

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) AGREEMENT

between

The City of Valparaiso, Porter County, Indiana

and

The Lutheran University Association

(Valparaiso University)

This AGREEMENT, made and entered into as of the 12 day of February, 2004, by and between the City of Valparaiso, acting by and through its Board of Public Works and Safety, and hereafter called CITY, and The Lutheran University Association, hereinafter referred to as UNIVERSITY. (The term UNIVERSITY includes all faculty, staff and other employees of the University)

WITNESSETH THAT:

Whereas, the Indiana Department of Environmental Management, hereinafter referred to as "IDEM", has designated both the CITY and the UNIVERSITY as MS4 Entities under the provisions of 327 IAC 15-13 (Rule 13), and

Whereas, the UNIVERSITY is an entity substantially located within the corporate limits of the CITY, and

Whereas, IDEM encourages regulated communities and entities to coordinate their MS4 activities, and

Whereas, the CITY and the UNIVERSITY recognize that efforts towards improving water quality will be facilitated if said parties coordinate their MS4 activities, and

Whereas, the coordination of said MS4 activities will be cost effective to both parties and thus to the public, and

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The lands contained within the corporate limits of the CITY, including those lands within the City's corporate limits and owned by the UNIVERSITY are hereby included and designated as the "Valparaiso Joint MS4 Area", and hereinafter known as the "MS4 AREA".
2. CITY will be the responsible entity for the application, development, implementation and permit compliance for the MS4 program within said MS4 AREA and will designate the MS4 "Operator", the "Responsible Individual", the "Qualified Professional" and the "Primary Contact Person".
3. UNIVERSITY will designate an MS4 campus coordinator, hereinafter called "Coordinator", to assist the CITY with the responsibilities of being the permitted entity. Coordinator, together with the CITY Operator, will establish written protocol for the effective development, implementation, enforcement and reporting of the MS4 activities within the UNIVERSITY area depicted on the plat attached hereto and hereinafter referred to as the UNIVERSITY MS4 AREA. The UNIVERSITY MS4 AREA shall not include any land used for residential purposes other than student dormitories.
4. UNIVERSITY will designate one individual to actively serve on the CITY's Storm Water Advisory Committee (SWAC) and assist in the review and development of the City's Storm Water Quality Management Plan (SWQMP). It is expected that said individual will attend and conscientiously contribute to the relevant discussions and decisions of the SWAC. If a situation arises where such individual will not or cannot so attend and contribute, UNIVERSITY shall, in a timely manner, appoint another individual to replace the prior appointee.
5. UNIVERSITY will designate one individual as their "responsible individual" hereinafter known as UNIVERSITY RESPONSIBLE INDIVIDUAL to execute the Notice of Intent, this AGREEMENT and other documents pertaining to MS4 activities on behalf of the UNIVERSITY. Said individual shall have appropriate authority to execute said documents on behalf of the UNIVERSITY. Said UNIVERSITY RESPONSIBLE INDIVIDUAL shall be the Vice President, Administration and Finance.
6. UNIVERSITY will, in a timely manner, furnish the CITY with all pertinent plans, maps, sketches and diagrams of the UNIVERSITY's surface water drainage plans showing buildings, utilities and special drainage features including, but not limited to catch basins, inlets, sewers, ditches, swales and field

tiles. Said maps, plans, etc. shall include, where available, the topography of the sites so that the routes of any overland flows may be determined.

