

**AGREEMENT FOR
STORM WATER SYSTEM MAINTENANCE**

THIS STORM SEWER SYSTEM MAINTENANCE AGREEMENT is made this 19th day of February, 2014 by and between the City of Rochester Hills, Oakland County, Michigan (the "City"), 1000 Rochester Hills Drive, Rochester Hills, Michigan 49309-3033 and Christenbury Development LLC, a Michigan limited liability company, whose address is 19573 Tanglewood Circle, Clinton Township, Michigan 48038 (the "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of certain real property located in the City of Rochester Hills, Oakland County, Michigan, which real property is more particularly described in Exhibit A attached hereto and incorporated herein (the "Property");

WHEREAS, the Developer intends to develop said real property described in Exhibit "A" attached hereto as 4 parcel splits (hereinafter known as the "Development");

WHEREAS, the Developer will record a certain Declaration Easements, Covenants, Conditions and Restrictions for the Christenbury Master Community (the "Declaration") which among other things will establish an association of owners made up the owners of the 4 parcel splits which will operate and maintain the storm water detention facilities;

WHEREAS, The Development will alter the natural flow of surface and storm water;

WHEREAS, the Developer desires to extend to the future owners of parcels within the Development the right to utilize and benefit from the storm water detention facilities and to provide a permanent method for the support and upkeep of said detention facilities;

WHEREAS, Developer has proposed, and the City has approved, a storm water drainage and detention system (the "Storm Sewer System") as shown in Exhibit "B" attached hereto and incorporated herein (the "Approved Plan:") and the Developer, and the City will benefit from the proper operation, use and maintenance of the Storm Sewer System and desire to enter into this binding contract relative to the use and governance of the areas described and full delineated in Exhibit B attached hereto; and

WHEREAS, the Developer also intends to bind the future parcel owners in the Development to this Agreement so this Agreement is intended to run with the land;

NOW THEREFORE, in consideration of the approval by the City of the 4 parcel splits and of the mutual promises contained herein, the parties hereto agree as follows:

1. **Storm Sewer System.** Pursuant to the Declaration, Developer hereby makes available and will grant to each of the parcel owners in the Development the right to utilize, maintain, replace the repair the Storm Sewer System, including but not limited to the detention basin areas and the storm sewer lines existing in the areas exiting within the development and delineated in Exhibit B hereto. Components of the Storm Water System, including any and all water conveyance, detention facilities and devices, storm sewer pipe, catch basins, manholes, end-sections, ditches, swales, open water courses and rip-rap, shall be used solely for the purposes of conveying and detaining storm and surface drainage in the Development until such time as: (i) The City determines and notifies Developer of Developer's successors and assigns, including the Association (as defined below), in writing that it is no longer necessary to convey or detain the storm and surface drainage; and (ii) an adequate alternative for conveying and detaining storm and surface draining 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. **Chrstenbury Master Association.** Control and jurisdiction over the Storm Sewer System shall be vested in the Chrstenbury Master Association (hereinafter referred to as "Association"). The Association will be organized as a non-profit corporation for a perpetual term under the laws of the State of Michigan. Membership in the association shall be mandatory for all of the landowners in the Development. The Association shall be responsible at its sole expense for the proper maintenance of the Storm Sewer System and for compliance with the terms of this Agreement. The By-Laws of the Association shall provide for a Board of Directors of 4 members.

The Association members shall each bear their prorata share of the total costs of maintaining the Storm System (including without limitation, the real and personal property taxes assessed against it and insurance policies maintained with respect to it), which shall constitute a lien against each member's lot or parcel. The prorated share of the cost shall be based on the proportion of each parcel to the total number of parcels covered by the Declaration.

Each Association member shall be entitled to vote according to the number of parcels in which he has an ownership interest, with the following restrictions:

a. there shall be a total of (1) vote allowed with respect to each parcel of the Development; and

b. when two or more members hold an ownership interest in a particular parcel as co-owners, whether as tenants-in-common, joint tenants or otherwise, the vote attributable to such lot shall be exercised as such co-owners shall among themselves determine.

