

COMMERCIAL/INDUSTRIAL MAINTENANCE AGREEMENT

After recording return to:

Thurston County Public Works
Stormwater Utility
9605 Tilley Rd S, Ste C
Olympia, WA 98512

Thurston County Project No.

**COMMERCIAL/INDUSTRIAL
AGREEMENT TO MAINTAIN
STORMWATER FACILITIES AND TO IMPLEMENT A
POLLUTION SOURCE CONTROL PLAN**

For purposes of this agreement and for indexing by the Auditor as required by R.C.W. Ch. 65.04, the parties of this agreement are, _____, **Owner**, and Thurston County and succeeding jurisdictions through annexation.

LEGAL DESCRIPTION OF PROPERTY: (Abbreviated legal description if complete legal will not fit here and reference to where complete legal can be found.)

Assessor Parcel No.(s)

(COMMERCIAL/INDUSTRIAL VERSION)

**AGREEMENT TO MAINTAIN STORMWATER FACILITIES
AND TO IMPLEMENT A POLLUTION SOURCE CONTROL PLAN
BY AND BETWEEN THURSTON COUNTY AND SUCCEEDING
JURISDICTIONS THROUGH ANNEXATION, AND**

AND ITS HEIRS, SUCCESSORS, OR ASSIGNS (HEREINAFTER "OWNER")

The upkeep and maintenance of stormwater facilities and the implementation of pollution source control best management practices (BMPs) are essential to the protection of water resources in Thurston County. All property owners are expected to conduct business in a manner that promotes environmental protection. This Agreement contains specific provisions with respect to maintenance of stormwater facilities and use of pollution source control BMPs. The authority to require maintenance and pollution source control is provided by Thurston County Code.

LEGAL DESCRIPTION:

RECITALS

WHEREAS, OWNER is the owner of certain real property in Thurston County, Washington, described as set forth in the legal description contained herein and referred to in this agreement as the "Property".

and

WHEREAS, In connection with the OWNER'S proposed development of the Property, Thurston County has required and OWNER has agreed to construct stormwater facilities and to implement a pollution source control plan. The stormwater facilities and pollution source control plan was prepared by

for the OWNER'S property and is on file with Thurston County.

and

WHEREAS, OWNER has constructed improvements, including but not limited to, buildings, pavement, and stormwater facilities on the Property, in order to further the goals of Thurston County to ensure the protection and enhancement of Thurston County's water resources, THURSTON COUNTY and OWNER hereby enter into this Agreement. The responsibilities of each party to this Agreement are identified below.

OWNER SHALL:

- (1) Implement the stormwater facility maintenance program included herein as Attachment “A”.
- (2) Implement the pollution source control program included herein as Attachment “B”.
- (3) Maintain a record (in the form of a log book) of steps taken to implement the programs referenced in (1) and (2) above. The log book shall be available for inspection by THURSTON COUNTY at during normal business hours. The log book shall catalog the action taken, who took it, when it was done, how it was done, and any problems encountered, or follow-on actions recommended. Maintenance items (“problems”) listed in Attachment “A” shall be inspected as specified in the attached instructions or more frequently if necessary. OWNER is encouraged to photocopy the individual checklists in Attachment “A” and use them to complete its monthly inspections. These completed checklists would then, in combination, comprise the log book.
- (4) Submit an annual report to THURSTON COUNTY regarding implementation of the programs referenced in (1) and (2) above. The report must be submitted on or before August 31 of each calendar year and shall contain, at a minimum, the following:
 - (a) Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.
 - (b) Time period covered by the report.
 - (c) A chronological summary of activities conducted to implement the programs referenced in (1) and (2) above. A photocopy of the applicable sections of the log book, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with OWNER, include a copy of the invoice for services.
 - (d) An outline of planned activities for the next year.
- (5) Prevent any unauthorized modifications to the drainage system and prevent it from being dismantled, revised, altered or removed except as necessary for maintenance, repair or replacement. Any such actions will be covered under item 4 above and shall be approved of by THURSTON COUNTY. Modifications to the stormwater quantity control and stormwater quality system must be approved in advance by THURSTON COUNTY and may require the submittal of revised design drawings, supporting calculations, modifications to maintenance requirements, and applications for permits.

THURSTON COUNTY WILL, AS RESOURCES ALLOW:

- (1) Provide technical assistance to OWNER in support of its operation and maintenance activities conducted pursuant to its maintenance and source control programs. Said assistance shall be provided upon request, as County time and resources permit, and at no charge to OWNER.
- (2) Review the annual report and conduct occasional site visits to discuss performance and problems with OWNER.
- (3) Review this agreement with OWNER and modify it as necessary.

