

REGAL ESTATES
STORM SEWER SYSTEM MAINTENANCE AGREEMENT

THIS STORM SEWER SYSTEM MAINTENANCE AGREEMENT is made this ____ day of February, 2015 by and between the City of Rochester Hills, a Michigan municipal corporation (the “City”) whose address is 1000 Rochester Hills Drive, Rochester Hills, Michigan 49309-3033, and RATHKA BUILDING & CONSTRUCTION, INC., a Michigan Corporation (“Developer”), whose address is 11684 Majestic Court, Shelby Township, Michigan 48315.

RECITALS:

A. 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”).

B. Developer intends to develop the Property as a residential community to be known as REGAL ESTATES, a single-family residential development (hereinafter known as the “Development”).

C. The Development will alter the natural flow of surface and storm water drainage.

D. Developer desires to extend to the future condominium unit owners 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.

E. 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 both 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 fully delineated in the condominium Development site plan (the "Condominium Subdivision Plan").

F. Developer also intends to bind the condominium unit 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 Condominium Subdivision Plan and of the mutual promises contained herein, the parties hereto agree as follows:

1. **Storm Sewer System.** Pursuant to the Condominium Subdivision Plan, Developer hereby makes available and will grant to each of the condominium unit owners in the Development the right to utilize, maintain, replace and repair the Storm Sewer System, including but not limited to the detention basin areas and the storm sewer lines existing within the Development and delineated in the Condominium Subdivision Plan. 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 purpose of conveying and detaining storm and surface drainage

in the Development until such time as: (i) the City determines and notifies the Developer or 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 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. **Condominium Association for Regal Estates.** Control and jurisdiction over the Storm Sewer System shall be vested in the Regal Estates Condominium Association (hereinafter refer to as "Association"). The Association is organized as a nonprofit corporation for a perpetual term under the laws of the State of Michigan. The Association was incorporated on December 5, 2014. Membership in the Association shall be mandatory for all of the condominium unit owners 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 Bylaws of the Association shall provide for a Board of Directors of no less than three (3) members and no more than five (5).

The Association members shall each bear their prorata share of the total costs of maintaining the Storm Sewer System (including without limitation, the real and personal property taxes assessed against it, if any, and insurance policies maintained with respect to it), which shall constitute a lien against each member's condominium unit. The prorated share of the cost shall be based on each condominium unit owner's percentage of value as set forth in the Master Deed for Regal Estates. Each Association member shall be entitled to vote in accordance with the Master Deed for Regal Estates.

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 of the Association.

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 hereto 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 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 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. Thereafter, if the Association does not properly maintain 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 any 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 (3) 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, which prorata share of the cost shall constitute a lien against each member's condominium unit 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 cost shall be based on each condominium unit owner's percentage of value as set forth in the Master Deed for Regal Estates. 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: Rathka Building & Construction Inc.
11684 Majestic Court
Shelby Township, MI 48315

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

To the Association: Regal Estates Condominium Association
3948 Orchard View Avenue
Rochester Hills, MI 48307

7. Successors and Assigns, etc. 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.

8. Recording. This Agreement shall be recorded at the Oakland County Register of Deeds.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

RATHKA BUILDING & CONSTRUCTION INC.

By: Roy Rathka Jr.
Roy Rathka, Jr.

CITY OF ROCHESTER HILLS

By: _____
Bryan K. Barnett, Mayor

By: _____
Tina Barton, City Clerk

STATE OF MICHIGAN
COUNTY OF MACOMB

The foregoing instrument was acknowledged before me this 10th day of February, 2015, by Roy Rathka Jr., President of Rathka Building & Construction Inc., a Michigan corporation, on behalf of and by authority of the Company.

Maria Sigler
Maria Sigler, Notary Public
State of Michigan, County of Macomb
My Commission expires: 4-14-19
Acting in the County of Macomb

John Staran
Approved 2/14/15

STATE OF MICHIGAN
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2015,
by Bryan K. Barnett, Mayor, and Tina Barton, Clerk, of the City of Rochester Hills, on behalf of
the City.