The Association shall have the authority to make and enforce regulations pertaining to the use and maintenance of the Storm Sewer System which regulations shall be binding upon all members.

3. **Maintenance of Storm Sewer System.** The Association, shall be responsible for the proper maintenance, repair and replacement of the Storm Water System and all parts thereof as detailed in the Maintenance Plan attached as Exhibit C (the "Maintenance Plan"). Proper maintenance of the Storm Water System shall include, but is not limited to: (i) keeping the bottom of the detention basin and at inlet pipes free from silt and debris; (ii) removing harmful algae; (iii) managing deleterious vegetative growth; (iv) maintaining the Storm Water System structures, end-sections and safety features; (v) controlling the effects of erosion; (vi) inspection of inlet and outlet pipes for structural integrity; (vii) inspection and replacement of rip-rap at inlet pipes; (viii) inspection and cleaning of the storm sewer and catch basins upstream from the detention basin; (ix) inspection and replacement of stone around the outlet pipe; and (x) any other maintenance that is reasonable and necessary to facilitate and continue the proper operation of the Storm Water System. In no event shall the detention basin areas be utilized for any purpose other than detention of surface water without the prior written consent of the Association.

4. **Failure to Maintain Storm Sewer System.** In the event the Association fails at any time to maintain the Storm Sewer System (including without limitation the detention basins) in reasonable order and condition, the City may serve written notice upon the Association or upon its members setting forth the manner in which the Association has failed to maintain the Storm Sewer System in a reasonable condition and such notice shall include a demand that deficiencies of maintenance be cured within thirty (30) days thereof. The notice shall further state the date and place of a hearing thereon before the City Council or other such board, body or official to whom the City shall delegate such responsibility, which shall be held at least fourteen (14) days after the date of the notice. At such hearing, the City Council or other designated board, body or official may affirm or modify the list and description of maintenance deficiencies and, for good cause shown, may give an extension of the time within they shall be cured.

Thereafter, if the deficiencies set forth in the original notice, or in the modification thereof, shall not be cured within the time allowed, the City may maintain the same for a period of one (1) year. Such maintenance by the City shall not be construed as a trespass, constitute a taking of the Storm Sewer System, nor vest in the public any rights to use or enter the Storm Water System, the City may, after providing similar written notice, schedule and hold another hearing to determine whether the City should maintain the Storm Water 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 Storm Water System threatens the public health, safety or general welfare, the City shall have the right to immediately and without notice enter the Storm Water System and undertake appropriate corrective action.

5. **Charges.** The cost of maintenance by the City, plus a ten percent (10%) administrative fee, shall be assessed against the Association and, if not timely paid, added to the tax rolls, which charges shall be a lien on the Storm Water System and shall be collectable and enforceable in the same manner general property taxes are collected and enforced. The City shall be, at its option, subrogated to the right of the Association against its members to the extent of that cost and administrative charge, if the City shall, by an official resolution, give thirty (30) days written notice to each member of the Association of the City's election to be subrogated.

The Association members shall bear their prorata share of the total costs of maintaining the Storm Sewer System (including, without limitation, the real or personal property taxes assessed against the Storm Water System), which prorata share of the cost shall constitute a lien against each members' parcel and if not paid, the City shall have the right to add it to the tax rolls and collect it in the same manner as provided above. The prorated share of the costs shall be based on the proration of each parcel to the total number of the lots in the Development. The cost of maintenance by the City shall be assessed against the Association or the Association members at the City's discretion.

In the event the City declares the existence of an emergency upon, caused by or relating to the Storm Sewer System, and the City takes appropriate corrective action, the City shall have the right to charge and collect the costs for such corrective action, as provided herein.

6. **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 the Developer: Christenbury Development LLC
19573 Tanglewood Circle
Clinton Township, Michigan 48038.

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

To the Association: Christenbury Master Association
19573 Tanglewood Circle
Clinton Township, Michigan 48038.

