

**AGREEMENT FOR MAINTENANCE OF
STORM WATER DETENTION SYSTEM**

This agreement is made on NOVEMBER 17, 2005, by Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC, whose address is 37020 Garfield, Rd, Suite T-1, Clinton Township, MI 48036;

and the CITY OF ROCHESTER HILLS (the City), whose address is 1000 Rochester Hills Drive, Rochester Hills, MI 48309.

RECITALS:

WHEREAS, Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC owns and occupies the property described in attached Exhibit A; and

WHEREAS, Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC has proposed, and the City has approved, a storm water drainage and detention system (the system), which includes a detention basin, for the property as described and depicted in the approved site plan (attached Exhibit B); and

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

THEREFORE, the parties agree:

1. **Use of the System:** Components of the System, including the detention basin, shall be used solely for the purpose of detaining storm and surface water on the property until such time as: (i) The City may determine and advise Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC, or their successors, grantees or assigns, in writing that it is no longer necessary to use the detention basin to detain storm or surface water; and (ii) An adequate alternative for draining storm and surface water has been provided which is acceptable to the City and which includes the granting of such easements to the City or third parties for the alternative drainage system as may be necessary.

2. **Maintenance:**

A. Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC shall be responsible for the proper maintenance, repair and replacement of the System and any part thereof, including the detention basin.

B. Proper maintenance of the System shall include, but not limited to: (i) Keeping the

bottom of the detention basin free from silt and debris; (ii) Removing harmful algae; (iii) Maintaining steel grating across the basin's inlets; (iv) Controlling the effects of erosion; and (v) Any other maintenance that is reasonable and necessary in order to facilitate or accomplish the intended function and purpose of the System.

3. **Action by City:** In the event Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC or their successors, grantees, or assigns, neglects or fails at any time to properly maintain the System or any part thereof, the City may notify Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC or their successors, grantees or assigns, in writing, and the notice shall include a listing and description of maintenance deficiencies and a demand that they must be corrected within thirty (30) days. The notice shall further specify the 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 to whom the City Council may delegate responsibility. At the hearing, the City Council (or other board or official) may endorse or modify the listing and description of deficiencies to be corrected and, for good cause, may extend the time within which the deficiencies must be corrected.

Thereafter, if the maintenance deficiencies are not corrected within the time allowed, the City may undertake and make the necessary corrections, and may maintain the System for a period not to exceed one (1) year. Such maintenance of the System by the City shall not be deemed a taking of the property, nor shall the City's actions be deemed to vest in the public any right to use the property. If the City determines maintenance of the system by the City should continue beyond one (1) year, the City shall hold, and provide advance written notice of, a further hearing at which Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC or their successors, grantees or assigns, will not or cannot properly maintain the System, the City may continue to maintain the System for another year, and subject to a similar 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 in accordance with this agreement, plus a ten

percent (10%) administrative fee. If not timely paid, the City may assess 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: Frank Aragona Trust U/A/D 12/3/79 and Tienken Partners, LLC
37020 Garfield, Suite T-1
Clinton Township, MI 48036

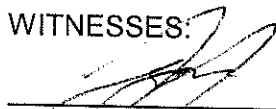
To the City: Clerk City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309

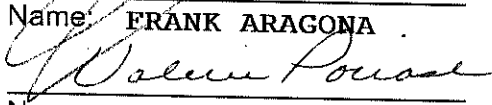
6. **Successors and Assigns:** This agreement shall bind and inure to the benefit of the parties and their respective successors, grantees and assigns. The rights, obligations and responsibilities hereunder shall run with the land and shall bind all current and future owners of the property.

7. **Recording of Agreement:** This agreement shall be recorded at the Oakland County Register of Deeds.

IN WITNESS WHEREOF, the parties have executed this agreement on the date set forth above.