_____, Notary Public
State of Michigan, County of _____
My Commission expires: _____
Acting in the County of _____

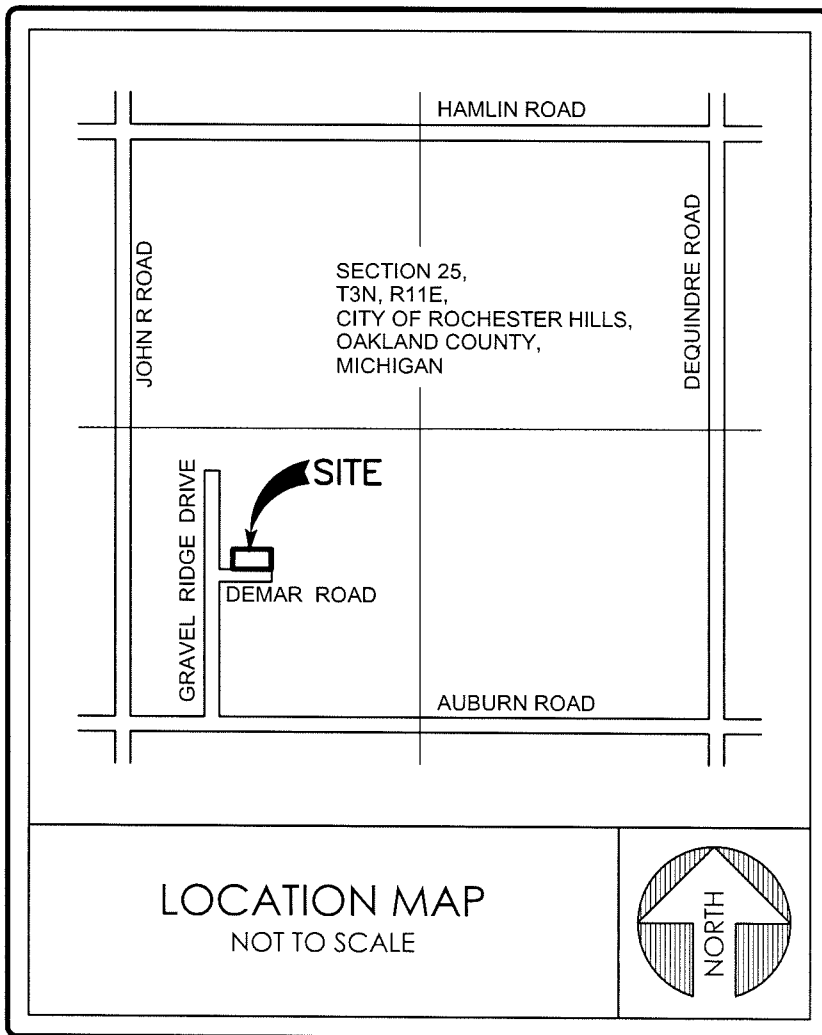
Drafted by:
Joseph P. Ciaramitaro, Jr.
Joseph P. Ciaramitaro, P.C.
42860 Garfield, Suite 104
Clinton Township, MI 48038

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



EXHIBIT "A"

PROPERTY DESCRIPTION



PROPERTY DESCRIPTION

A PARCEL OF LAND IN THE SW1/4 OF SECTION 25, T.3N., R.11E., COMMENCING AT THE SW CORNER SECTION 25; THENCE ALONG THE S. LINE SECTION 25 AND THE CENTERLINE AUBURN ROAD N88°01'00"E 660.00 FEET; THENCE ALONG THE CENTERLINE OF GRAVEL RIDGE ROAD (50' WIDE) N01°20'00"W 1650.00 FEET; THENCE N88°01'00"E 225.00 FEET TO THE POINT OF BEGINNING; THENCE N88°01'00"E 442.78 FEET; THENCE S01°24'00"E 330.00 FEET; THENCE S88°01'00"W 443.16 FEET (443.38 FEET RECORD); THENCE N01°20'00"W 330.00 FEET TO THE POINT OF BEGINNING. CONTAINING 3.4 ACRES OF LAND MORE OR LESS. SUBJECT TO THE RIGHTS OF THE PUBLIC FOR ANY EASEMENTS OF RECORD.