REMEDIES:

- (1) If THURSTON COUNTY determines that maintenance or repair work is required to be done to the stormwater facility existing on the OWNER'S property, THURSTON COUNTY shall give OWNER, and the person or agent in control of said property if different, written notice in accordance with the Notice Section of this Agreement, of the specific maintenance and/or repair required. THURSTON COUNTY shall set a reasonable time in which such work is to be completed by the persons who were given notice. If the above required maintenance and/or repair is not completed within the time set by THURSTON COUNTY, written notice will be sent to the persons who were given notice stating THURSTON COUNTY'S intention to perform such maintenance and bill the owner for all incurred expenses. THURSTON COUNTY may also adjust stormwater utility charges if required maintenance is not performed.
- (2) If at any time THURSTON COUNTY determines that the existing system creates any imminent threat to public health, welfare or water quality THURSTON COUNTY may take immediate measures to remedy said threat. No notice to the persons listed in Remedies (1), above, shall be required under such circumstances, however, THURSTON COUNTY shall take reasonable steps to immediately notify OWNER of such imminent threat to the public health and welfare. All other responsibilities shall remain ineffect.
- (3) OWNER grants unrestricted authority to THURSTON COUNTY for access to any and all stormwater system features for the purpose of routine inspections and/or performing maintenance, repair and/or retrofits may become necessary under Remedies (1) and/or (2).
- (4) OWNER shall assume all responsibility for the cost of any maintenance and for repairs to the stormwater facility. Such responsibility shall include reimbursement to THURSTON COUNTY within 30 days of the receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by THURSTON COUNTY will be borne by the parties responsible for said reimbursements.
- (5) OWNER hereby grants to THURSTON COUNTY a lien against the above-described property in an amount equal to the cost incurred by THURSTON COUNTY to perform the maintenance or repair work described herein.
- (6) All OWNER obligations, benefits and remedies under this agreement apply in equal force to individual lot owners after conveyance and segregation of ownership within the subdivision. In the event obligations are not assigned to or assumed by a single entity or individual, such as a homeowner's association, all liabilities and costs shall be joint and shared as between each and every lot owner.

NOTICE:

Whenever a party is required or permitted under this Agreement to provide the other party with any notice, request, demand, consent, or approval ("Notice"), such Notice will be given in writing and will be delivered to the other party at the address or facsimile number set forth below: (a) personally; (b) by a reputable overnight courier service; (c) by certified mail, postage prepaid, return receipt requested; or (d) by e-mail or facsimile transmission. A party may change its address for Notice by written notice to the other party delivered in the manner set forth above. Notice will be deemed to have been duly given: (i) on the date personally delivered; (ii) one (1) business day after delivery to an overnight courier service with next-day service requested; (iii) on the third (3rd) business day after mailing, if mailed using certified mail; or (iv) on the date sent when delivered by facsimile or e-mail (so long as the sender sends such facsimile or email on a business day and receives electronic confirmation of receipt and a copy of the Notice is sent by one of the other means permitted hereunder on or before the next business day). The initial addresses for Notice are as follows:

IF TO OWNER:

email:

phone:

fax:

IF TO THURSTON COUNTY:

Thurston County Public Works

Stormwater Utility

9605 Tilley Rd S, Ste C

Olympia, WA 98512

Telephone: (360) 867-2300

Web: www.thurstoncountywa.gov/sw

This Agreement is intended to protect the value and desirability of the real property described above and to benefit all the citizens of the County. It shall run with the land and be binding on all parties having or acquiring from OWNER or their successors any right, title, or interest in the property or any part thereof, as well as their title, or interest in the property or any part thereof, as well as their heirs, successors, and assigns. They shall inure to the benefit of each present or future successor in interest of said property or any part thereof, or interest therein, and to the benefit of all citizens of THURSTON COUNTY.

Dated at _____, Washington, this _____ day of _____, _____.

OWNER

By:

Title:

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this day and year above personally appeared before me, _____ known to be
the _____ of _____, the company that executed the forgoing instrument,
and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses
and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

Given under my hand and official seal this _____ day of _____, _____.

Notary Public in and for the State of
Washington, residing in
My commission expires

Dated at _____, Washington, this _____ day of _____, _____.

APPROVED as to form only January 28, 2022:

ACCEPTED BY:

for THURSTON COUNTY

Date