

MAINTENANCE AGREEMENT

FOR: _____

THIS AGREEMENT is made and entered into effective the ____ day of _____, _____, by and between the Montcalm County Drain Commission at 211 W Main Street, Stanton MI 48888, hereinafter referred to as "the Drain Commission" and _____, of _____, its assigns and successors in interest, hereinafter referred to as "the Owner."

_____ as "Owner(s)" of the property described below, in accordance with Montcalm County "Site Development Rules," agrees to install and maintain storm water 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 storm water management practice(s) continues serving the intended function in perpetuity. This Agreement includes the following exhibits:

Exhibit A: Legal description of the real estate for which this Agreement applies ("Property").

Exhibit B: Location map(s) showing a location of the Property and an accurate location of each stormwater management practice affected by this Agreement.

Exhibit C: Long-term Maintenance Plan that prescribes those activities that must be carried out to maintain compliance with this Agreement.

Note: After construction has been verified and the storm water management practices have been accepted by the Drain Commission, an addendum(s) to this agreement may be required to be recorded by the Owner showing design and construction details. Copies of the recorded document shall be provided to the Drain Commission. The addendum may contain several additional exhibits.

Through this Agreement, the Owner(s) hereby subjects the Property to the following covenants, conditions, and restrictions:

1. The Owner(s), at its expense, shall secure from any affected owners of land all easements and releases of rights-of-way necessary for utilization of the storm water practices identified in Exhibit B and shall record them with the Montcalm County Register of Deeds. These easements and releases of rights-of-way shall not be altered, amended, vacated, released or abandoned without prior written approval of the Drain Commission.
2. The Owner(s) shall be solely responsible for the installation, maintenance and repair of the storm water management practices, drainage easements and associated landscaping identified in Exhibit B in accordance with the Maintenance Plan (Exhibit C).
3. The Owner(s), its successors and assigns, hereby grant permission to the Drain Commission, its authorized agents and employees, to enter upon the property and to inspect the storm water BMP facilities whenever the Drain Commission deems necessary. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facility including storm water reuse facilities, pervious pavement and vegetated roofs. When deficiencies

are noted, the Drain Commission shall notify the Owner, its successors and assigns, and provide information from the inspection, its findings, and its evaluations and conclusions.

4. No alterations or changes to the storm water 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 Drain Commission.
5. The Owner(s) shall retain the services of a qualified inspector (as described in Exhibit C – Maintenance Requirement 1) to operate and ensure the maintenance of the storm water management practice(s) identified in Exhibit B in accordance with the Maintenance Plan (Exhibit C).
6. The Owner(s) shall annually, by December 30th, provide to the Drain Commission records (logs, invoices, reports, data, etc.) of inspections, maintenance, and repair of the storm water management practices and drainage easements identified in Exhibit B in accordance with the Maintenance Plan. Inspections are required at least after every major rain event.
7. The Drain Commission or its designee is authorized to access the property as necessary to conduct inspections of the storm water 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 Drain Commission 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 Drain Commission. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs so that the public health, safety and welfare shall not be endangered nor the road improvement damaged.
8. If the Owner(s) does not keep the storm water 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 3 above, or the required maintenance or repairs under 4 above within the specified time frames, the Drain Commission 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. In the case of an emergency, as determined by the Drain Commission no notice shall be required prior to the Drain Commission performing emergency maintenance or repairs. The Drain Commission may levy the costs and expenses of such inspections, maintenance or repairs plus a ten percent (10%) administrative fee against the Owner(s). The Drain Commission at the time of entering upon said storm water management practice for the purpose of maintenance or repair may file a notice of lien in the office of the Register of Deeds upon the property affected by the lien. If said costs and expenses are not paid by the Owner(s), the Drain Commission 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.
9. The Owner(s) hereby conveys to the Drain Commission an easement over, on and in the property described in Exhibit A for the purpose of access to the storm water management practice(s) for the inspection, maintenance and repair thereof, should the Owner(s) fail to properly inspect, maintain and repair the practice(s).
10. The Owner(s) 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 bind all current and future owners of the property.
11. The Owner(s) 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 storm water 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.

12. The Owner(s) agree that the rights, obligations and responsibilities hereunder shall commence upon execution of the Agreement.
13. 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.
14. The Proprietor, its agents, representatives, successors and assigns shall defend, indemnify and hold the Drain Commission 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 Drain Commission in connection with such Claims or the enforcement of this Agreement.

Owner's Signature

Signature

Print Name

Print Name

Title

Montcalm County Drain Commissioner
Title

STATE OF: _____
COUNTY OF: _____

STATE OF: Michigan
COUNTY OF: Montcalm

On this ____ day of _____, 20____
before me personally appeared

On this ____ day of _____, 20____
before me personally appeared

_____,
and _____ title of
_____.

_____,
and _____ title of
Montcalm County Drain Commissioner.

Signature Date

Signature Date

Print Name

Print Name

I Hereby state I am a Notary in the County
of _____, and my commission
on _____.

I Hereby state I am a Notary in the County
of _____, and my commission expires
on _____.

DRAFTED BY:
NAME: _____
ADDRESS: _____
