
Permanent Operation and Maintenance (O&M) Agreement

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between _____ hereinafter called the “Landowner”, and the City of Pocatello, hereinafter called the “City”. WITNESSETH, that

WHEREAS, the Landowner is the owner of certain real property whose address is _____, Pocatello, Idaho, and/or whose Parcel Number is _____ as recorded by deed in the land records of Bannock County, Idaho, Instrument Number _____ hereinafter called the “Property”; and

WHEREAS, the Landowner is proceeding to build on and develop the Property; and

WHEREAS, the O&M Manual for this site, commonly known as _____, hereinafter called the “Manual”, includes all approved site grading and drainage plans, O&M plan including inspection frequency and inspection checklists, and provides for retention and/or detention of stormwater within the confines of the property; and

WHEREAS, Pocatello Municipal Code §8.52 requires the Landowner to execute this Permanent Operation and Maintenance Agreement and that such executed Agreement be recorded with the Bannock County Recorder’s Office; and

WHEREAS, the City and the Landowner, its successors and assigns, including any homeowner’s association, agree that the health, safety, and welfare of the residents of Pocatello, Idaho, require that on-site stormwater management/Best Management Practice (BMP) facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that onsite stormwater management/BMP facilities as shown in the Manual be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowner’s association.

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 on-site stormwater management/BMP facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Manual.
2. The Landowner, its successors and assigns, including any homeowner’s association, shall adequately maintain the stormwater management/BMP facilities in accordance with the approved Manual. This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions as described in the approved Manual. Disposal of waste from maintenance of facilities shall be conducted in accordance with applicable Federal, State, and local laws and regulations. Any maintenance performed must be documented and available to the City, upon request, at any time as required in Pocatello Municipal Code §8.52.

3. The Landowner, its successors and assigns, shall inspect the stormwater management/BMP facility annually or as specified in the Manual. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover all drainage facilities including, but not limited to: swales, outlet structures, ponds, access roads, etc. Deficiencies shall be noted in the inspection report. The Inspection Form(s) included in the Manual is to be used to establish what good working condition is acceptable to the City. The Inspection Form(s) must be available to the City, upon request, at any time as required in Pocatello Municipal Code §8.52.
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 stormwater management/BMP facilities whenever the City deems necessary. Reasonable access shall be provided to all drainage facilities. The purpose of inspection is to follow-up on reported deficiencies, determine the general condition of stormwater facilities, 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 repairs, if necessary.
5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management/BMP facilities in good working condition acceptable to the City, the City may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. This provision shall not be construed to allow the City to erect any structure of permanent nature on the Landowner property. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. 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 costs incurred by the City hereunder, including an administrative fee. Costs will be charged on a time and materials basis at rates not exceeding local industry standards.
7. This Agreement imposes no liability of any kind whatsoever on the City, its elected officials, officers, employees, agents, and volunteers and the Landowner agrees to hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any liability.
8. This Agreement shall be recorded among the land records of Bannock County, Idaho, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowner's association.
9. If the drainage system(s) as referenced in this Agreement are removed, modified or replaced by new drainage facilities, this Agreement will become void and be replaced by a new Agreement based upon a new Manual as approved by the City.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

LIMITED LIABILITY CORPORATION (LLC) NOTARY ACKNOWLEDMENT CERTIFICATE

CITY OF POCA TELLO:

LANDOWNER:

(Name of LLC)

By: _____
(Signature)

By: _____
(Signature)

Mark Dahlquist
(Printed Name)

(Printed Name)

Mayor
(Title)

(Title)

ATTEST:

KONNI R. KENDELL, City Clerk

CITY ACKNOWLEDGMENT

STATE OF IDAHO)
 :ss
County of Bannock)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared Mark Dahlquist and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, a municipal corporation of Idaho, who executed the foregoing instrument on behalf of said municipal corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF IDAHO)
 :ss
County of Bannock)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me or proved to me to be the _____, of _____, an Idaho limited liability company, who executed the foregoing instrument on behalf of said limited liability company, and acknowledged to me that said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

CORPORATION NOTARY ACKNOWLEDMENT CERTIFICATE

CITY OF POCATELLO:

LANDOWNER:

(Name of Corporation)

By: _____
(Signature)

By: _____
(Signature)

Mark Dahlquist
(Printed Name)

(Printed Name)

Mayor
(Title)

(Title)

ATTEST:

KONNI R. KENDELL, City Clerk

CITY ACKNOWLEDGMENT

STATE OF IDAHO)
 :SS
County of Bannock)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared Mark Dahlquist and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, a municipal corporation of Idaho, who executed the foregoing instrument on behalf of said municipal corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

CORPORATION ACKNOWLEDGMENT

STATE OF IDAHO)
 :SS
County of Bannock)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me or proved to me to be the _____, of _____, an Idaho corporation, who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

TRUSTEE NOTARY ACKNOWLEDMENT CERTIFICATE

CITY OF POCATELLO:

LANDOWNER:

(Name of Trust)

By: _____
(Signature)

By: _____
(Signature)

Mark Dahlquist
(Printed Name)

(Printed Name)

Mayor
(Title)

Trustee
(Title)

ATTEST:

KONNI R. KENDALL, City Clerk

CITY ACKNOWLEDGMENT

STATE OF IDAHO)
 :SS
County of Bannock)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared Mark Dahlquist and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, a municipal corporation of Idaho, who executed the foregoing instrument on behalf of said municipal corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

TRUSTEE ACKNOWLEDGMENT

STATE OF IDAHO)
 :SS
County of Bannock)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me or proved to me to be the trustee, of _____, who executed the foregoing instrument on behalf of said trust, and acknowledged to me that said trust executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

INDIVIDUAL NOTARY ACKNOWLEDMENT CERTIFICATE

CITY OF POCA TELLO:

LANDOWNER:

By: _____
(Signature)

By: _____
(Signature)

Mark Dahlquist

(Printed Name)

(Printed Name)

Mayor

(Title)

ATTEST:

KONNI R. KENDALL, City Clerk

CITY ACKNOWLEDGMENT

STATE OF IDAHO)
 :ss
County of Bannock)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared Mark Dahlquist and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, a municipal corporation of Idaho, who executed the foregoing instrument on behalf of said municipal corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF IDAHO)
 :ss
County of Bannock)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho
My Commission Expires: _____