*Mike Taunt
Approved 10/20/14*



Fenn & Associates, Inc. Land Surveying and Civil Engineering

14933 Commercial Drive, Shelby Township, MI 48315
Phone: 586-254-9577 Fax: 586-254-9020 www.fennsurveying.com

STORM WATER MAINTENANCE EXHIBIT "A"

REGAL ESTATES

PART OF THE SW. 1/4 OF SEC. 25
CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN

CLIENT: RATHKA BUILDING

DATE 10-7-14

JOB NO. C13-009.15X

SCALE 1" = 80'

FIELD BY NONE

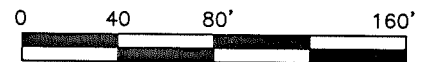
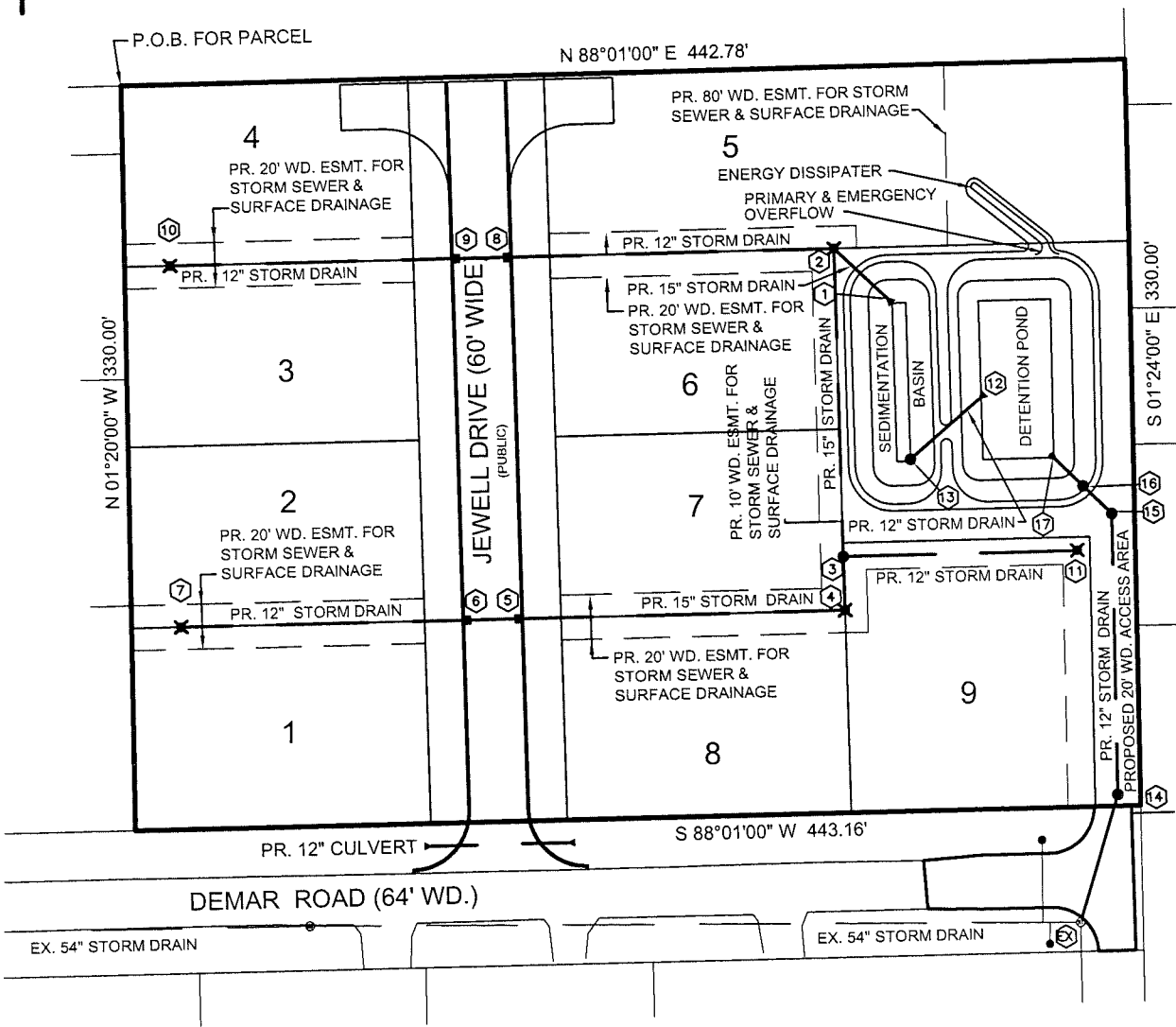
CHECKED J.S.R., P.E.

