

Storm Water Management Practice Maintenance Agreement

Document Number

MEIJER STORES LIMITED PARTNERSHIP, a Michigan limited partnership, as “Owner” of the property described below, in accordance with Chapter 32 City of Waukesha Storm Water Management and Erosion Control, agrees to install and maintain storm water management practice(s) on the subject property in accordance with approved plans and Storm Water Management Plan conditions. The owner further agrees to the terms stated in this document to ensure that the storm water management practice(s) continues serving the intended functions in perpetuity. This Agreement includes the following exhibits:

Exhibit A: Legal Description of the real estate for which this Agreement applies (“Property”).

Exhibit B: Location Map(s) – shows an accurate location of each storm water management practice affected by this Agreement.

Exhibit C: Maintenance Plan – prescribes those activities that must be carried out to maintain compliance with this Agreement.

Note: After construction verification has been accepted by the City of Waukesha, for all planned storm water management practices, an addendum(s) to this agreement shall be recorded by the Owner showing design and construction details. The addendum(s) may contain several additional exhibits, including certification by City of Waukesha of Storm Water and Erosion Control Permit termination, as described below.

Name and Return Address

City of Waukesha
130 Delafield Street
Waukesha, WI 53188

Parcel Identification Number(s) – 1350-254

Through this Agreement, the Owner hereby subjects the Property to the following covenants, conditions and restrictions:

1. The Owner shall be responsible for the routine and extraordinary maintenance and repair of the storm water management practice(s) and drainage easements identified in Exhibit B until Storm Water and Erosion Control Permit termination by the City of Waukesha in accordance with Chapter 32 of the City Code of Ordinances.
2. After Storm Water and Erosion Control Permit termination under 1., the current Owner(s) shall be solely responsible for maintenance and repair of the storm water management practices and drainage easements in accordance with the maintenance plan contained in Exhibit C.
3. The Owner(s) shall, at their own cost, complete inspections of the storm water management practices at the time intervals listed in Exhibit C, and conduct the inspections by a qualified professional, file the reports with the City of Waukesha after each inspection and complete any maintenance or repair work recommended in the report. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs. After the work is completed by the Contractor, the qualified professional shall verify that the work was properly completed and submit the follow-up report to the City within 30 days.
4. In addition, and independent of the requirements under paragraph 3 above, the City of Waukesha, or its designee, is authorized to access the property as necessary to conduct inspections of the storm water management practices or drainage easements to ascertain compliance with the intent of this Agreement and the activities prescribed in Exhibit C. The City of Waukesha may require work to be done which differs from the report described in paragraph 3 above, if the City of Waukesha reasonably concludes that such work is necessary and consistent with the intent of this agreement. Upon notification by the City of Waukesha of required maintenance or repairs, the Owner(s) shall complete the specified maintenance or repairs within a reasonable time frame determined by the City of Waukesha.
5. If the Owner(s) do not complete an inspection under 3. above or required maintenance or repairs under 4. above within the specified time period, the City of Waukesha is authorized, but not required, to perform the specified inspections, maintenance or repairs. In the case of an emergency situation, as determined by the City of Waukesha, no notice shall be required prior to the City of Waukesha performing emergency maintenance or repairs. The City of Waukesha may levy the costs and expenses of such inspections, maintenance or repair related actions as a special charge against the Property and collected as such in accordance with the procedures under s. 66.0627 Wis. Stats. or subch. VII of ch. 66 Wis. Stats.

6. This Agreement shall run with the Property and be binding upon all heirs, successors and assigns. After the Owner records the addendum noted above, the City of Waukesha shall have the sole authority to modify this agreement upon a 30-day notice to the current Owner(s).

Dated this ___ day of _____, 2016.

Owner:

MEIJER STORES LIMITED PARTNERSHIP

By: Meijer Group, Inc.,

Its: General Partner

By: _____

Name: _____

Its: _____

Acknowledgements

State of Michigan:

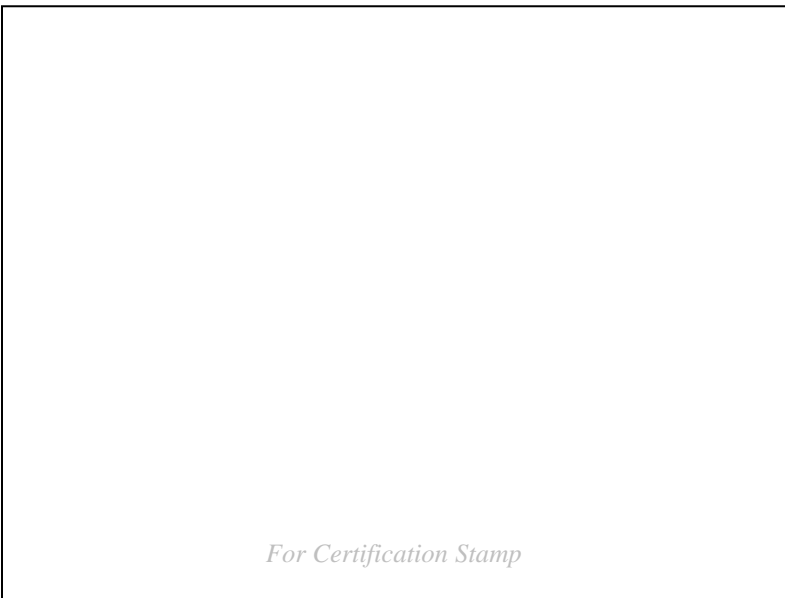
County of Kent:

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, the above named _____, the _____ of Meijer Group, Inc., the General Partner of Meijer Stores Limited Partnership, a Michigan limited partnership, on behalf of said limited partnership.

