

**FLOYD COUNTY RESOLUTION 2005-**

**A RESOLUTION PROPOSING AN AMENDMENT TO  
FLOYD COUNTY ORDINANCE A67-4**

**WHEREAS**, on the 5th day of September, 1967, the Board of Commissioners of the County of Floyd (Board) duly adopted Ordinance A67-4, being the Floyd County Zoning Ordinance, which ordinance has been amended and modified, from time to time; and

**WHEREAS**, by Floyd County Resolution 2004-XXI the Board approved the addition to said ordinance of an Article entitled An Ordinance Regulating Construction Site Runoff, the same having been certified by the Floyd County Plan Commission (Commission) on the 18<sup>th</sup> day of October, 2004, pursuant to IC 36-7-4, *et seq*; and

**WHEREAS**, the Board is desirous of amending said Article and Floyd County Ordinance A67-4 so as to add provisions concerning Post-Construction Storm Water Management; and

**WHEREAS**, pursuant to the provisions of IC 36-7-4-607, if a proposed amendment to the zoning ordinance originates with the county executive, it must be referred to the Commission for hearing, consideration, and recommendation prior to any final action thereon; and

**WHEREAS**, the Board is desirous by this resolution of referring the proposed amendments to said Commission for hearing, consideration, and recommendation, all as provided by applicable statute, rule, and regulation.

**NOW THEREFORE;**

**BE IT RESOLVED**, that the recitals set forth above be incorporated herein and made a part of this Resolution.

**BE IT FURTHER RESOLVED**, that the Amendment of Floyd County Ordinance A67-4 presently referenced and known as An Ordinance Regulating Construction Site Runoff, be amended, as follows:

1. By changing the title thereof to read:

**AN ORDINANCE REGULATING CONSTRUCTION SITE RUNOFF  
AND POST-CONSTRUCTION STORM WATER MANAGEMENT**

2. By inserting prior to Section I, thereof, the following heading:

**ARTICLE I  
CONSTRUCTION SITE RUNOFF**

3. By changing **Section 1.0 - Title** to read:

**Section 1.0 - Title and Application**

Article I, hereof, shall be known as the “Construction Site Runoff Control Ordinance” of Floyd County, Indiana and may be so cited. Sections 1.2,1.3,1.4,1.5, 4, 5, and 6 of this Article shall also be applicable to Article II of this Ordinance, except when such provisions are inconsistent or in direct conflict with the express language of said Article II.

4. By changing Section 1.1.1 to read:

This Ordinance shall apply within the jurisdictional boundaries of the Floyd County Plan Commission.

5. And, by adding the following language:

**ARTICLE II**  
**POST-CONSTRUCTION STORM WATER MANAGEMENT**

**Section I. Applicability**

All new development and redevelopment activities that result in the disturbance of one (1) or more acres of land within Floyd County, Indiana, including land disturbing activities on individual lots of less than one (1) acre as part of a larger common plan of development of sale, shall develop a post-construction Storm Water Pollution Prevention Plan (SWPPP) which includes provisions necessary for minimizing the impacts of pollutants from the proposed land use.

**Section II. Post-Construction Storm Water Pollution Prevention Plan Requirements**

A *Storm Water Quality Management Permit* may only be issued after the review and acceptance of a Post-Construction SWPPP. The Post-Construction SWPPP is part of the *Storm Water Quality Management Plan* (SWQMP) and must include the following information:

1. A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to storm water discharges.
2. Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality Best Management Practices (BMPs). Reference Section IV for acceptable storm water quality BMPs.
3. A description of BMPs that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strips and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and storm water retention and detention ponds.

4. A sequence describing when each post-construction storm water quality BMP will be installed.
5. Storm water quality BMPs that will remove or minimize pollutants from storm water runoff.
6. Storm water BMPs that will be implemented to prevent or minimize adverse impact to stream and riparian habitat.
7. A narrative description of the maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long-term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures.

The SWPPP shall include provisions for buffers.

