**STORMWATER OPERATION AND MAINTENANCE AGREEMENT**

This Stormwater Operation and Maintenance Agreement (the “Agreement”) is executed this \_\_\_\_\_ day of \_\_\_\_, 20\_\_ between the Village of Pinckney, a Michigan Village, whose address is 220 S. Howell, Pinckney, Michigan 48169 (the “Village”) and Business Name, LLC, whose address is 12 Name of Street Drive, City, Michigan Zip Code (the “Owner”).

**RECITALS**

1. The Owner is the owner of the real property located in the Village the street address of which is Street and Road, which is legally described on attached Exhibit A and incorporated by reference herein (the “Property”) (Parcel ID No. 4714-xx-xxx-xxx). The property comprises approximately 0.00 acres of land. Currently located on the Property are Name of Office.
2. The Property is zoned XXX (Whatever it is District). The Owner has sought approval from the Village to improve property by construction of a building (the “Project”).
3. The Village has reviewed the proposed Site Plans and during the Village of Pinckney’s consideration of the Project, areas of concern were identified including the potential for stormwater drainage and stormwater detention.
4. The Village’s Zoning Ordinance requires that an owner seeking Village Final Site Plan approval must provide the Village with an Operation and Maintenance Agreement ensuring the reasonable long-term maintenance of drainage facilities constructed in accordance with a development project.
5. The Village’s Engineer has indicated that the stormwater drainage facilities and systems, as detailed in the plans prepared by Who Engineering and dated Month Day, 2021, are adequate, provided that the Owner executes an agreement for the ongoing maintenance of the referenced stormwater drainage facilities as described and detailed in the plans prepared by Who Engineering and dated Month Day, 2021.
6. Following its hearing and review, the Planning Commission approved the Final Site Plans with conditions for the Project on Month Day, 2021.

The Owner acknowledges and agrees that the Village relied upon the Owner’s representations and pledges made during the site planning process in determining to approve the Final Site Plans dated Month Day, 2021 (the “Site Plan”). To memorialize their understanding, the parties have determined to execute this Agreement.

**AGREEMENT**

Business Name, LLC, as “Owner(s)” of the property described below, in accordance with Village of Pinckney Ordinance Chapter 53 and Technical Standards Section 01 20 02, agrees to install and maintain stormwater management practice(s) on the subject property in accordance with approved plans and conditions. The Owner further agrees to the terms stated in this document to ensure that the stormwater management practice(s) continues serving the intended function in perpetuity.

**Section 1. Compliance with Laws, Ordinances and Permits.** Owner agrees to construct the Project on the real property described in Exhibit A, in accordance with the approvals received from the Village and other governmental entities with applicable jurisdiction. In constructing the Project, the Owner agrees to comply with all state and local laws, ordinances and regulations as well as the terms of this Agreement. All landscaping, planting or other items on the site shall be placed and continually maintained so as not to interfere, impede or obstruct the flow of water and/or the purpose of said system.

**Section 2. Requirements upon Completion of Construction.** Upon completion of construction and the stormwater management practices have been verified and accepted by the Village, an addendum(s) to this Agreement shall be recorded by the Owner. The addendum shall show design and construction details. The Owner shall also provide copies of the recorded addendum to the Village. The addendum may contain additional exhibits as necessary. The addendum, including all exhibits, shall be subject to the same terms and conditions as this agreement as though it were fully set forth herein.

**Section 3. Stormwater Operation and Maintenance.** Location map showing an accurate location of each stormwater management practice subject to this Agreement is attached as Exhibit B. The stormwater easement is attached as Exhibit B-1. The Long-term Maintenance Plan is attached as Exhibit C. The activities set forth in Exhibit C must be completed in order to maintain compliance with this Agreement.

A. The Owner, at its expense, shall secure from any affected owners of land all easements and releases of rights-of-way necessary for utilization of the stormwater practices identified in Exhibit B and shall record them with the Livingston County Register of Deeds. These easements and releases of rights-of-way shall not be altered, amended, vacated, released or abandoned without the prior written approval of the Village.

B. The Owner shall be solely responsible for the installation, maintenance and repair of the stormwater management practices, drainage easements and associated landscaping identified in Exhibit B in accordance with the Maintenance Plan attached as Exhibit C.

C. The parties acknowledge that the Owner is responsible for the maintenance of the facility and will ensure that site maintenance will minimize the use of fertilizers that contain phosphorous and eliminate the use of any coal tar sealants.

D. No alterations or changes to the stormwater management practice(s) identified in Exhibit B shall be permitted unless they are deemed to comply with this Agreement and are approved in writing by the Village.

E. The Owner shall retain the services of a qualified inspector, as described in Exhibit C Maintenance Requirement 1), to operate and ensure the maintenance of the stormwater management practice(s) identified in Exhibit B in accordance with the Maintenance Plan set forth in Exhibit C.

