

## STORM WATER SYSTEM MAINTENANCE AGREEMENT

This **STORM WATER SYSTEM MAINTENANCE AGREEMENT** ("Agreement"), made this 25 day of November, 2013, is by and between **ROCHESTER HILLS REAL ESTATE, LLC**, a Michigan limited liability company ("Owner"), of 10503 Citation Drive, Brighton, Michigan 48116, and the **CITY OF ROCHESTER HILLS**, a Michigan municipal corporation (the "City"), of 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309.

### RECITALS:

A. Owner owns and proposes to develop certain real property located in the City of Rochester Hills, Oakland County, Michigan, as more specifically described on Exhibit A attached hereto (the "Property").

B. Owner has proposed, and the City has approved, a storm water drainage and detention system (the "System") for the Property, as more fully set forth in City File Number 05-016.2. A sketch of the System is attached hereto as Exhibit B.

C. Owner is responsible for maintenance of the System and has agreed to grant the City access to the System to complete any required maintenance thereof in the event Owner fails to so maintain the System.

**NOW, THEREFORE**, in consideration of the premises and the mutual promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Maintenance.** Owner shall be responsible for the proper maintenance, repair and replacement of the System and all parts thereof in accordance with the Maintenance Plan attached hereto as Exhibit C. Proper maintenance, includes, 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) inspection of inlet and outlet pipes for structural integrity; and (iv) any other maintenance that is reasonable and necessary to facilitate and continue the proper operation and use of the System.

John Staran  
Approved 11/28/13

2. **Action by City.**

(a) If, at any time, Owner or Owner's successors, grantees or assigns neglect or fail to properly maintain the System or any part thereof, the City may notify Owner or Owner's successors, grantees or assigns. The notice shall be in writing and shall list and describe the 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.

(b) If the maintenance deficiencies are not corrected within the time allowed, the City may undertake the necessary corrective actions, and, upon prior written notice to Owner, the City may maintain the System for up to one (1) year thereafter. 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. The City shall complete such maintenance with all due care and in accordance with all applicable laws, rules and regulations.

(c) In the event the City reasonably determines that 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 undertake reasonably appropriate corrective action.

(d) If the City is required to perform corrective action or maintain the System as set forth in this Paragraph 2, then the current owner of the Property shall reimburse the City for the cost of such maintenance and/or corrective action completed by the City within thirty (30) days after receipt of an invoice for such amount from the City. If the current owner of the Property fails or refuses at any time to pay an invoice within thirty (30) days after receipt, then the City may place the charges on the City's tax roll, which charges shall be a lien on the Property and shall be collectable and enforceable in the same manner general property taxes are collected and enforced.

3. **Easement.**

(a) Owner hereby grants, conveys and warrants to the City a perpetual non-exclusive easement over, across and through the Property as is reasonably required to enable the City to perform corrective action and/or maintain the System pursuant to and in accordance with this Agreement.

(b) Owner expressly reserves to Owner and Owner's successors and assigns any and all other rights in and to the Easement Area, including, without limitation: (a) the right of ingress and egress over, through and across the Easement Area; and (b) the right to

grant other non-exclusive easements and rights-of-way across, over, under and through the Easement Area.

4. **Notices.** All notices, requests, demands, claims and other communications required or permitted to be delivered, given or otherwise provided under this Agreement must be in writing and must be delivered, given or otherwise provided: (a) by hand (in which case, it will be effective upon delivery); or (b) by overnight delivery by a nationally recognized courier service (in which case, it will be effective on the business day after being deposited with such courier service) 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 Owner: 10503 Citation Drive  
Brighton, Michigan 48116  
Attention: Frank Wronski or James Branscum

with a copy to: JW Design  
412 S. Washington St., Suite 100  
Royal Oak, MI 48067  
Attention: Joe Wronski

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

5. **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.

6. **Amendment.** This Agreement may only be modified or amended by an instrument in writing signed by Grantor, or its successor or assigns, and the City.

7. **Governing Law.** This Agreement shall be interpreted and enforced in accordance with the laws of the State of Michigan.

INTENDING TO BE LEGALLY BOUND, the parties have executed this Agreement as of the date first written above.

