

**AGREEMENT FOR
STORM WATER SYSTEM MAINTENANCE**

This Agreement is made on May 16, 2008, by SIMON ROCHESTER HILLS - 1961 E AUBURN, LLC, ("Developer"), a limited liability company, whose address is 24501 ECORSE ROAD, TAYLOR, MI 48180; and the CITY OF ROCHESTER HILLS (the "City"), whose address is 1000 Rochester Hills Drive, Rochester Hills, MI 48309.

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

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

WHEREAS, Developer has proposed, and the City has approved, a storm water drainage and detention system (the "System") comprised of storm water detention and water quality treatment facilities and devices, pumping system, storm sewer pipe, catch basins, manholes, end-sections, ditches, swales, open water courses and rip-rap, for the Property 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 conveyance, detention and water quality treatment facilities and devices, pumping system, storm sewer pipe, catch basins, manholes, end-sections, ditches, swales, open water courses and rip-rap, shall be used solely for the purpose of conveying, detaining and treating storm and surface drainage on the property until such time as: (i) The City determines and notifies Developer or Developer's successors, grantees or assigns, in writing, that it is no longer necessary to convey, detain or treat the 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 as detailed in the Maintenance Plan attached as Exhibit C.

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 storm sewer, structures, end-sections and safety features; (iv) Controlling the effects of erosion; (v) Inspection and cleaning of the water quality treatment device; (vi) Inspection of inlet and outlet pipes for structural integrity; (vii) Inspection and replacement of riprap 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 (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:**

A. 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 Developer:

General Counsel
Simon Rochester Hills - 1961 E Auburn, LLC
24501 Ecorse Road
Taylor, MI 48180

To the City:

City Clerk
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309

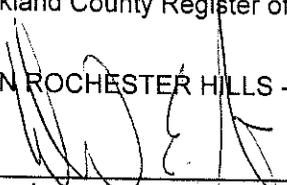
7. **Successors and Assigns:**

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.

8. **Recording of Agreement:**

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

SIMON ROCHESTER HILLS - 1961 E AUBURN, LLC

By: 

Its: Managing Member
David E Barnes

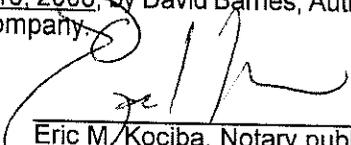
CITY OF ROCHESTER HILLS

By: _____
Bryan K. Barnett, Mayor

By: _____
Jane Leslie, Clerk

STATE OF MICHIGAN
COUNTY OF WAYNE

This agreement was acknowledged before me on May 16, 2008, by David Barnes, Authorized Agent of Simon Rochester Hills - 1961 E Auburn, LLC, on behalf of the limited liability company.



Eric M. Kociba, Notary public
Wayne County, Michigan
Acting in Wayne County
My commission expires: June 29, 2008

STATE OF MICHIGAN
COUNTY OF OAKLAND

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

Notary public

County, Michigan
My commission expires:

Drafted by:
Eric M. Kociba
24501 Ecorse Road
Taylor MI 48180

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

APPROVED AS TO FORM

J. Staran 6/4/2008

Rochester Hills City Attorney