F. The Owner shall annually, by December 30th, provide to the Village records including, but not limited to, logs, invoices, reports, and other data of inspections, maintenance, and repair of the stormwater management practices and drainage easements identified in Exhibit B and in accordance with the Maintenance Plan attached as Exhibit C. Inspections are required at a minimum after each major rain event. The Village or its designee is authorized to access the property as necessary to conduct inspections of the stormwater management practices or drainage easements to ascertain compliance with the intent of this Agreement and the activities prescribed in Exhibit C. Upon written notification by the Village or their designee of required maintenance or repairs, the Owner(s) shall complete the specified maintenance or repairs within a reasonable time frame determined by the Village. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs.

**Section 4. Violation of the Agreement.** If the Owner does not keep the stormwater management practice(s) in reasonable order and condition, or complete maintenance activities in accordance with the Plan contained in Exhibit C, or the reporting required in subsection F above, or the required maintenance or repairs under E above within the specified time frames, the Village is authorized, but not required, to perform the specified inspections, maintenance or repairs in order to preserve the intended functions of the practice(s) and prevent the practice(s) from becoming a threat to public health, safety, general welfare or the environment.

A. The Village will give the Owner 30 days’ written notice before performing work.

B. In the case of an emergency, as determined by the Village, no notice shall be required prior to the Village performing emergency maintenance or repairs.

C. The Village may levy the costs and expenses of such inspections, maintenance or repairs plus a ten percent (10%) administrative fee against the Owner(s).

D. The Village at the time of entering upon said stormwater management practice for the purpose of maintenance or repair may file a notice of lien in the office of the Register of Deeds of the County upon the property affected by the lien. If said costs and expenses are not paid by the Owner(s), the Village may pursue the collection of same through appropriate court actions and in such a case, the Owner(s) shall pay in addition to said costs and expenses all costs of litigation, including attorney fees.

**Section 5. Easement.** The Owner has conveyed to the Village an easement over, on and in the property described in Exhibit B-1 for the purpose of access to the stormwater management practice(s) for the inspection, maintenance and repair thereof, should the Owner(s) fail to properly inspect, maintain and repair the practice(s). This easement is memorialized in an Easement Agreement which will be recorded in the Livingston County Register of Deeds.

**Section 6. Recording.** The Owner agrees that this Agreement shall be recorded and that the land described in Exhibit A shall be subject to the covenants and obligations contained herein, and this agreement shall run with the land and bind all current and future owners of the property. The Owner is responsible for all costs associated with the recording of this Agreement.

**Section 7. Owner Obligations upon Transfer of Property.** The Owner agrees in the event that the Property is sold, transferred, or leased to provide information to the new owner, operator, or lessee regarding proper inspection, maintenance and repair of the stormwater management practice(s). The information shall accompany the first deed transfer and include Exhibits B and C and this Agreement. The transfer of this information shall also be required with any subsequent sale, transfer or lease of the Property.

**Section 8. Effective date of Agreement.** The Owner agree that the rights, obligations and responsibilities hereunder shall commence upon execution of the Agreement.

**Section 9. Miscellaneous.**

A. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the enforceability or validity of the remaining provisions and this Agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.

B. Notices. All notices permitted or required to be given shall be in writing and sent either by mail or personal delivery to the address provided in this Agreement.

C. Waiver. No failures or delay on the part of any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any partial exercise of any right, power or privilege under this Agreement preclude further exercise thereof or the exercise of any other right, power, or privilege. The rights, powers and privileges provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

D. Governing Law. This Agreement is being executed and delivered and is intended to be performed in the State of Michigan and shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws thereof.

E. Amendment. This Agreement may only be amended in writing, signed by all parties.

The parties whose signatures appear below hereby represent and warrant that they have the authority and capacity to sign this agreement and bind the respective parties hereto.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals on the day and year first above written.

**THE VILLAGE OF PINCKNEY**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Rebecca Foster, President

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jill Chapman, Clerk

**OWNER**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* , Owner

STATE OF MICHIGAN )

) ss.

COUNTY OF LIVINGSTON )

On this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2020, before me appeared Rebecca Foster, President of the Village of Pinckney, and Jill Chapman, Clerk of the Village of Pinckney, to me known to be the persons described in and who executed the foregoing document and acknowledged the same to be true and accurate.

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

\* , Notary Public

Livingston County, Michigan

Acting in the County of Livingston

My Commission Expires:

\*Please print name

STATE OF MICHIGAN )

) ss.

COUNTY OF LIVINGSTON )

On this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2020, before me appeared \*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to me known to be the person described in and who executed the foregoing document and acknowledged the same to be true and accurate.