ROCHESTER HILLS REAL ESTATE, LLC, a Michigan limited liability company

By: Frank M. Wronski  
Frank M. Wronski, President

STATE OF MICHIGAN

COUNTY OF Oakland

The foregoing instrument was acknowledged before me this 25 day of November, 2013, by Frank M. Wronski, in his capacity as President of Rochester Hills Real Estate, LLC, a Michigan limited liability company, on behalf of the company.



Joan Easterbrook, Notary Public  
Oakland County, Michigan  
My Commission Expires: 5/28/2019

CITY OF ROCHESTER HILLS, a Michigan municipal corporation

By: \_\_\_\_\_  
Bryan K. Barnett, Mayor

By: \_\_\_\_\_  
Tina Barton, City Clerk

Notarization continued on next page

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.

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, Notary Public  
County, Michigan  
My Commission Expires:

*Drafted by:*  
Alan J. Schwartz, Esq.  
Jacob & Weingarten, P.C. Notary Public  
2301 W. Big Beaver Rd., Suite 777  
Troy, Michigan 48084

*When recorded, return to:*  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

Part of the Northeast 1/4 of Section 22, Town 3 North, Range 11 East, Avon Township, Now City of Rochester Hills, Oakland County, Michigan described as: Beginning at a said point, said point being North 87 degrees 19 minutes 12 seconds East, 915.46 feet along the North line of said Section 22 and South 02 degrees 34 minutes 56 seconds East 810.00 feet from the North 1/4 corner of said Section 22; thence from said point of beginning North 87 degrees 19 minutes 12 seconds East, 500.00 feet; thence South 02 degrees, 34 minutes 56 seconds East, 627.34 feet; thence South 87 degrees 00 minutes (minutes) 55 seconds West, 140.00 feet; thence South 02 degrees 34 minutes 56 seconds East, 280.00 feet; thence South 87 degrees 00 minutes 55 seconds West 150.89 feet; thence 212.62 feet along the arc of a curve to the left, radius 698.56 feet; central angle 17 degrees 26 minutes 21 seconds, chord length 211.80 feet and a chord bearing of South 78 degrees 17 minutes 45 seconds West, thence North 02 degrees 34 minutes 56 seconds West, 942.10 feet to the point of beginning.

