

STORMWATER MANAGEMENT PRACTICES
MAINTENANCE AGREEMENT

Record and return to:
City of Appleton – City Attorney’s Office
100 North Appleton Street
Appleton, WI 54911-4799

Tax Key No:

**STORMWATER MANAGEMENT PRACTICES
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____,
by and between _____, hereinafter called the "Owner" and the City of
Appleton, hereinafter called the "City".

WITNESSETH:

WHEREAS, the Owner is the owner of the following described lands situated in the City of
Appleton, _____ County, State of Wisconsin, to-wit:

Tax Key No.

Hereinafter called the "Property".

WHEREAS, the Owner is developing the Property; and

WHEREAS, the Site Plan identified as _____, hereinafter called
the "Plan", which is expressly made a part of hereof, as approved or to be approved by the City,
provides for on-site stormwater management practices within the confines of the Property; and

WHEREAS, the City and the Owner, its successors and assigns, including any homeowners
association, agree that the health, safety and welfare of the residents of the City of Appleton,
require that the on-site stormwater management practices as defined in Wisconsin Administrative
Code NR 151, and the City of Appleton Stormwater Ordinance be constructed and maintained on
the Property; and

WHEREAS, the City requires that on-site stormwater management practices as shown on
the Plan be constructed and adequately maintained by the Owner, its successors and assigns,
including any homeowners association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Owner, its successors and assigns, in accordance with the plans and specifications identified in the Plan, shall construct the on-site stormwater management facilities.
2. The Owner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management practices, including, but not limited to, all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as keeping the stormwater management facilities in good working condition so that these facilities are performing their design functions and are in accordance with the Operation and Maintenance Plan attached to this agreement as Exhibit A and by this reference made a part hereof.
3. The Owner, its successors and assigns, shall regularly inspect the stormwater management practices as often as conditions require, but in any event at least twice each year. The standard Operation and Maintenance Report attached to this Agreement as Exhibit B and by this reference made a part hereof shall be used for the purpose of the regular inspections of the stormwater management practices. This report form may be periodically updated by the City. The Owner, successors and assigns shall keep the Operation and Maintenance Reports from past inspections as well as a log of maintenance activity indicating the date and type of maintenance completed. The reports and maintenance log shall be made available to the City for review upon request. The purpose of the inspections is to assure safe and proper functioning of the facilities. The inspections shall cover all facilities including, but not limited to, berms, outlet structures, pond areas and access roads. Deficiencies shall be noted in the Operation and Maintenance Report.
4. The Owner, its successors and assigns, hereby grants permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management practices whenever the City deems necessary. The purpose of inspection is to investigate reported deficiencies, to respond to citizen complaints, or verify maintenance of on-site stormwater management practices. The City shall provide the Owner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary. Corrective actions shall be taken within a reasonable time frame as established by the City Engineer.
5. If the Owner, its successors and assigns, fails to maintain the stormwater management practices in good working condition acceptable to the City and does not perform the required corrective actions in the specified time, the City may:

- a. Issue a citation to the Owner, its successors and assigns. The penalty for violation of this section shall be not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense, and
 - b. Perform the corrective actions identified in the inspection report and assess the Owner, its successors and assigns for the cost of such work. The cost of such work shall be specially assessed against the Property pursuant to Wisconsin Statutes Section § 66.0703. If the facilities are located on an outlot owned collectively by a homeowners association, the City may assess each member of the homeowners association according to the ownership interest in the facilities located on the Property. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Owner outside of the easement for the stormwater management practices. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said stormwater management practices, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. The Owner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management practices (including sediment removal) is outlined in the Operation and Maintenance Plan, the schedule will be followed.
7. This Maintenance Agreement may be modified by mutual agreement of the *responsible party* and the City of Appleton. The modification date shall be the date City of Appleton records the modified Maintenance Agreement with the _____ County Register of Deeds, as a property deed restriction so that the modified agreement is binding upon all subsequent owners of the land served by the stormwater management practices. Responsible party, as used in this paragraph, shall mean the Owner, its successors or assigns, who is responsible for the Maintenance Agreement at the time of any amendment.
8. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder. Failure of the Owner to make payment within thirty (30) days shall result in the amount being added to the tax roll as a special charge pursuant to paragraph 5(b).
9. This Agreement imposes no liability of any kind whatsoever on the City and the

Owner agrees to hold the City harmless from any liability in the event the stormwater management practices fail to operate properly.

- 10. This Agreement shall be attached as an exhibit to any document which creates a homeowners association that is responsible for maintenance of the stormwater management practices and be recorded at the Outagamie County Register of Deeds, and shall constitute a covenant running with the land, and shall be binding on the Owner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association. The Owner shall provide the City with a copy of any document, which creates a homeowners association that is responsible for the stormwater management practices.
- 11. Upon receipt of the executed Maintenance Agreement, the City of Appleton shall record said agreement in the Office of the Register of Deeds.

WITNESS the following signatures and seals:

Owner Name

By: _____
 Printed Name: _____
 Title: _____

By: _____
 Printed Name: _____
 Title: _____

STATE OF WISCONSIN)
 : ss.
 _____ COUNTY)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20_____ by _____ and _____.

 Printed Name: _____
 Notary Public, State of Wisconsin
 My commission is/expires _____

City of Appleton

By: _____
Jacob A. Woodford, Mayor

By: _____
Kami Lynch, City Clerk

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20_____ by Jacob A. Woodford, Mayor and Kami Lynch, City Clerk.

Printed Name: _____
Notary Public, State of Wisconsin
My commission is/expires _____

APPROVED AS TO FORM:

Christopher R. Behrens, City Attorney

This instrument was drafted by:
Attorney Christopher R. Behrens
City Law A20-0275 (Form)