

STORM WATER FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____, by and between the **Charter Township of Canton**, a municipal corporation, with principal offices located at 1150 South Canton Center Road, Canton, Michigan 48188 ("Township") and

_____ a _____
_____, with principal offices located
_____ ("Proprietor").

RECITATIONS:

Proprietor is developing certain property located in Canton Township, Wayne County, Michigan as _____ ("Development") as more particularly described in Exhibit "A" attached hereto.

As part of the Development, Proprietor is required construct a storm drainage system to provide adequate drainage of storm water for the proposed Development, which storm drainage system shall encompass or impact storm runoff from road rights-of-way in the Development. The storm water drainage system is depicted on the map attached hereto as Exhibit "A".

The Township and/or Wayne County Department of Public Services has issued a permit ("Permit") to Proprietor authorizing the construction, operation and maintenance of the storm drainage system, which is located within the Wayne County Department of Public Services and/or the Michigan State Highway Department's right-of-way and/or drain, on or adjacent to the Development as described in the Permit attached as Exhibit "C" attached hereto and incorporated herein by reference, so long as the Township assumes jurisdiction for the operation and maintenance of the storm drainage system referred to in the Permit.

The Permit issued by the Township and/or Wayne County Department of Public Services will benefit the Proprietor and the proposed Development.

The Township desires to transfer, and Proprietor agrees to assume, certain responsibilities of the Township required under the Permit, and Proprietor hereby confirms its agreement to the terms and conditions of such transfer of responsibility to it under this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and benefits to be derived hereunder, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Township and the Proprietor agree as follows:

1. The Proprietor shall construct the storm water drainage system as part of the Development in accordance with the plans approved by the Township.

2. The Proprietor agrees that it will maintain in good working condition, and to perpetually preserve and repair at its own expense, the storm drainage system which is located within the Wayne County Office of Public Services and/or the Michigan State Highway Department's right-of-way and or drain, and on or adjacent to the Development described in the Permit as Exhibit "C" attached hereto and incorporated herein by reference.

3. The Township shall have the right to enter the property comprising the Development for the purpose of inspecting the storm water drainage system for compliance to the Permit, and to ensure the system stays in good working order.

4. If Proprietor fails to preserve and/or maintain the storm water drainage system in reasonable order and condition, the Township may serve written notice upon Proprietor setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable period, and time, date, and place for a hearing before the Township for the purpose of allowing them an opportunity to be heard as to why the Township should not proceed with the correction of the deficiency or obligation, which has not been undertaken or properly fulfilled. At any such time for hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure correction within the time specified in the notice, as determined by the Township in its reasonable discretion, the Township thereupon shall have the power and authority, but not the obligation, to enter upon the property or cause its agents or contractors to enter the Development and perform such obligation or take such corrective measures as reasonably found by the Township to be appropriate or necessary with respect to the storm water drainage system. The cost of making and financing such improvements by the Township, including notices by the Township and reasonable legal fees incurred by the Township, plus an administrative fee of 10% of the total of all such costs and expenses incurred, shall be paid by Proprietor within thirty (30) days of billing to it. All unpaid amount may be placed on the delinquent tax roll of the Township as to the Development, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the Township, such costs and expenses may be collected by suit initiated against Proprietor, and in such event, it shall pay all court costs and reasonable attorneys fees incurred by the Township in connection with such suit.

5. In the event that Township determines that the condition of the storm water drainage system has deteriorated to the point that, or the deficiency in the operation and/or maintenance by the Proprietor is such that there is a danger to the public health, safety and welfare or the high potential exists for damage to any road improvements, the Township's obligation to provide written notice to

the Proprietor shall be deemed waived, and the Township or its authorized agent may enter the Development to immediately begin emergency maintenance and/or repair work.