1. No-Disturbance Buffer

- a. The No-Disturbance Buffer will be used to define areas where land disturbance activities shall not be permitted. Grading, clearing, and grubbing shall not be permitted in this area, but pruning, trimming, and partial removal of standing vegetation is permitted.
  - b. The no-disturbance waterway buffer shall be defined as twenty-five (25) feet from the top of the waterway bank as defined by geomorphic shape (not by the current water surface elevation).
  - c. The no-disturbance waterway buffer shall be applied to all waterways and drainage systems that drain more than twenty five (25) acres of contributing area or are represented on a United State Geological Survey map as a blue line stream.
2. Waterway Buffer
- a. The Waterway Buffer will be used to define areas where land disturbance activities shall be permitted, but construction of any building or structure shall not be permitted.
  - b. A waterway buffer shall be applied to all waterways serving more than 25 acres of tributary area or those represented on a United States Geological Survey map as a blue line stream.
  - c. Automatic exemptions may be applied for the following (provided erosion prevention and sediment control, water quality, and cut-fill policies are adequately addressed):
    - i. roads and utilities crossing waterways.
    - ii. pedestrian trails and walkways proximate to waterways.
- a. The waterway buffer shall be defined as the area contained within a boundary established 25-feet beyond the flood plain boundary as defined by FEMA or 50-feet from the top of waterway bank as defined by geomorphic shape (not by the current water surface elevation) which ever is larger.
  - b. At a minimum the waterway buffer shall be at least the width of the no-disturbance buffer, if applicable.
  - c. The waterway buffer and flood plain may be used for application of water quality devices. This may only be permitted provided erosion prevention and sediment control, water quality, and cut-fill policies are adequately addressed as determined by Floyd County according to the provisions of this Ordinance.

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#### **Section IV. Approved Stormwater Best Management Practices (BMPs)**

The SWPPP shall include provisions for storm water quality BMPs functioning independently or in combination. Acceptable storm water quality BMPs include:

1. Vegetated Buffers
2. Bioretention Swales
3. Vegetated and Forested Buffer Strips
4. Level Spreaders
5. Infiltration Systems
6. Dry Detention Ponds
7. Wet Detention Ponds
8. Retention Ponds
9. Constructed and Pocket Wetlands
10. Media Filtration and Screening Systems
11. Baffle Boxes and Grit Separators
12. Hydrodynamic Separator Systems
13. Sediment Forebays
14. Oil/Water Separators
15. Vault Storage / Infiltration BMPs (infiltration prohibited within wellhead protection areas)
16. Other measures reviewed and accepted by Floyd County.

#### **Section V. BMP Design Requirements and Criteria**

The SWPPP shall include provisions for storm water quality BMPs that are designed to achieve the following design / performance objectives:

1. Reduce Total Suspended Solids (TSS) from the first flush as defined by land use characteristics and contributing area; or, capture and treatment of at least 0.5-inch precipitation applied over the contributing area.
2. Reduce or buffer increases in storm runoff temperature caused by contact with impervious surfaces.
3. Storm water detention/ retention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge over the critical design-storm period. The outlet structure shall be designed as a v-notch weir or other multiple stage configurations capable of controlling the discharge rates for the 2-, 10-, and 100-year design-storm events
  - a. The *Indiana Drainage Handbook* or the *Indiana Storm Water Quality Manual* should be reviewed and considered when preparing the SWPPP.
  - b. Floyd County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by Floyd County should be reviewed and considered when preparing the SWPPP. These documents may be applied as standards by which designs are to be prepared and controls implemented. Floyd County shall have authority to implement this Ordinance by appropriate regulations, guidance, or other related materials. In this regard, technical, administrative, or procedural matters may be modified as needed to meet the objectives defined herein, so long as such modifications as to technical, administrative, or procedural matters are not contrary to or beyond the intent of the objectives defined herein.