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

\* , Notary Public

Livingston County, Michigan

Acting in the County of Livingston

My Commission Expires:

\*Please print name

When recorded return to:

The Village of Pinckney

220 South Howell Street

Pinckney, Michigan 48169

PREPARED BY:

Sarah K. Osburn, Esq.

COHL, STOKER & TOSKEY, P.C.

601 North Capitol Avenue

Lansing, Michigan 48933

**EXHIBIT A – Legal Description**

The following description and reduced copy map identifies the land parcel(s) affected by this Agreement.

Project Identifier: Name of Project Acres: 0.00

Date of Recording: TBD

Map Produced by: Who Engineering, Street Address, City, MI ZIP code

Legal Description:

Bearings were established from a survey by Who Engineering, Job No xx-xxx, dated 00-00-21

Parcel Survey

**EXHIBIT B – Location Map**

Stormwater Management Practices Covered by this Agreement

The stormwater management practices covered by this agreement are depicted in the reduced copy of a portion of the site plans, as shown below. The practices include one TYPE OF system, a TYPE OF SYSTEM, and all associated pipes, spillways, and other components of these practices. All of the noted stormwater management practices are located within a drainage easement as shown in Exhibit B-1.

Project Identifier: Name of project

Stormwater Practices: TYPE OF System (1), TYPE OF System (1)

Location of practices: Bounded and Described as follows: See Exhibit B-1

Picture of site plan identifying all stormwater practices

**EXHIBIT B-1 – Storm Water System Maintenance Easement**

Picture of Storm Water System Maintenance Easement

**EXHIBIT B-1 (CONT’D)**

(optional, if everything fits on one page)

Second page of Storm Water System Maintenance Easement

Spelling out legal description of entire property and legal description of easement.

**EXHIBIT C – Storm Water Practice Maintenance Plan**

This exhibit explains the basic function of each of the stormwater practices listed in Exhibit B and provides the minimum specific maintenance activities and frequencies for each practice. The maintenance activities listed below are aimed to ensure these practices continue serving their intended functions in perpetuity. The list of activities is not all inclusive, but rather indicates the minimum maintenance that is expected to be performed for these practices. Vehicle access to the stormwater practices is shown in Exhibit B. Any failure of a stormwater practice that is caused by lack of maintenance will subject the Owner(s) to enforcement of the provisions listed in the Agreement by the Village.

*System Description*

PROVIDE DESCRIPTION OF ALL PRACTICES IN SYSTEM.

The locations, dimensions, elevations and details of the structures are provided in the following Figures. [*As-builts to be attached following construction*]

*Maintenance Requirements*

The following activities will be completed to ensure the proper function of the stormwater practices described above:

1. All personnel providing inspection and maintenance services shall be a registered Civil Engineer, Certified Professional in Storm Water Quality (CPSWQ), NICET Certified Engineering Technologist in Stormwater and Wastewater System Inspection, or an MDEQ Certified NPDES (construction site) Stormwater Operator.
2. An inspection and maintenance schedule is attached in Exhibit C-1 and a log will be kept of all inspections, maintenance activities, and repairs. The log will provide the date of the activity, the name of the person providing the service and a description of the activity.
3. The system will be inspected after each major rain event ( >1.5 inches over 24 hours) for general condition.
4. All outlet pipes, the trash rack on the outlet riser and the stone in front of the restricted orifice (forebay) will be inspected at least annually to ensure there is no blockage from floating debris or ice and that the water level is as designed. Any blockage will be removed immediately or as necessary and irregularities in water level corrected. The washed stone around riser structures will be inspected annually and cleaned and replaced as necessary.
5. The vegetation in and around the forebay, in the swales will be inspected annually to assess growth, survival and percent cover. Plants will be replaced, and areas will be seeded as appropriate.
6. No grading or filling will be done that will interrupt flows.
7. Grass, swales, inlets and outlets will be checked after heavy rains and periodically for signs of erosion. Eroding areas will be repaired immediately to prevent premature sediment build-up in the forebays or main basin. Appropriate erosion control blankets will be utilized in repairing grassed areas.
8. No trees or woody plants will be planted or allowed to grow on the sides of the forebay or the 12-ft wide access path. The slopes and path will be inspected annually and any woody plants will be removed.
9. If floating algae or weed growth becomes a nuisance (decay, odors, etc.), it will be removed from the forebay and placed in an appropriate upland site away from drainage areas.
10. The forebay will be inspected annually for sediment accumulation. Sediment in the forebay will be removed when it has accumulated to a level of 3 feet below the outlet elevation or when 60 percent of the volume has been filled (typically every 5 to 10 years). All excavated sediment will be placed in an appropriate upland site and stabilized to avoid erosion. See attached Exhibit C-2 for underground system isolator maintenance.