A. If it is found necessary to adjust or relocate all or any portion of the storm water drainage system within the road right-of-way, the Township shall, upon advance notice to Proprietor, cause such adjustment or relocation to occur. Prior to any work being performed in the road right-of-way, a permit shall be secured from the Wayne County Office of Public Services. The cost for all such work shall be billed to Proprietor under the same procedure set forth in ¶4, above.

6. Notwithstanding the Proprietor's assumption of the liabilities of ¶2 above, the Township shall retain jurisdiction over the storm drainage system and its rights and remedies under the Permit or any applicable statute, ordinance, rule or regulation are hereby preserved. Without limiting of the foregoing, Proprietor, its successors and assigns, at its sole cost and expense shall perform maintenance of the storm water facilities described in Canton Township's Storm Water Management and Long Term Maintenance Plan as Exhibit "B" attached hereto and incorporated herein by reference.

7. The Proprietor, its agents, representatives, heirs, successors and assigns shall defend, indemnify and hold the township harmless from and against any claims, demands, actions, damages, injuries, costs or expenses of any nature whatsoever, hereinafter "Claims", fixed or contingent, known or unknown, arising out of or in any way connected with the design, construction, use, maintenance, repair or operation (or omissions in such regard) of the storm drainage system referred to in the permit as Exhibit "C" hereto, appurtenances, connections and attachments thereto which are the subject of this Agreement. This indemnity and hold harmless shall include any costs, expenses and attorney fees incurred by the Township in connection with such Claims or the enforcement of this Agreement.

8. In accordance with 1976 PA 453, the parties hereto covenant: (1) not to discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, sex, age, height, weight or marital status.

9. This Agreement shall be recorded at Proprietor's expense with the Wayne County Register of Deeds.

10. The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees; and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in this Agreement. This Agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns, and transferees.

11. This Agreement shall be interpreted in accordance with the laws of the State of Michigan.

12. Invalidation of any of the provisions of this Agreement by Judgment or Court order shall in no way effect the validity of any other provision(s), which shall remain in full force and effect.

IN WITNESS WHEREOF, the Proprietor and Township have executed this Agreement on the day and year first above written.

WITNESSES:

_____ a Michigan co-partnership/corporation
By: _____
Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 20____,
by _____, the _____ of
_____.

Notary Public
_____ County, Michigan
Acting in County of _____
My Commission Expires On: _____

WITNESESS:

CHARTER TOWNSHIP OF CANTON.
a municipal Michigan corporation

By: _____

Pat Williams

Its: _____

STATE OF MICHIGAN)

+

) ss

COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me on this ___ day of _____, 20___, by
_____, the _____ of _____.

Notary Public

_____ County, Michigan

Acting in Wayne County

My Commission Expires On: _____

INSTRUMENT DRAFTED BY:
Kristin Bricker Kolb (P59496)
Charter Township of Canton
1150 South Canton Center Road
Canton, Michigan 48188

WHEN RECORDED RETURN TO:
Charter Township of Canton
1150 South Canton Center Road
Canton, Michigan 48188
Attn: Engineering Department

EXHIBIT A

INSTRUCTIONS FOR COMPLETION OF
STORM WATER FACILITIES MAINTENANCE AGREEMENT

Page 1, Paragraph 1: Fill in date, owner of record (indicate whether a Michigan corporation, co-partnership, etc.), owner's address.

Page 1, RECITALS, Item 1: Name of project

Page 3, Signature Area: (Name of Owner)
a Michigan co-partnership/corporation (Type of business org)

WITNESSES:

Signature of Witness By: Signature of Company Official/Owner
Print Name of Witness under
signature Its: Print Official Title

Signature of 2nd Witness
Print Name of Witness under signature

Have signatures notarized in notary area under the signature block.

EXHIBIT A Provide legal description of the property.

EXHIBIT B Attach long-term maintenance plan for the proposed storm sewer facilities (your engineer will create this based on Canton Township standards)

EXHIBIT C The township will attach Exhibit C, which is a copy of the storm water maintenance permit issued by either Canton Township or Wayne County.