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- i. Regulations, guidance, or other related materials that may be given authority by this Ordinance may include, but are not limited to: Best Management Practice (BMP) manuals, design regulations and requirements, submission checklists, review checklists, inspection checklists, certifications, storm water management manuals and operation and maintenance manuals.
    - i. Materials may include information deemed appropriate by Floyd County including guidance and specifications for the preparation of grading plans, selecting environmentally sound practices for managing storm water, minimum specifications and requirements, more complete definitions, and performance standards.
    - ii. The above referenced documents shall not in any way require specific commercially available products. However, they may refer to performance specifications, class of devices, construction, or management practice.
    - iii. The above referenced documents may restrict or prevent the use of specific products, techniques or management practices (that are to be accepted by the public or are deemed to have a negative impact on public infrastructure or the MS4) that have been identified as unacceptable for performance, maintenance or other technically based reasons.
    - iv. Documents referenced above may be updated periodically to reflect the most current and effective practices and shall be made available to the public. However, the failure to update the manual shall not relieve any applicant from the obligation to comply with this Ordinance, and shall not prevent Floyd County from imposing the most current and effective practices.
  2. Soil bioengineering, "green" and other "soft" slope and stream bank stabilization methods shall receive preference over rip rap, concrete and other hard armoring techniques. "Hard" alternatives shall only be permitted when their necessity can be demonstrated given site-specific conditions.
  3. Retention - Supportive data must be submitted to justify the type of facility selected. If the facility is designed to retain (volume control) all or a significant portion of runoff (as opposed to temporarily detain it), then appropriate soils analyses shall be submitted to Floyd County. This submission shall also discuss the impacts the facility will have on local karst topography as found through a geotechnical investigation of the site. The facility may be designed to infiltrate runoff to groundwater rather than transmit it downstream under conditions up to a 10-year storm event. It must be able to bypass all other storms up to a 100-year event with a discharge rate equivalent to or less than pre-development conditions without negatively impacting the 100-year flood plain above or below the site. If data indicates that the facility can not retain a significant portion of the runoff (95%) then the facility must be sized to detain runoff.
  4. Detention facilities may, and are encouraged to be designed to serve multiple purposes. For example, runoff may be detained under wet-weather conditions in facilities that also serve as common or recreational areas during dry-weather conditions. Where multi-purpose facilities are provided, or where flat grades or poorly draining soils are encountered, provisions for adequate low-flow storm water management systems may be required. Where the retention/ detention facility is planned to be used as a lake, pond, or storm water quality management practice with a permanent pool, water budget calculations shall be performed and submitted to demonstrate that an adequate pool is expected during dry summer months.
  5. A licensed Professional Engineer shall approve and sign all plans for construction, to include all proposed improvements or modifications to existing or new storm water infrastructure and other

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related improvements or modifications.

6. Floyd County reserves the right to require superceding or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall storm water quality management program objectives or directives under a watershed improvement or Total Maximum Daily Load (TDML) program.

### **Section VI. BMP Ownership and Easements**

1. Any storm water management facility or BMP which services individual property owners or subdivisions shall be privately owned. General routine maintenance (controlling vegetative growth and removing debris) shall be provided by the owner(s). The owner(s) shall maintain a perpetual, non-exclusive easement that allows access for inspection and emergency maintenance by Floyd County. Floyd County has the right, but not the duty, to enter premises for emergency repairs.
2. Any storm water management facility or BMP which services an individual subdivision in which the facility or BMP is within designated open areas or an amenity with an established homeowners association shall be privately owned and maintained by the owner consistent with provisions of this Ordinance. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Floyd County. Floyd County has the right, but not the duty, to enter premises for emergency repairs.
3. Any storm water management facility or BMP which services commercial and industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Floyd County. Floyd County has the right, but not the duty, to enter premises for emergency repairs.
4. All regional storm water management control facilities proposed by the owner(s), if approved and accepted by Floyd County, shall, upon dedication as a public regional facility, be publicly owned and/or maintained.
5. All other storm water management control facilities and BMPs shall be privately owned and/or maintained unless accepted for maintenance by Floyd County.
6. Floyd County may require dedication of privately owned storm water facilities, which discharge to the Floyd County storm water system.

### **Section VII. Coordination with Regional BMPs**

1. All property owners are expected to implement adequate on-site storm water quality control measures, but the extent thereof may be reduced given the availability, proximity, and nature of regional storm water quality BMPs.
2. The extent and type of on-site storm water quality management practices implemented must be proportionate to the land use, pollutant discharge potential, and proximity to regional storm water quality management practices.
3. For properties where storm water quantity management practices are either not feasible, or not necessary in lieu of regional storm water quantity controls, Floyd County has the right to require on-site controls for storm water quality.
4. Floyd County encourages regional storm water quantity and/or quality management practices, serving 25 to 250 acres of tributary area, which may be consistently and efficiently managed and maintained. These types of practices will be encouraged in order to replace or reduce the

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implementation of on-site storm water quantity and/or quality management practices, as determined to be appropriate by Floyd County.