WITNESSES:




Name: FRANK ARAGONA


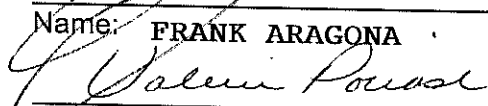
Name: VALERIE POCIASK

FRANK ARAGONA TRUST U/A/D 12/3/79

By: 

Paul Aragona
Its: Executive Trustee



Name: FRANK ARAGONA


Name: VALERIE POCIASK

TIENKEN PARTNERS LLC
A Michigan limited liability company

By: 

Paul Henderson

Its: Trustee, or his successors in trust, under the Paul A. Henderson Living Trust u/a/d April 9, 1998, as amended

CITY OF ROCHESTER HILLS

Name:

By: _____
Pat Somerville, Mayor

Name: _____

Name: _____

Name: _____

By: Jane Leslie, Clerk

STATE OF MICHIGAN
COUNTY OF MACOMB

This agreement was acknowledged before me on November 17, 2005, by Paul Aragona, Executive Trustee of Frank Aragona Trust U/A/D 12/3/79 and Paul Henderson of Tienken Partners LLC.

Valerie H. Pociask, Notary Public
Acting in Macomb County, Michigan
My commission expires:

VALERIE H. POCIASK
NOTARY PUBLIC MACOMB CO., MI
MY COMMISSION EXPIRES Jun 10, 2006

STATE OF MICHIGAN
COUNTY OF OAKLAND

This agreement was acknowledged before me on _____, _____, by Pat Somerville, Mayor, and Jane Leslie, Clerk, of the City of Rochester Hills, on behalf of the City.

Drafted by:

Doug Kennedy
ATWELL-HICKS
50182 Schoenherr
Shelby Twp., MI 48315

_____, notary public
County, Michigan
My commission expires:

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

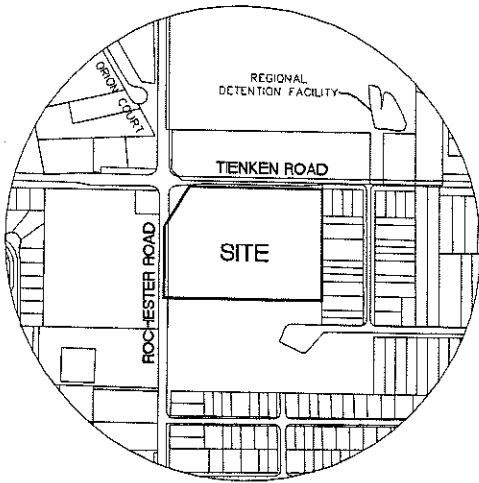
F:\IMAGES From LARGE FORMAT SCANNER\Tienken Partners, LLC\Easements\Detention Maint Agreement Sample.doc

