IN WITNESS WHERE OF, the Owner has caused this Inspection and Maintenance Agreement & Easement to be signed in its names by a duly authorized person.

OWNER

Executed By: _____
Company Name _____ Date _____
Name & Position of Authorized Person Signing

Signatory Address: _____

Site Address: _____

Site Contact Person Information: _____

CITY OF TIFFIN

Accepted By: _____
Tiffin City Mayor _____ Date _____

STATE OF OHIO
COUNTY OF SENECA, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, by _____, its _____, on behalf of the entity.

X

Notary

STATE OF OHIO
COUNTY OF SENECA, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by the CITY OF TIFFIN, by _____, its Mayor, on behalf of the City.

X

Notary

This instrument prepared by Brent T. Howard, Director of Law, City of Tiffin, Ohio, 84 S. Washington Street, Tiffin, OH 44883