DRAWN MAS

SHEET 1 OF 1

EXHIBIT "B"

SKETCH OF STORM SEWER SYSTEM



Fenn & Associates, Inc. Land Surveying and Civil Engineering

14933 Commercial Drive, Shelby Township, MI 48315
 Phone: 586-254-9577 Fax: 586-254-9020 www.fennsurveying.com

STORM WATER MAINTENANCE EXHIBIT "B"

REGAL ESTATES

PART OF THE SW. 1/4 OF SEC. 25
 CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN

CLIENT: RATHKA BUILDING

DATE 10-7-14

JOB NO. C13-009.15X

SCALE 1" = 80'

FIELD BY NONE

CHECKED J.S.R., P.E.

DRAWN MAS

SHEET 1 OF 1

EXHIBIT "C"

STORM WATER MAINTENANCE SCHEDULE

MAINTENANCE PLAN AND SCHEDULE: REGAL ESTATES

TASKS	COMPONENTS								SCHEDULE
	STREETS	STORM SYSTEM	CATCH BASIN SUMPS	CATCH BASIN INLET CASINGS	DITCHES & SWALES	OUTLET CONTROL STRUCTURES	ENERGY DISSIPATER	SEDIMENT BASIN	
INSPECT FOR SEDIMENTATION ACCUMULATION		X	X		X	X	X	X	ANNUALLY
REMOVAL OF SEDIMENTATION ACCUMULATION		X	X		X	X	X	X	EVERY 2 YEARS AS NEEDED
INSPECTION OF FLOATABLES & DEBRIS				X	X	X	X	X	ANNUALLY
CLEANING OF FLOATABLES & DEBRIS				X	X	X	X	X	ANNUALLY
INSPECT FOR EROSION					X	X	X	X	ANNUALLY
RE-ESTABLISH PERMANENT VEGETATION ON ERODED SLOPES					X		X	X	AS NEEDED
REPLACEMENT OF STONE						X			EVERY 3-5 YEARS AS NEEDED
CLEAN STREETS & MAINTAIN ACCESS DR.	X								SEMI-ANNUALLY
MOWING					X		X	X	0-4 TIMES/YEAR
INSPECT STORM WATER SYSTEM COMPONENTS DURING WET WEATHER & COMPARE TO TO AS-BUILT PLANS		X	X		X	X	X	X	ANNUALLY
MAKE ADJUSTMENTS OR REPLACEMENTS AS DETERMINED BY ANNUAL WET WEATHER INSPECTIONS		X	X		X	X	X	X	AS NEEDED



Fenn & Associates, Inc. Land Surveying and Civil Engineering

14933 Commercial Drive, Shelby Township, MI 48315
 Phone: 586-254-9577 Fax: 586-254-9020 www.fennsurveying.com

STORM WATER MAINTENANCE EXHIBIT "C"

REGAL ESTATES

PART OF THE SW. 1/4 OF SEC. 25
 CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN

CLIENT: RATHKA BUILDING

DATE 10-7-14

JOB NO. C13-009.15X

SCALE N/A

FIELD BY NONE

CHECKED J.S.R., P.E.

DRAWN MAS

SHEET 1 OF 1