

## **STORM WATER MANAGEMENT MAINTENANCE AGREEMENT**

This Storm Water Management Maintenance Agreement is made as of \_\_\_\_\_, 20\_\_, between the City of Mount Pleasant, a Michigan municipal corporation, the principal business address of which is whose address is 320 West Broadway, Mt. Pleasant, MI 48858, (the "City") and \_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_ (the "Landowner/Developer").

### **RECITALS**

- A. Landowner/Developer is the owner of certain real property as legally described in the attached **Exhibit A** (the "Property").
- B. Landowner/Developer proposes the installation of a storm water management system (the "System") to benefit the Property, or a portion of the Property.
- C. The City desires to facilitate development of the Property and desires to allow the Landowner/Developer to install and maintain the System in accordance with the terms and conditions of this Agreement.

### **TERMS AND CONDITIONS**

In exchange for the consideration in and referred to by this Agreement, the parties agree as follows:

1. **Duties of the Landowner/Developer.**

- a. Landowner/Developer shall be responsible for the installation, operation, repair, maintenance, and improvement of the System (the "Work"). The Work shall be at no cost to the City.
- b. The Work shall be performed in strict compliance with applicable statutes, laws, ordinances, and regulations, including but not limited to the City's storm water management ordinance, as may be subsequently amended. The Landowner/Developer shall be responsible for obtaining any necessary permits at no cost to the City.
- c. The Landowner/Developer shall not perform Work on the System without prior written consent of the City. At least 60 days prior to commencing any Work, the Landowner/Developer shall present plans, detailed specifications, and a timeline for completion of the Work to the City for the City's reasonable review and written approval. The plans and specifications shall comply with applicable federal, state, and local standards.
- d. Upon the City's written approval of the plans, specifications, distribution of costs, and timeline, the Landowner/Developer shall cause the Work to be performed in accordance with the plans, specifications, and timeline approved by the City. The City shall have the right to inspect the Work prior to the operation of the System.
- e. The Landowner/Developer shall ensure that all contractors used for performance of the Work have commercially appropriate liability insurance covering any injuries and property damage occurring during performance of the Work.

## 2. Right of Entry and Inspection.

- a. Landowner/Developer grants and conveys to the City a right of entry on to the Property to inspect the System and to determine the need for additional Work. While the City has a right to enter and inspect, the City shall have no obligation to do so.
- b. If the City determines the need for Work to be performed on the System, the City shall notify the Landowner/Developer of the necessary Work in writing, setting forth the specific details of the same.
- c. Upon receiving notice to perform the Work from the City, Landowner/Developer shall cause the Work to be completed within 30 days, or within such other time period as may be specified by the City.
- d. In the event that the Work specified by the City is not completed in a timely manner, the City may cause the Work to be performed and may invoice the Landowner/Developer for the payment of all costs incurred by the City as a result of the Work.
- e. The Landowner/Developer shall pay the City for the same within 30 days of the invoice from the City. If payment is not made in a timely manner, the City may seek collection by all means allowed under the law, and may levy a special assessment against any properties benefiting from the system owned by the Landowner/Developer and/or any subsidiary of the same, which special assessment will be a lien against the properties until paid or collected as allowed for the collection of taxes and assessments under the laws of the State of Michigan.

3. Term. Unless terminated earlier pursuant to this Agreement, this Agreement shall commence on the date this Agreement is executed and shall continue as long as the System is in operation.

4. Insurance. The Landowner/Developer shall obtain and maintain commercially appropriate insurance covering its potential liability under this Agreement. Upon request by the City, the Landowner/Developer shall provide a copy of the certificate showing proof of the same and that all premiums are fully paid.

5. Indemnification. Landowner/Developer shall hold harmless, defend and indemnify the City, its employees, and agents from any and all liability or enforcement action arising out of the operation, maintenance, repair, or improvement of the System including but not limited to any and all claims for damages or injury to person or property and any and all civil and criminal sanctions, penalties, fines or costs.

## 6. Termination.

- a. The City may terminate this Agreement for any reason by providing 30 days' written notice to the Landowner/Developer.
- b. The City may terminate this Agreement immediately upon the Landowner/Developer's breach of this Agreement.

7. Recording. Landowner/Developer shall record this Agreement with the Isabella County Register of Deeds within 30 days of the execution of this Agreement.

## 8. Miscellaneous.

- a. This is the entire agreement between the parties regarding its subject matter. There are no prior or contemporaneous agreements. It may not be modified or amended except in writing, signed by each party. It shall not be affected by any course of dealing. The captions are for reference only and shall not affect its interpretation. More than one copy of this Agreement may be signed, but all constitute but one agreement.
- b. This Agreement shall be construed as if it were mutually drafted. Michigan law applies to this Agreement and its enforcement. Jurisdiction and venue for any action arising from or brought pursuant to this Agreement shall be solely in the state courts in Isabella County, Michigan.
- c. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties and their representatives, assigns or successors and may not be modified without both parties' prior written approval. Landowner/Developer shall notify the City of any representatives,

assigns, or successors, including the name, address, and telephone number of any such individuals or entities.

d. Any notices shall be made in writing to the addresses first written above or such other addresses as indicated by notice and shall be made by personal delivery or by postage prepaid United States first-class mail and shall be deemed completed when actually received or, if by first-class mail, three business days after mailing.

The parties have signed this Agreement as of the date first above written.

CITY OF MOUNT PLEASANT

STATE OF MICHIGAN )  
 )SS  
COUNTY OF ISABELLA )

By: \_\_\_\_\_  
Jason Moore, Director of Public Works

On \_\_\_\_\_, 20\_\_, Jason Moore, personally known to me as the Director of Public Works, respectively, of the City of Mount Pleasant, appeared before me and acknowledged his signature on this document on behalf of that City.

\_\_\_\_\_  
\*, Notary Public  
\_\_\_\_\_ County, Michigan  
Acting in Isabella County, Michigan  
My commission expires: \_\_\_\_\_

LANDOWNER/DEVELOPER

STATE OF MICHIGAN )  
 )SS  
COUNTY OF ISABELLA )

By: \_\_\_\_\_  
Its: \_\_\_\_\_

On \_\_\_\_\_, 20\_, \_\_\_\_\_, personally known to me or has produced his/her \_\_\_\_\_ driver's license as identification, appeared before me and acknowledged his/her signature on this document as \_\_\_\_\_.

\_\_\_\_\_  
\* Notary Public  
\_\_\_\_\_ County, Michigan  
Acting in Isabella County, Michigan  
My commission expires: \_\_\_\_\_

**Exempt from transfer taxes because this document does not convey any interest in any real property.**

**Prepared by:**  
Scott G. Smith  
Dickinson Wright PLLC  
200 Ottawa Ave. NW, Suite 1000  
Grand Rapids, MI 49503

**When recorded return to:**  
Heather Bouck, City Clerk  
City of Mount Pleasant  
320 West Broadway  
Mount Pleasant, MI 48858

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

GRAPIDS 57654-1 472627v1