5. Where a regional storm water management facility has been established by one (1) or more local governments, or by an authority operating on behalf of one (1) or more local governments, a development or property owner may participate in said program in lieu of runoff control required by this Ordinance.
  - a. This may be permitted provided that:
    - i. Runoff from the development drains to an approved existing or proposed public regional storm water management facility that will be operational within one (1) year of commencement of development.
    - i. The total value of such participation by contribution of funds, contribution of land, contribution of storm water management facility construction work, or a combination of these, shall equal or exceed the appropriate fee imposed or to be imposed by Floyd County with respect alternative private controls.
    - ii. Floyd County finds that the storm water quality management plans are in compliance with all other applicable requirements and Ordinances.
    - iii. Each fiscal or in-kind contribution from a development owner participating in a regional storm water quality management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the same watershed in which the development is located.
6. Redevelopment of properties containing on-site storm water quantity management practices may be permitted, at the discretion of Floyd County, provided the subject property and downstream public and private properties, infrastructure or "Waters of the State" are adequately protected by a regional facility(s) from storm water quantity or quality impacts.

### **Section VIII. Coordination with Master Plans and Watershed Studies**

1. If available, each SWPPP shall be evaluated for consistency with the storm water master plan or watershed study for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if storm water quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.
2. Special design criteria or requirements may be applied to storm water quality BMPs based on the direction or results of Master Plans, Watershed Studies and/or Total Maximum Daily Load (TMDL) requirements.

### **Section IX. Storm Water Quality Management Plan Permit Closure**

1. A SWQMP shall be considered open and active until the time when Floyd County accepts the site conditions, as-built requirements have been completed, and a *Long-Term Operation and Maintenance Agreement* has been accepted.
2. Acceptance of site conditions shall be made by Floyd County through inspection. If any of the following items are deemed to be insufficient, not appropriate, and/or inconsistent with the SWPPP or objectives stated in this Ordinance, then approval will not be granted.

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- a. Pipes, channels, catch basins, water quality treatment devices, and other infrastructure are clear of sediment, obstructions, and debris, and are designed and operating as appropriate for final site conditions.
  - b. Slopes are permanently stabilized.
  - c. Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.
  - d. Temporary pollution prevention practices have been demobilized, removed, and/or affected areas stabilized.
  - e. Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices.
  - f. Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to design volume and condition.
  - g. Other items as deemed important by Floyd County.

#### **Section X. As-Built Requirements**

1. Prior to issuance of a use and occupancy permit, or final release of bond, the as-built condition, including invert elevations, size, shape, and location of critical storm water management features, must be identified and approved.
2. The volume, slopes, configuration, condition, and topographic information of all detention, retention, and water quality practices shall be certified by a licensed Professional Engineer. This information shall be provided to Floyd County in the form of an as-built drawing or other electronic form accepted/required by Floyd County. The as-built certification shall indicate if final conditions are consistent with, or exceed, the SWQMP provisions.
3. If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the SWQMP provisions, Floyd County reserves the right to withhold certification of occupancy or release of final bond. Furthermore, other enforcement mechanisms, as identified within this Ordinance, may be initiated to insure compliance.
4. If upon inspection by Floyd County, or its designated representative, it is determined that acceptance of site conditions is inappropriate by virtue of deficiencies, the permittee shall continue inspections and maintenance, as described in the SWQMP, pending such acceptance.

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## **Section XI. Long-Term Operation and Maintenance**

1. A *SWQMP* may not be closed until a *Long-Term Operation and Maintenance Agreement* has been accepted by Floyd County.
2. *Long-Term Operation and Maintenance Agreements* shall include a maintenance plan for all storm water quality BMPs in new development or redevelopment that require more than general maintenance (e.g., periodic mowing).
  - a. The plan will be developed to ensure that the storm water quality BMPs are kept functional. The maintenance agreement will specify minimum operation and maintenance requirements and intervals to be performed by the property owner.
  - b. The plan shall address schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment pollutants and other forms of pollution.
  - c. The agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).
  - d. The agreement shall be recorded so as to be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.
  - e. A suggested format for the *Long-Term Operational and Maintenance Agreement* is included in Appendix A.
  - f. Provisions shall be made to assure that Water Detention and Retention facilities do not become nuisances or health hazards. Detention and retention facilities should be designed to require minimal maintenance, and maintenance expectations must be clearly stated in a *Long-Term Operation and Maintenance Agreement*.
  - g. When a storm water quality BMP serves more than (1) parcel, an owners' association or binding contract for the purpose of operation and maintenance is required. The owners association shall be responsible for operation and maintenance as directed by this Ordinance.
  - h. The maintenance responsibilities for permanent storm water quality BMPs shall be determined based upon the type of ownership of the property which is controlled by the facilities.
    - i. Single entity ownership – Where the permanent storm water runoff control facilities are designed to manage runoff from property in single entity ownership, the maintenance responsibility for the storm water control facilities shall be with the single entity owner.
      - A. A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate, exclusive of an individual lot owner.