7. **Successors and Assigns.** This Agreement shall constitute restrictions and covenants running with the property. The parties hereto make this Agreement on behalf of themselves and their respective successors and assigns, and hereby warrant that they have the authority and capacity to make this contract.

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing was acknowledged before me this ___ day of _____, 2014, by _____ respectively the Mayor and Clerk of the City of Rochester Hills, a Michigan municipal corporation on behalf of the corporation.

Notary Public
Acting in _____ County, Michigan
My commission expires:

DRAFTED BY:
Mark J. Abdo, Attorney at Law
43928 Mound Road, Suite 100
Sterling Heights, Michigan 48314

AND WHEN RECORDED RETURN TO:
CITY OF ROCHESTER HILLS
1000 Rochester Hills Drive
Rochester Hills, Michigan 48309

EXHIBIT A

LEGAL DESCRIPTION – OVERALL CHRISTENBURY ESTATES

Part of the NE 1/4 of Section 1, T.3N., R.11E., Rochester Hills, Oakland County, Michigan, being more particularly described as follows:

Commencing at the East 1/4 corner of Section 1; thence N89°44'48"W 60.00 feet to the Point of Beginning; thence N89°44'48"W 469.15 feet; thence N04°12'20"W 299.69 feet; thence N72°59'40"E 15.53 feet; thence N21°22'51"W 222.81 feet; thence N68°41'30"E 202.71 feet; thence N78°11'30"E 191.22 feet; thence S00°35'30"E 65.00 feet; thence N89°24'30"E 175.00 feet to the West Line Dequindre Road (R.O.W. varies); thence S00°35'30"E 562.61 feet along said line to the Point of Beginning.

Containing 285,062 square feet --- 6.544 acres (Gross).

#15-01-277-015

of #15-01-278-006

Mike Taunt
Approved 3/4/14

JJ-14-724
SHEET 1 OF 3



1055 South Boulevard E., Suite 200
Rochester Hills, Michigan 48307
Telephone: (586) 726-9111
Fax: (248) 852-7707
Website: www.jjassociates.net