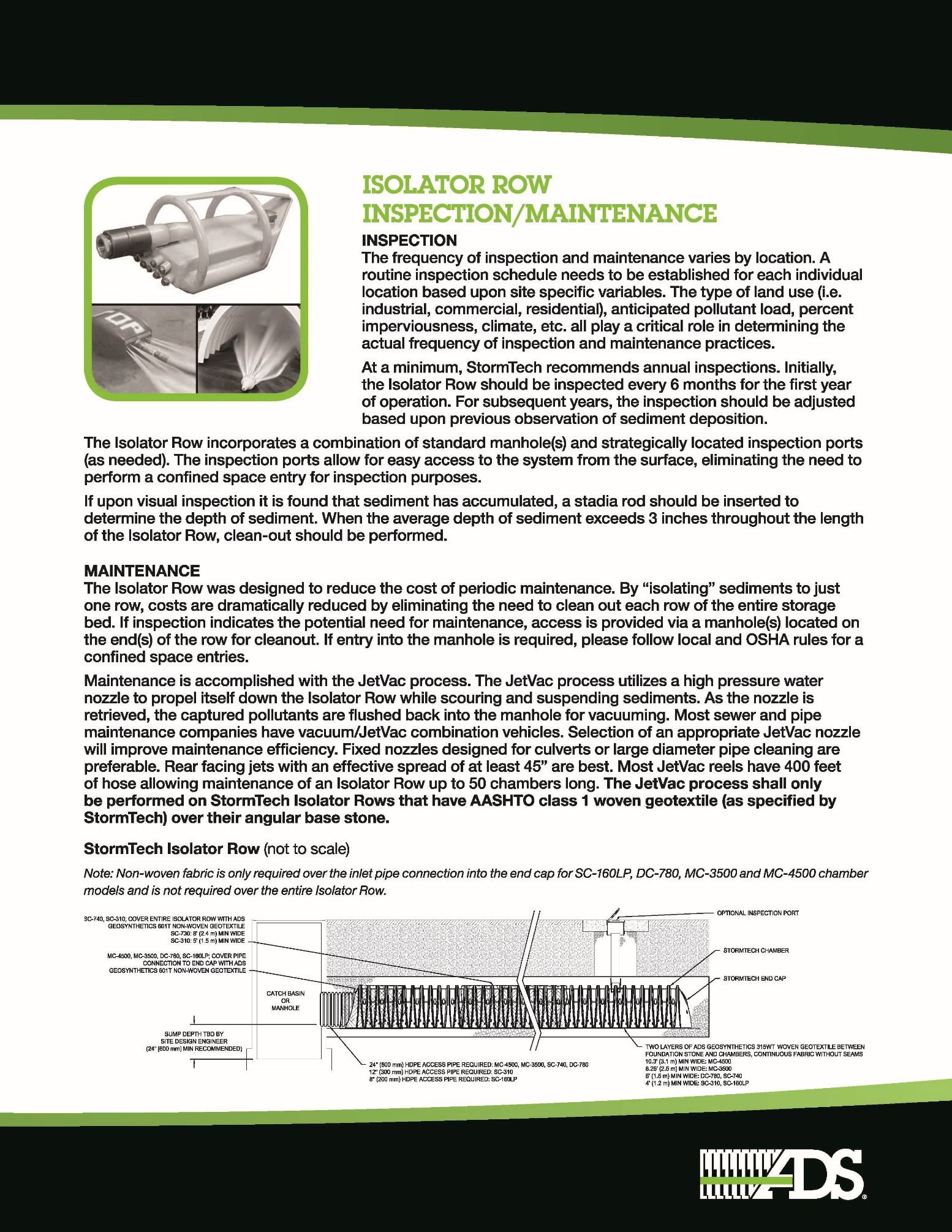
No grading or filling of the forebay will be done except during sediment removal.

**EXHIBIT C-1 – Storm Water Maintenance Schedule**

**EXHIBIT C-2 – Underground Detention System Isolator Row Maintenance**

The Isolator Row is designed to capture the ‘first flush’ during a stormwater event and to act to filter / allow sediment to settle prior to entering the main stormwater detention chambers. An upstream manhole provides access to the Isolator Row and includes the high-flow weir such that the storm water flow volumes that exceed the capacity of the Isolator Row overtop the weir and discharge through a manifold to the other chambers.

Below are manufacturers recommendations for inspection / maintenance of the Isolator Row. StormTech a division of ADS – Advanced Drainage System, Inc. 4640 Trueman Blvd., Hilliard, OH 43026; 1-800-821-6710 [www.ads-pipe.com](http://www.ads-pipe.com).



**EXHIBIT C-2 (CONT’D)**