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- B. The stated responsibilities of the entity shall be documented in the form of a *Long-Term Operation and Maintenance Agreement*. Terms including ownership, operation, and maintenance of the facilities shall be submitted with an application for a SWQMP, so as to permit a determination of adequacy. Approval of a *SWQMP* shall be conditioned upon the approval of the Agreement, which shall be in writing and recordable form, and shall, in addition to any other terms deemed necessary by Floyd County, contain a provision permitting inspection of all facilities at any reasonable time by Floyd County.
- C. As a condition for approval of the storm water quality BMPs by Floyd County, the facility owner(s) shall demonstrate the ability to guarantee and apply the financial resources necessary for long-term maintenance requirements. Floyd County will accept a funding mechanism for long-term maintenance responsibilities only if same can be demonstrated to be permanent or transferable to another entity with equivalent longevity.
- D. In the event that proposed funding is through an owners association, it must be demonstrated that the association may not be dissolved unless long-term operation and maintenance activities are accepted by another entity with equivalent longevity and adequate funding. Furthermore, the owners association's responsibility must be stated in the association's declaration, covenants, or by-laws, as appropriate.
- E. Unless made specifically clear in the preliminary stages of the site design and construction plan review procedure, it will be assumed that all storm water detention, retention, treatment or storage facilities and/or devices shall be owned, operated and maintained by a single entity as defined above.
- ii. Floyd County Ownership – Where Floyd County has accepted an offer of dedication of permanent storm water quality BMPs, Floyd County shall be responsible for operation and maintenance.
- iii. Maintenance Bond – Floyd County may require the posting of a maintenance bond to secure the structural integrity of said facilities as well as the functioning of said facilities in accordance with the approved *SWQMP* for a term of 18 months from the date of acceptance of dedication. Floyd County may approve a cash contribution in lieu of a maintenance bond, provided that the contribution be approximately equivalent to the amount that would be estimated for such bond.

## **APPENDIX A**

### **LONG-TERM OPERATION AND MAINTENANCE AGREEMENT**

File No.: \_\_\_\_\_ Parcel No.: \_\_\_\_\_

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As accepted through SWQMP No.: \_\_\_\_\_

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

Primary function or description of activities to be executed at the site:

\_\_\_\_\_  
\_\_\_\_\_

THIS AGREEMENT, made and entered into this a of this \_\_\_ day of \_\_\_\_\_, of the year \_\_\_\_, by and between \_\_\_\_\_ ("OWNER") and Floyd County, Indiana, acting by and through its duly authorized representative.

WITNESS, that

WHEREAS, Floyd County Ordinance 2005-\_\_\_\_\_ establishes requirements for storm water quality best management practices and a *Storm Water Quality Management Permit (SWQMP)* to manage the quality of storm water discharged from areas of urban development and redevelopment; and

WHEREAS, under said Ordinance Floyd County shall have the authority to inspect private systems within Floyd County and to order such corrective actions to said private storm water management systems as are necessary to maintain properly the storm water management systems within Floyd County; and

WHEREAS, under said Ordinance it is provided that storm water quality best management practices not owned municipally must be maintained by the property owner according to the terms of *Long-Term Operation and Maintenance Agreement* that must be implemented before a *SWQMP* is approved; and

WHEREAS, Floyd County has adopted and approved technical guidelines relating to storm water quality best management practices in Floyd County; and

WHEREAS, the OWNER is the legal title-holder of certain real property, commonly known as \_\_\_\_\_ and more particularly described by instrument recorded in the office of the Recorder of Floyd County, in Deed record/drawer \_\_\_\_\_, Page/instrument no. \_\_\_\_\_, or as instrument # \_\_\_\_\_ (hereinafter called the "Property"); and

WHEREAS, OWNER is proceeding to build on, develop, or redevelop the property; and

WHEREAS, the Stormwater Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan, certified by \_\_\_\_\_, a licensed Professional Engineer, dated the \_\_\_\_\_ day of \_\_\_\_\_, 200\_, is on file in Floyd County; is expressly made a part hereof; and as approved or to be approved by Floyd County, provides for storm water quality management within the confines of the property; and

WHEREAS, Floyd County and the OWNER agree that the health, safety, and general welfare of the residents of Floyd County require that on-site storm water quality best management practices be constructed, operated and maintained on the property; and

WHEREAS, Floyd County requires that onsite storm water facilities in accordance with the Storm water Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan be adequately constructed and installed, operated and maintained by the OWNER; and

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WHEREAS, an approved Storm water Pollution Prevention Plan and Long-Term Operation and Maintenance Plan will adequately illustrate the location type and extent of storm water quality best management practices, minimum inspection procedures and schedule, minimum operation procedures and schedule, and anticipated minimum maintenance activities including when and how to remove accumulated/collected/filtered/amassed/grown excess vegetation, sediment, debris, trash, pollutant and/or forms of pollution from the storm water quality best management practices.

