

AGREEMENT FOR STORM WATER SYSTEM MAINTENANCE

This Agreement is made on _____, 2012, by JJ&D HOLDING, LLC, a Michigan limited liability company, of 1875 West Auburn Road, Rochester Hills, Michigan 48309, ("Developer") and the CITY OF ROCHESTER HILLS (the "City"), whose address is 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309.

WHEREAS, Developer owns and proposes to develop the Property described in attached Exhibit A; and

WHEREAS, the proposed development of the Property may alter the natural flow of surface and storm water drainage; and

WHEREAS, Developer has proposed, and the City has approved, a Bio Swale Filter Soil System as described and depicted in the Storm Water System Plan attached as Exhibit B; and

WHEREAS, the parties will benefit from the proper operation, use and maintenance of the System and enter into this agreement to provide for the same.

THEREFORE, the parties agree:

1. Use of the System:

Components of the System, including any and all water detention, and storm sewer pipe, swale, shall be used solely for the purpose of conveying, detaining surface drainage on the property until such time as: (1) The City determines and notifies Developer or Developer's successors, grantees or assigns, in writing, that it is no longer necessary to convey, detain storm and surface drainage; and (ii) An adequate alternative for conveying, detaining and treating storm and surface drainage has been provided which is acceptable to the City and which includes the granting of any easements to the City or third parties, as may be required or necessary for the alternative drainage system.

2. Maintenance:

A. Developer shall be responsible for the proper maintenance, repair and replacement of the System and all parts thereof.

B. Proper maintenance of the System shall include, but is not limited to (i) Removing accumulated sediment, trash and debris from the detention basin and at inlet pipes; (ii) Managing deleterious vegetative growth; (iii) Maintaining any storm sewer structures, and safety features; (iv) Controlling the effects of erosion; (v) Inspection of any inlet pipes for structural integrity; and (vi) Any other maintenance that is reasonable and necessary to facilitate and continue the proper operation and use of the System.

3. Action by City:

If, at any time, Developer or Developer's successors, grantees or assigns neglect or fail to properly maintain the System or any part thereof, the City may notify Developer or Developer's successors, grantees or assigns. The notice shall be in writing and shall list and describe maintenance deficiencies and demand that they be corrected within thirty (30) days.

The notice shall further specify a date and place for a hearing to be held at least fourteen (14) days after the date of the notice before the City Council, or such other board or official as the City Council may designate. At the hearing, the City Council (or other designated board or official) may affirm or modify the list and description of maintenance deficiencies and, for good cause shown, may extend the time for the deficiencies to be corrected.

Thereafter, if the maintenance deficiencies are not corrected within the time allowed, the City may undertake the necessary corrective actions, and the City may maintain the System for up to one (1) year. Such maintenance of the System by the City shall not be construed to be a trespass or a taking of the Property, nor shall the City's actions vest in the public any right to enter or use the Property. Thereafter, if Developer or Developer's successors, grantees or assigns do not properly maintain the System, the City may, after providing similar written notice, schedule and hold another hearing to determine whether the City should maintain the System for another year, and subject to a similar notice, hearing and determination in subsequent years.

In the event the City determines an emergency condition caused by or relating to the System threatens the public health, safety or general welfare, the City shall have the right to immediately and without notice enter the Property and undertake appropriate corrective action.

4. **Charges:**

The City shall charge to the current owner of the Property the cost of maintenance or other corrective action undertaken by the City under this agreement, plus a ten percent (10%) administrative fee. If not timely paid, the City may place the charges on the City's tax roll, which charges shall be a lien on the real property and shall be collectable and enforceable in the same manner general property taxes are collected and enforced.

5. **Notice:**

Any notices required under this agreement shall be sent by certified mail to the address for each party set forth below, or to such other addresses as such party may notify the other parties in writing:

To: JJ&D Holdings, LLC
Attention: William J. DeYonker, Jr.
1875 West Auburn Road
Rochester Hills, MI 48307

To the City: City Clerk
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309


6. **Successors and Assigns:**

This agreement shall bind and inure to the benefit of the parties and their respective successors, grantees and assigns. The benefits, burdens, rights, obligations and responsibilities hereunder shall run with the land and shall bind all current and future owners of the Property and any divisions thereof.

7. Recording of Agreement:

This agreement shall be recorded at the Oakland County Register of Deeds.

JJ&D HOLDINGS, LLC


William L. DeYonker, Jr., Sole Member

CITY OF ROCHESTER HILLS

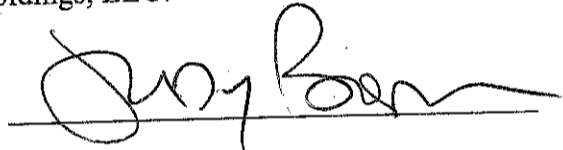
Bryan Barnett, Mayor

Jane Leslie, Clerk

STATE OF MICHIGAN)
) ss.:
COUNTY OF OAKLAND)

This Agreement was acknowledged before me on December 5th, 2012, by William J. DeYonker, Jr., Sole Member of JJ&D Holdings, LLC.

JUDY BOPP
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES May 2, 2019
ACTING IN COUNTY OF OAKLAND



Notary Public, OAKLAND County, Michigan
My Commission Expires:
Acting in OAKLAND County, Michigan

STATE OF MICHIGAN)
) ss.:
COUNTY OF OAKLAND)

This Agreement was acknowledged before me on _____, 2012, by Brian Barnett, Mayor and Jane Leslie, Clerk, of the City of Rochester Hills, on behalf of the City.

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

DRAFTED BY:
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Attorney at Law
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WHEN RECORDED, RETURN TO:
City Clerk
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309

John Staran
App'd - 12/12/12

EXHIBIT A – LEGAL DESCRIPTION

LOTS 11-13 AND THE EAST 27 FT. OF LOT 14 OF "SUNNYDALE GARDENS" A SUBDIVISION OF PART OF THE W. ½ OF THE ½ OF SECTION 33, T.3N., R.11E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 58 OF PLATS, PAGE 46, OAKLAND COUNTY RECORDS. CONTAINING 45,528.56 S.F. OR 1.045 ACRES.

MORE COMMONLY KNOWN AS 1875 WEST AUBURN ROAD