OK per
J. Staron
2-20-05

APPROVED DESC

EXHIBIT A

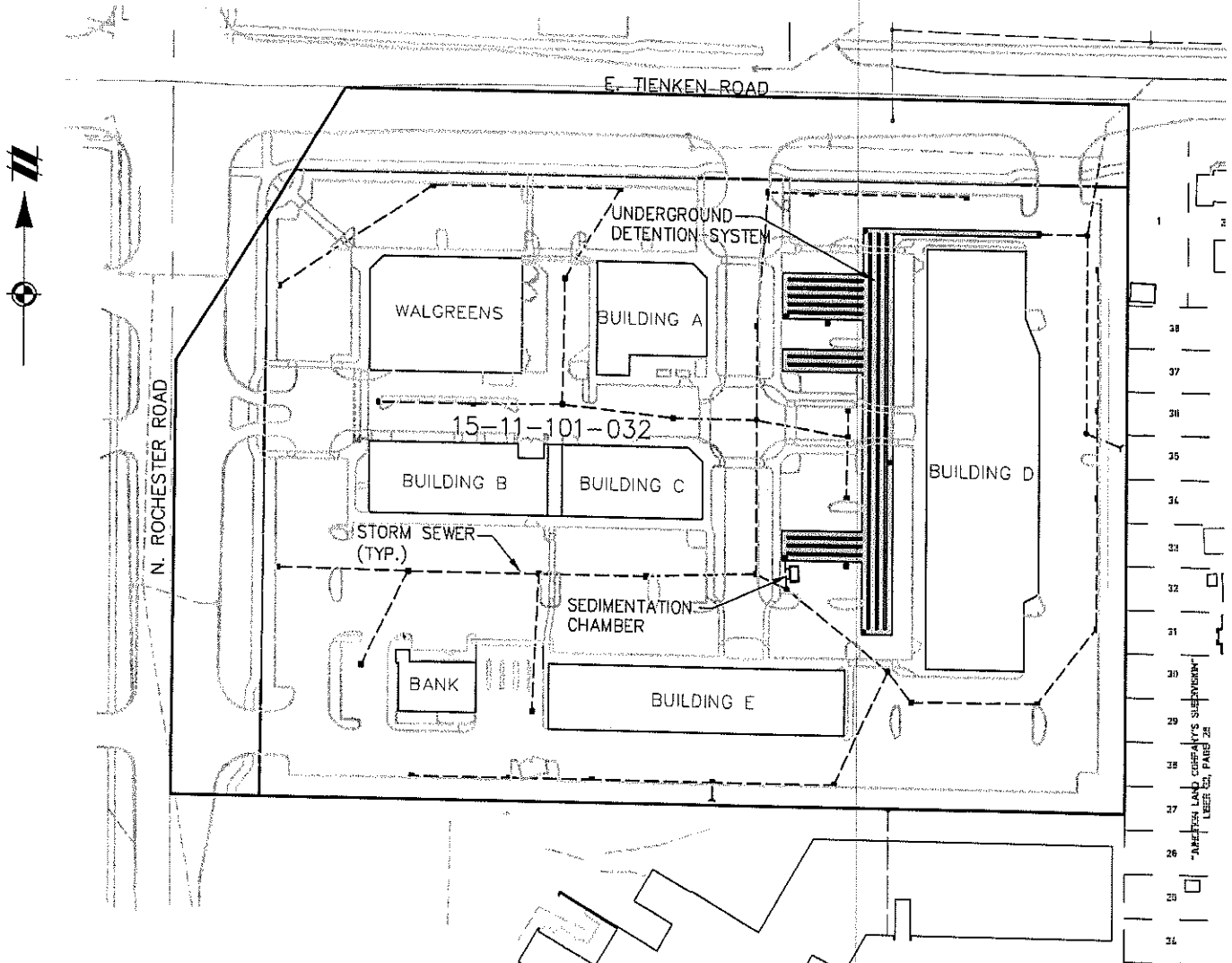
M. T. ...
ROCHESTER HILLS
ENGINEERING DEPT.
12-20-05



VICINITY MAP

LEGAL DESCRIPTION

A parcel of Land in the Northwest 1/4 of Section 11, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as: Commencing at the Northwest Corner of said Section 11; thence East 150.00 feet along the North Line of said Section 11 and along the Centerline of Tienken Road (variable width); thence S31°05'32"W 87.58 feet to the Proposed Southerly Right-of-Way Line of said Tienken Road for a PLACE OF BEGINNING; thence East 754.72 feet along said Proposed Southerly Right-of-Way Line, 75 feet south of, and parallel to said North Section Line, to the West Line of "Junction Land Company's Subdivision" as recorded in Liber 22, Page 28, Oakland County Records; thence South 573.92 feet along said West Subdivision Line; thence S89°55'43"W 784.60 feet (recorded as Due West) to the Proposed Easterly Right-of-Way Line of Rochester Road (variable width); thence along said Easterly Right-of-Way Line the following two courses: N00°27'00"E 532.31 feet, 80 feet East of, and parallel to, the West Line of said Section 11, and N31°05'32"E 49.75 feet to the Place of Beginning, containing 10.30 acres of land, more or less, subject to easements, exceptions, conditions and requirements, if any.



LEGEND

--- STORM SEWER

CLIENT TIENKEN PARTNERS, LLC CITY WALK EXHIBIT FOR DETENTION MAINTENANCE AGREEMENT	JOB: 200714	CAD DSK
	DR. DSK	CH. MAL
	BOOK	PG.
	SHEET 1 OF 1	DATE: 11-23-05
FILE NO. 200714WS12 DETENTION		
ATWELL-HICKS Engineering • Surveying • Planning Environmental • Water/Wastewater		
SECTION 11 TOWN 3 NORTH, RANGE 11 EAST CITY OF ROCHESTER HILLS OAKLAND COUNTY	866 850 4200 www.atwell-hicks.com MICHIGAN ILLINOIS OHIO FLORIDA	
SCALE: 1 INCH = 150 FEET		