NOW, THEREFORE,

In consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties agree as follows:

1. The onsite storm water quality best management practices shall be constructed by the OWNER in accordance with the SWPPP and Long-Term Operation and Maintenance Plan.
2. The OWNER shall operate and maintain the storm water quality best management practices as directed by the Long-Term Operation and Maintenance Plan in good working order acceptable to Floyd County.
3. The OWNER agrees that inspections will be performed by a *Qualified Professional*.
4. The OWNER agrees that inspections will be documented and include the following information:
  - a. A description of the current operational or functional status of the storm water quality BMPs. For structures that accumulate sediment, trash, debris other pollutant or form of pollution, an indication of used and remaining capacity (fraction, percentage, depth or volume) shall be given to identify when the BMP must be cleaned out.
  - b. Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the storm water system(s).
  - c. The results of any field or laboratory analyses performed.
  - d. Other relevant or unusual observations related to the system(s).
  - e. Action plan to prevent premature storm water system failure as consistent with the Long-Term Operation and Maintenance Agreement(s) provisions.
  - f. Action plan to prevent the premature system failure that exceeds the Long-Term Operation and Maintenance Agreement(s) provisions, but are necessary to prevent storm water pollution from leaving the site.
5. The OWNER hereby grants permission to Floyd County, its authorized agents and employees, the right to enter the property to inspect the storm water quality best management practices whenever it deems necessary. Whenever possible, Floyd County shall notify the OWNER prior to entering the property.
6. In the event the OWNER fails to maintain storm water quality best management practices in accordance with the SWPPP and Long-Term Operation and Maintenance Plan in good working order acceptable to Floyd County, Floyd County may enter the property and take whatever steps it deems necessary to repair or maintain said storm water quality best

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management practices. This provision shall not be construed to allow Floyd County to erect any structure of a permanent nature on the land of the OWNER without first obtaining written approval of the OWNER. It is expressly understood and agreed that Floyd County is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on Floyd County.

7. In the event Floyd County, 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 OWNER shall reimburse Floyd County upon demand, within ninety (90) days of receipt thereof, for all costs incurred by Floyd County hereunder. In the event the OWNER shall fail to reimburse Floyd County within said ninety (90) days, Floyd County may institute such legal measures as are deemed necessary to insure compliance with this agreement and to recover all sums expended hereunder, to include costs' and reasonable attorney fees.
8. It is the intent of this Agreement to guarantee the proper maintenance of onsite storm water quality best management practices by the OWNER; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of the OWNER for damages alleged to have resulted from or been caused by storm water management practices.
9. The OWNER, its executors, administrators, assigns, and any other successors in interest, shall indemnify and hold Floyd County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against Floyd County from the construction, presence, existence, operation or maintenance of the storm water quality best management practices by the OWNER or Floyd County.
10. In the event a claim is asserted against Floyd County, its agents, or employees for the construction, presence, existence, operation or maintenance of the storm water quality best management practices by the OWNER, Floyd County shall notify the OWNER and the OWNER shall defend at its own expense any suit based on such claim. If any judgment or claims against Floyd County, its agents, or employees shall be allowed, the OWNER shall pay all costs and expenses in connection therewith.
11. This Agreement as attached by the SWPPP and Long-Term Operation and Maintenance Plan shall be recorded among the land records of Floyd County, and shall constitute a covenant running with the land, and shall be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.

WITNESS the following signatures and seals:

Floyd County, Indiana

OWNER

By:  
Stormwater Program Superintendent

\_\_\_\_\_ (ACKNOWLEDGMENTS) \_\_\_\_\_

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Prepared By:

**SO RESOLVED** this \_\_\_day of \_\_\_\_\_, 2005.

BOARD OF COMMISSIONERS  
OF THE COUNTY OF FLOYD

MEMBER

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MEMBER

MEMBER

ATTEST:

\_\_\_\_\_  
FLOYD COUNTY AUDITOR