Tax Identification No. 70-15-22-226-016

11/5/13  
Mike Tawst  
Approved

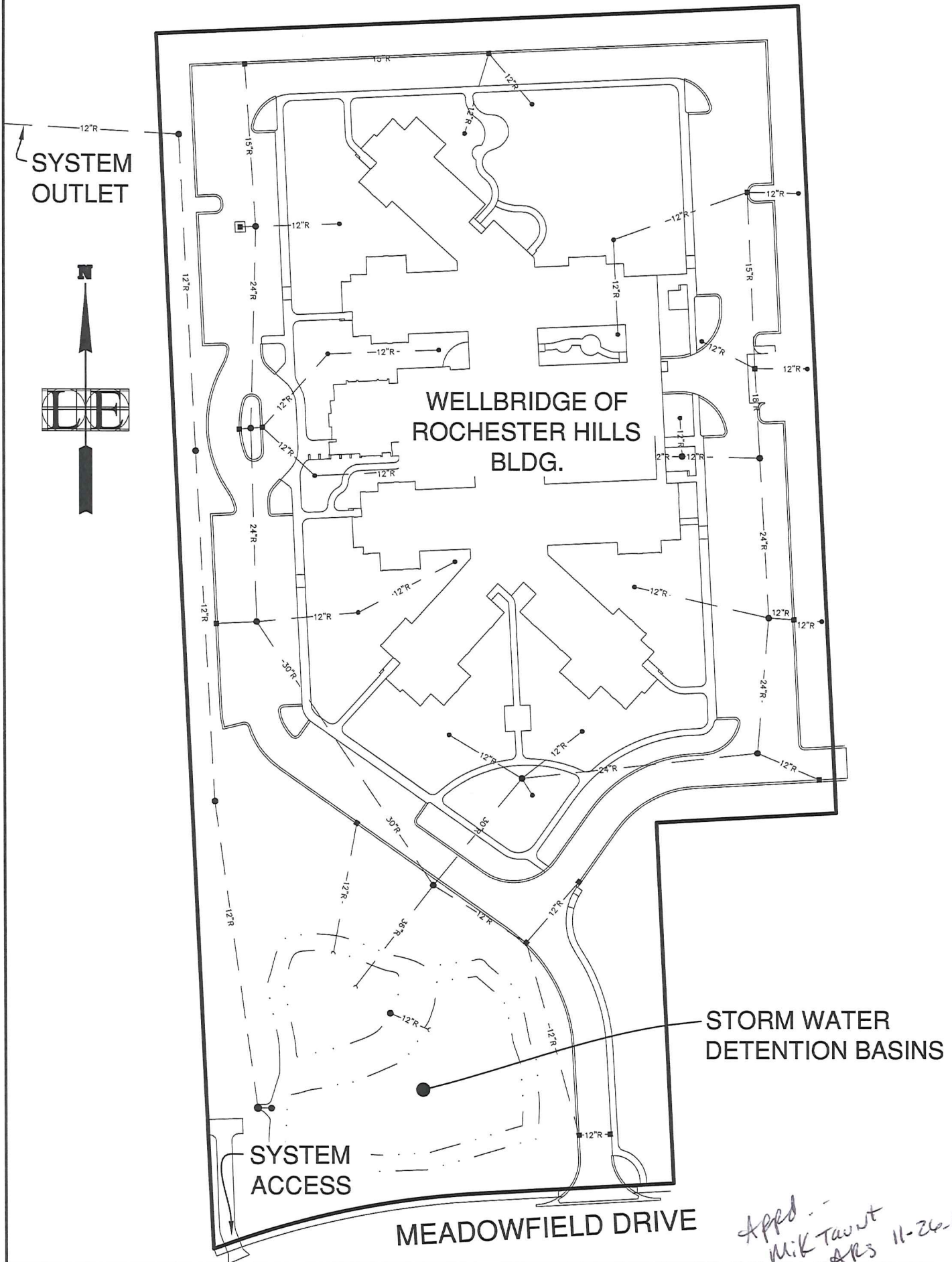
**EXHIBIT B**

**SKETCH OF THE SYSTEM**

See attached.

# EXHIBIT B

## SKETCH OF STORM WATER DETENTION SYSTEM



*Appd. -  
Mik Tawnt  
ARS 11-26-13*

LEGEND	SECTION CORNER	SET IRON ROD	FOUND MONUMENT
	FENCE	FOUND IRON ROD/PIPE	SOIL BORING



**LIVINGSTON ENGINEERING**  
 CIVIL ENGINEERING      SURVEYING      PLANNING  
 3300 S. OLD U.S. 23, BRIGHTON, MICHIGAN 48114  
 INTERNET: WWW.LIVINGSTONENG.COM      PHONE: (810) 225-7100      FAX: (810) 225-7699



CLIENT WELLBRIDGE OF R.H.		DATE 11-01-13
DESCRIPTION NE 1/4, SECTION 22 T3N-R11E, CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN		REV. 11-11-13
	SCALE 1"=100'	JOB No. 10240
	SHEET No. 1 of 1	DRAWN TEA
		CHECK



**EXHIBIT C**

**MAINTENANCE PLAN**

See attached.

Maintenance Plan and Schedule: Wellbridge of Rochester Hills

Tasks	Components								Schedule
	Streets	Storm Sewer System	Catch Basin Sumps	Catch Basin Inlet Casings	Ditches & Swales	Outflow Control Structures	Rip -Rap	Filtration Basins	
Inspect for sediment accumulation		X	X		X	X		X	Annually
Removal of sediment accumulation		X	X		X	X		X	Every 2 years as needed
Inspection of floatables & debris				X	X	X		X	Annually
Cleaning of floatables and debris				X	X	X		X	Annually
Inspection for erosion					X	X		X	Annually
Re-establish permanent vegetation on eroded slopes					X			X	As needed
Replacement of stone						X			Every 3-5 years as needed
Clean Streets	X								Semi-annually
Mowing					X			X	0-2 times/year
Inspect storm water system components during wet weather and compare to as-built plans		X	X		X	X	X	X	Annually
Make adjustment or replacements as determined by annual wet weather inspection.		X	X		X	X	X	X	As Needed