7. UNIVERSITY will, in a timely manner, furnish the CITY with all known locations of illicit connections or discharges, and/or any illegal dumping activities within the UNIVERSITY MS4 AREA, and will notify the CITY of any such locations that may be discovered at any time during the term of this AGREEMENT. The UNIVERSITY will work with the CITY to establish an acceptable protocol to eliminate such illicit discharges and/or dumping.
8. UNIVERSITY will, to the maximum practical extent possible, incorporate Best Management Practices (BMPs) in any new construction or reconstruction occurring within the UNIVERSITY MS4 AREA and will develop a program to retrofit existing developed facilities with said BMPs where appropriate and as finances allow. The BMPs shall be those identified in the CITY's MS4 program and established by ordinance as acceptable measures for use within the MS4 AREA.
9. UNIVERSITY will operate, maintain, and repair all BMPs existing and installed or constructed in the UNIVERSITY MS4 AREA.
10. UNIVERSITY will develop, implement and enforce the activities, operations and procedures necessary to comply with the (SWQMP) once developed by the CITY.
11. CITY and UNIVERSITY agree to participate in the "Public Education and Outreach" and the "Public Involvement and Participation" minimum control measures (MCMs) being developed by the Northwestern Indiana Regional Planning Commission (NIRPC) for the three county region covered by the Metropolitan Planning Organization. Said MCMs may be supplemented from time to time with activities specifically planned by and for either the CITY and/or the UNIVERSITY. Any costs associated with said participation shall be prorated between the parties according to the areas of the respective entities' lands.
12. CITY and UNIVERSITY agree to individually pay the costs of any future fees, permit charges or other costs levied or assessed by IDEM, their successor or assigns, as a part of the parties' involvement under the MS4 program. Unless specifically designated to CITY or UNIVERSITY, said costs shall be prorated according to the areas of the respective entities' lands.
13. In return for the CITY being the responsible party with respect to the MS4 program and agreeing to include UNIVERSITY under its permit, University agrees to conduct monitoring of the receiving waters in the MS4 AREA as defined under the program. Said monitoring shall be conducted once in the 6 month period immediately following the submission of the Notice of Intent (NOI) by the CITY, and thereafter at least once annually on each receiving water body at locations to be mutually determined by CITY and UNIVERSITY. The intent of the monitoring is to establish the baseline character of the water quality in each receiving water body and thereafter check for the maintenance or improvement of said quality. The results of each monitoring activity shall be submitted in report form to the CITY's Operator within 30 days of the actual monitoring. Said monitoring shall be conducted at one location each on Salt Creek, Beauty Creek and Saeger's Run by an undergraduate biology lab class during their field trip under the supervision of their UNIVERSITY instructor. The UNIVERSITY shall not be required to furnish any certified, registered or otherwise licensed professional person in connection with performing such monitoring. All reports generated by said personnel will include a disclaimer which shall read as follows: *"The above report was generated by students of Valparaiso University as a result of a field trip for the exclusive use of the UNIVERSITY, CITY and IDEM and should not be relied upon by any other person or entity for any purpose whatsoever"*.
14. CITY will make all components of the MS4 program available to the UNIVERSITY for review, discussion and comment.
15. CITY and UNIVERSITY may mutually agree to amend this agreement at any time during its term.
16. The term of this AGREEMENT shall run concurrently with the National Pollutant Discharge Elimination System (NPDES) permit associated with the activities described herein. CITY and UNIVERSITY agree to evaluate the terms of this AGREEMENT at least one hundred eighty (180) days prior to its expiration. At that time the parties may agree to amend, extend or terminate the AGREEMENT at the time of the expiration of the current permit.
17. Should either the CITY or the UNIVERSITY fail in its obligations provided herein and after notice refuse to correct said failure, either party may terminate the AGREEMENT upon sixty (60) days

written notice to both the other party and to IDEM. Said notice shall be made by certified mail served to the officer(s) who executed this AGREEMENT or the current office holder. The designated Offices/Office holders are:

For the CITY: Jon Costas, Mayor
City of Valparaiso
166 Lincolnway
Valparaiso, IN 46383

For the UNIVERSITY: Charlie Gillispie, Vice Pres. Admin and Finance
Kretzman Hall
Valparaiso University
Valparaiso, IN 46383

Each entity is responsible to advise the other of any change in such service designee.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT in two (2) identical originals.

LUTHERAN UNIVERSITY ASSOCIATION: BY: Charlie E. Gillispie
Charlie Gillispie, Vice President

STATE OF INDIANA)
)SS:
COUNTY OF PORTER)

Before me, the undersigned Notary Public, this 12th day of February, 2004, appeared Mr. Charlie Gillispie, Vice President for Finance and Administration, Valparaiso University, who acknowledged the execution of the above and foregoing Agreement.

WITNESS, my hand and seal: Barbara Neff Caban
Signature Notary Public

Barbara Neff Caban
Name Printed

I am a resident of Porter County.

My commission expires 10/18/2010

CITY OF VALPARAISO:

Attest: Sharon Swihart
Sharon Swihart, Clerk Treasurer

BY: Jon Costas, Mayor
Jon Costas, Mayor
John A. Hardwick, Member
John A. Hardwick, Member
David L. Pilz, Member
David L. Pilz, Member