

AGREEMENT FOR SEDIMENTATION BASIN

VISTAS OF ROCHESTER HILLS

THIS AGREEMENT, made and entered into this _____ day of _____, 2013, by and between the CITY OF ROCHESTER HILLS, Oakland County, Michigan, 1000 Rochester Hills Drive, Rochester Hills, Michigan (the "City"), and ROCHESTER MEADOWS REAL ESTATE, LLC, (the "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the land located in the City of Rochester Hills, County of Oakland, and State of Michigan described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the Developer wishes to develop the above described property, such property to be subdivided and known as VISTAS OF ROCHESTER HILLS, hereinafter referred to as the "subdivision"; and

WHEREAS, the Developer wishes at this time to obtain approval of the final plat of the Subdivision; and

WHEREAS, it has been determined necessary for the Developer to construct a temporary sedimentation controls including basin for the protection of adjacent and downstream properties, watercourses and wetlands, which basin is defined on the approved construction drawings on file with the City Engineering Department; and

WHEREAS, it is desirable that the Developer and the City enter into a binding contract relative to the details of development of said sedimentation controls including basin and the use, repair and maintenance thereof.

NOW THEREFORE, in consideration of the approval of the City Council of the CITY OF ROCHESTER HILLS of the final plat of the Subdivision and of the mutual promises contained herein, THE PARTIES HERETO AGREE AS FOLLOWS:

1. From the date of recording of the plat for the Subdivision, and until such time as their agreement terminates as provided for in paragraph 3 below, Developer shall have the responsibility and be obligated to the City to maintain and keep in good order the sedimentation controls including basin. Maintenance shall include stabilization of the banks and slopes, removal of trash, refuse, and accumulated sediment on a reasonable periodic basis, cleaning of stone filter systems, replacement of filter fabrics, erosion control, and such other maintenance as may be reasonable and necessary to foster the intended functioning of the basin. Inspection of the sedimentation basin and controls will be performed by the City Engineering Department and the Developer or his designee on a monthly basis until such time that this agreement terminates as provided for

in paragraph 3. The costs of inspection shall be paid by the Developer in accordance with Chapter 4-01, Subdivision Control, section 13, Fees.

2. In order to obtain an approval and release of the plat by the City, Developer shall file with the City Clerk security, as provided for in Chapter 4-01, Subdivision Control, of the Code of Ordinances, in such amounts as determined reasonable and necessary by the Engineering Department of the City to guarantee ongoing maintenance and repair to the sedimentation basin.

3. This agreement shall terminate after the City Engineering Department determines ninety percent (90%) of the homes, and all landscaping and sodding in the tributary watershed area serving those homes, are completed. Accordingly, accumulated sediment and debris is to be removed, from the storm sewer system, including pipes, structures and the sedimentation basin, final storm sewer connections made, the sedimentation basin backfilled with compacted engineered fill, and the area restored and vegetated. This work shall be solely the responsibility of the Developer.

4. In the event that the Developer shall at any time fail to maintain the sedimentation basin and related facilities in reasonable order and condition, the City may serve written notice upon the Developer setting forth the manner in which the Developer has failed to maintain the sedimentation basin in a reasonable condition, and said notice shall include a demand that deficiencies of maintenance be cured within fifteen (15) days thereof. If notice, or in any modification thereof, shall not be cured within fifteen (15) days or any extension thereof, the City may enter upon said sedimentation basin and maintain the same. Said maintenance by the City shall not constitute a taking of the sedimentation basin nor vest in the public any right to use the same. In the event that the City determines the existence of an emergency upon, caused by or relating to the sedimentation basin which threatens the public health, safety or general public welfare, the City shall have the right to immediately and without notice take appropriate corrective action. The cost of any maintenance or any action by the City, plus the prevailing administrative fee, shall be assessed against the Developer and deducted from the security and escrow accounts that are currently on file with the City.

5. Notwithstanding any other provisions of the Agreement, Developer reserves the right to grant easements within the sedimentation basin area for the installation, repair and maintenance of water mains, sewers, drainage courses and other public utilities; subject to obtaining the consent of the City, provided that such utilities shall be installed in such manner as to minimize damage to the natural features of the area.

6. The Developer shall be solely responsible for the maintenance of the erosion protection, sediment controls and the sedimentation basin and the cost thereof as set forth above in Paragraph 4. In addition, said sedimentation basin shall be used for no purpose other than its proposed use until such time as this agreement terminates and there is no further need for the facility.

7. The City may enforce the obligations contained herein in a court of competent jurisdiction. Any attorneys' fees or costs incurred by the City in enforcement of this Agreement in court shall be paid for by the Developer.

8. The obligations of Developer contained herein shall not be delegable by Developer, unless approved by a Resolution of the City Council.

9. The parties herein make this Agreement on behalf of themselves, their heirs, successors and assigns and hereby warrant that they have the authority and capacity to make this contract.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date first above written.

ROCHESTER MEADOWS REAL ESTATE, LLC

By: *Jim George*
Jim George

Its: Managing Member

CITY OF ROCHESTER HILLS

By: _____
Bryan K Barnett, Mayor

By: _____
Tina Barton, Clerk

STATE OF MICHIGAN
COUNTY OF OAKLAND

This agreement was acknowledged before me on April 29, 2013, by Jim George, Managing Member of Rochester Meadows Real Estate, LLC, on behalf of the Limited Liability Company.

Josy A. Foisy
JOSY A FOISY
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Sep 23, 2019
ACTING IN COUNTY OF Oakland County, Michigan
My commission expires: 9-23-2019

STATE OF MICHIGAN
COUNTY OF OAKLAND

This agreement was acknowledged before me on _____, 2013, by Bryan K Barnett, Mayor, and Tina Barton, Clerk, of the City of Rochester Hills, on behalf of the City.

*off by J. Staron 5-1-13
off by T. Trunt 5-1-13*

_____, notary public

County, Michigan
My commission expires: _____

Drafted By:
Daniel R. Boynton, Esq.
2600 W. Big Beaver Rd
Ste. 550
Troy, MI 48084

When Recorded Return to:
Clerk, City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309

Exhibit A

VISTAS OF ROCHESTER HILLS BEING PART OF THE N.E. 1/4 OF SECTION 23, T.3N., R.11E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 23; THENCE S.89°58'00"E., 504.75 FT. ALONG THE NORTH LINE OF SAID SECTION 23 TO THE POINT OF BEGINNING; THENCE CONTINUING S.89°58'00"E., 573.28 FT.; THENCE S.01°18'01"E., 814.96 FT.; THENCE N.88°39'01"E., 213.07 FT.; THENCE S.01°17'21"E., 510.97 FT. TO A POINT ON THE NORTH LINE OF "EDDINGTON FARMS SUBDIVISION" A SUBDIVISION RECORDED IN LIBER 200 OF PLATS, PAGES 39-48, OAKLAND COUNTY RECORDS; THENCE N.89°55'01"W., 395.30 FT. ALONG THE SAID NORTH LINE TO THE NORTHWEST CORNER OF "EDDINGTON FARMS SUBDIVISION"; THENCE N.89°54'40"W., 467.81 FT.; THENCE N.02°15'10"W., 1063.55 FT.; THENCE S.89°58'00"E., 94.61 FT.; THENCE N.01°19'56"W., 257.00 FT. TO THE POINT OF BEGINNING. CONTAINING 21.946 ACRES OF LAND AND COMPRISING 47 LOTS, NUMBERED 1 THROUGH 47 INCLUSIVE, AND 3 PRIVATE PARKS

Vistas of Rochester Hills recorded in Liber _____ Page _____