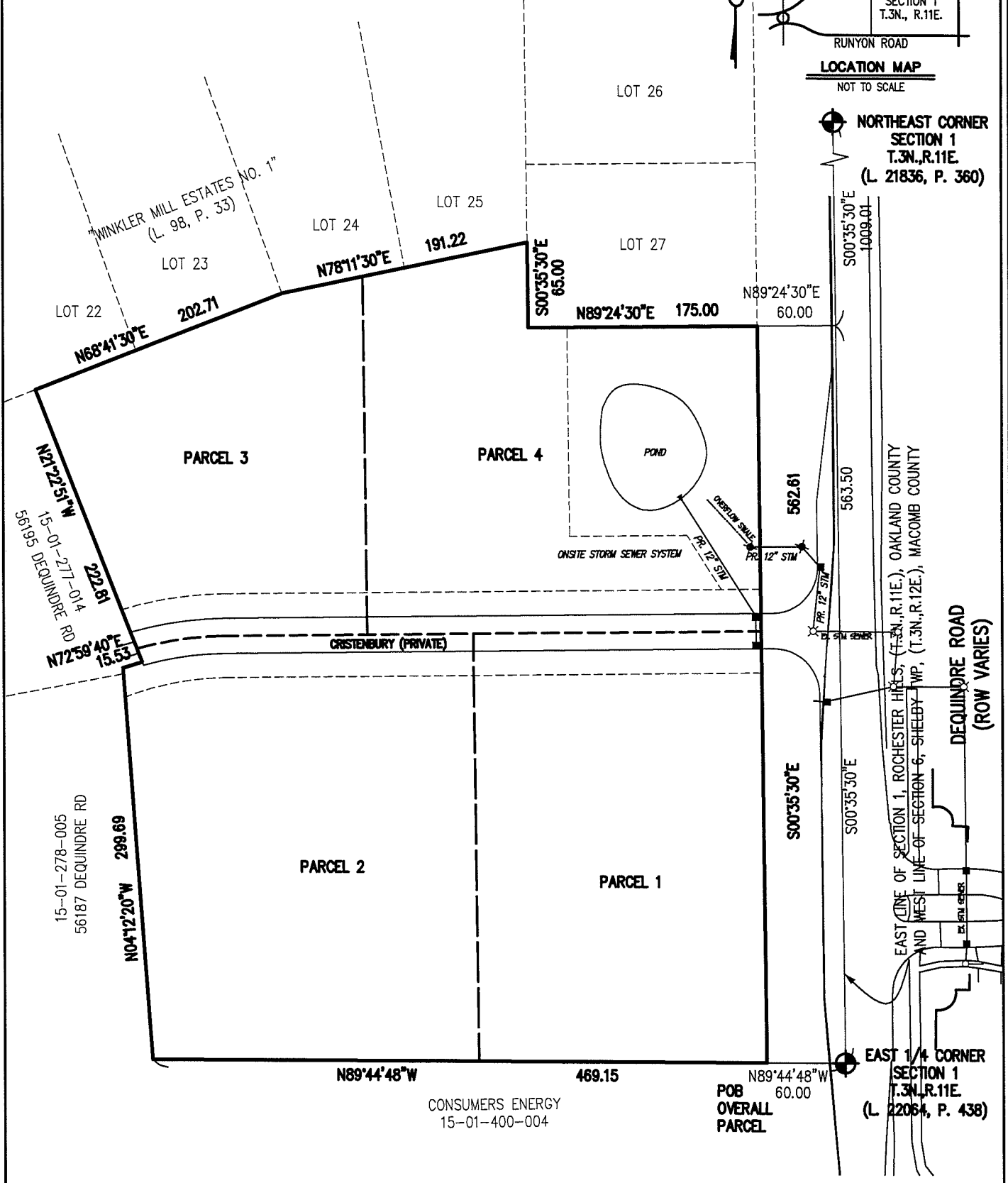
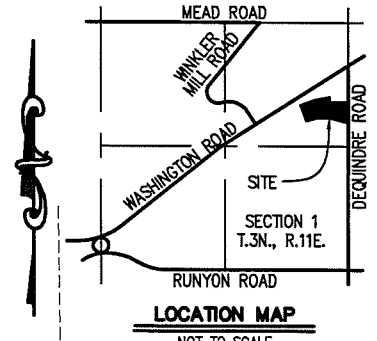
CLIENT:
DATE: 02/05/14 us

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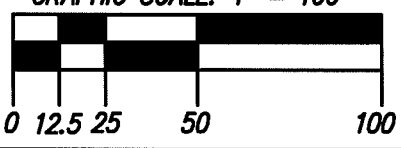
EXHIBIT B STORM SEWER SYSTEM PLAN

LEGEND

- STORM SEWER (STM)
- STANDARD MANHOLE
- STANDARD R.Y.C.B.
- STD. PAVT. CATCH BASIN - 2' SUMP



GRAPHIC SCALE: 1" = 100'



JJ-14-724
 SHEET 2 OF 3



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CLIENT:
 DATE: 02/05/14 us

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EXHIBIT C

THE MAINTENANCE PLAN

- 1.- The storm sewer, catch basins and pond shall be inspected periodically to check on sediment build-up and for structural integrity. At a minimum, inspections shall be performed annually.
- 2.- The storm sewer, catch basins and/or pond shall be cleaned of accumulated sediment as needed to maintain proper operation of the storm water system.
- 3.- Structural repairs of the storm sewer and catch basins shall be made as needed to maintain proper operation of the storm sewer system. Such repairs shall include repairing cracks, spalling, joint failure, settlement, sagging and misalignment.
- 4.- The pond shall be maintained as needed to remove harmful algae and debris, and to manage deleterious vegetative growth.

JJ-14-724
SHEET 3 OF 3



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