Notary Public, State of Michigan, County of _____

My commission expires: _____

Acting in the County of Kent.



City of Waukesha Common Council Approval

Dated this ____ day of _____, 2016.

Shawn N. Reilly, Mayor

Gina Kozlik, City Clerk

Acknowledgements

State of Wisconsin:
County of Waukesha

Personally came before me this ____ day of _____, 2016, the above named _____ to me known to be the person who executed the foregoing instrument and acknowledged the same.

[Name]
Notary Public, Waukesha County, WI
My commission expires:_____.

Exhibit A – Legal Description

The following description and reduced copy map identifies the land parcel(s) affected by this Agreement. For a larger scale view of the referenced document, contact the Waukesha County Register of Deeds office.

Project Identifier: **Waukesha Meijer**
 Acres: **29.4145**
 Date of Recording: **December 23, 2014**
 Map Produced By: **TRIO 1770 W. Capitol Drive Brookfield, WI 53045**
 Legal Description: **Lot 1 of CSM 11263, Waukesha County, Wisconsin.**
 Tax Key No.: **WAKC:1350-254**

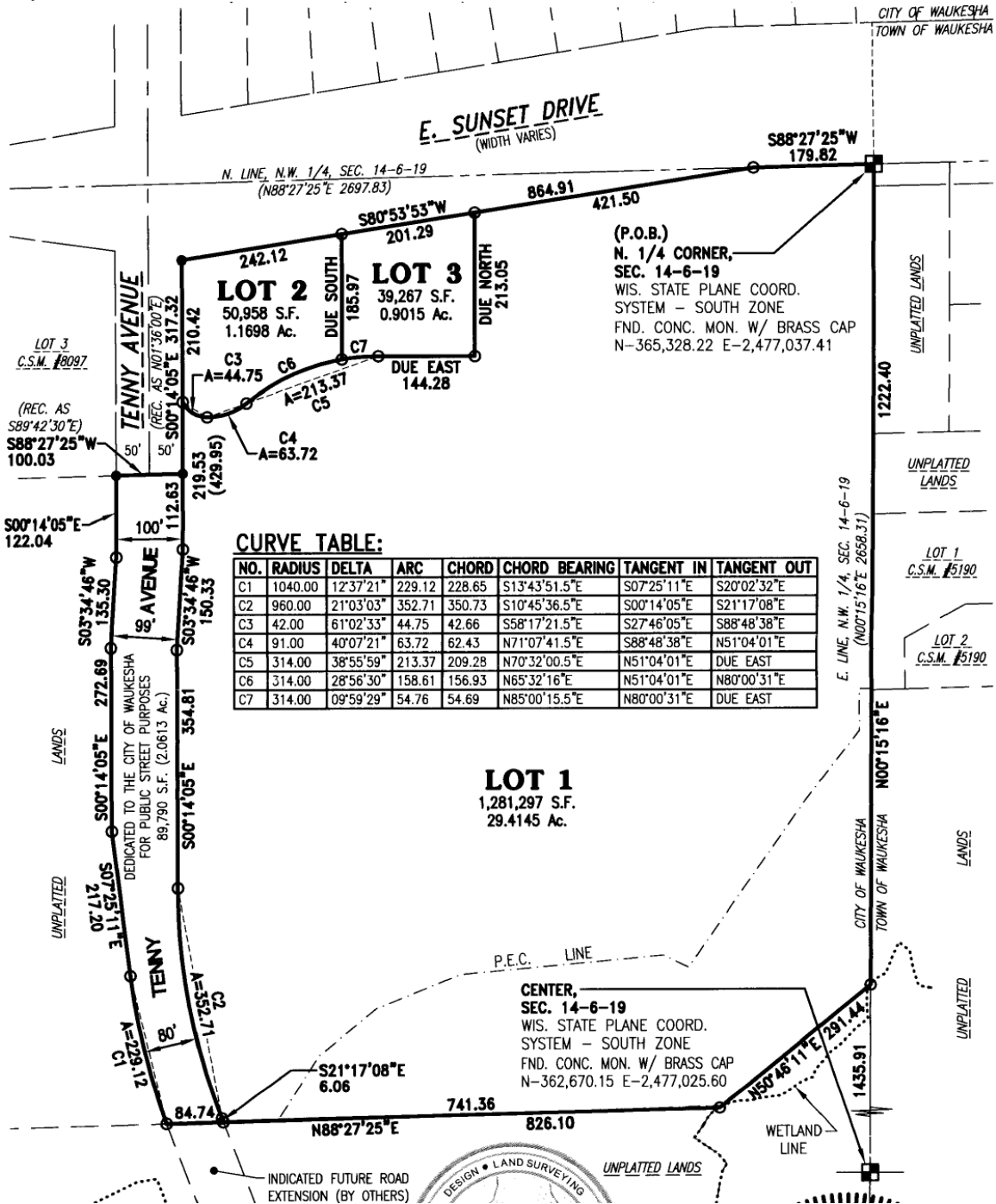


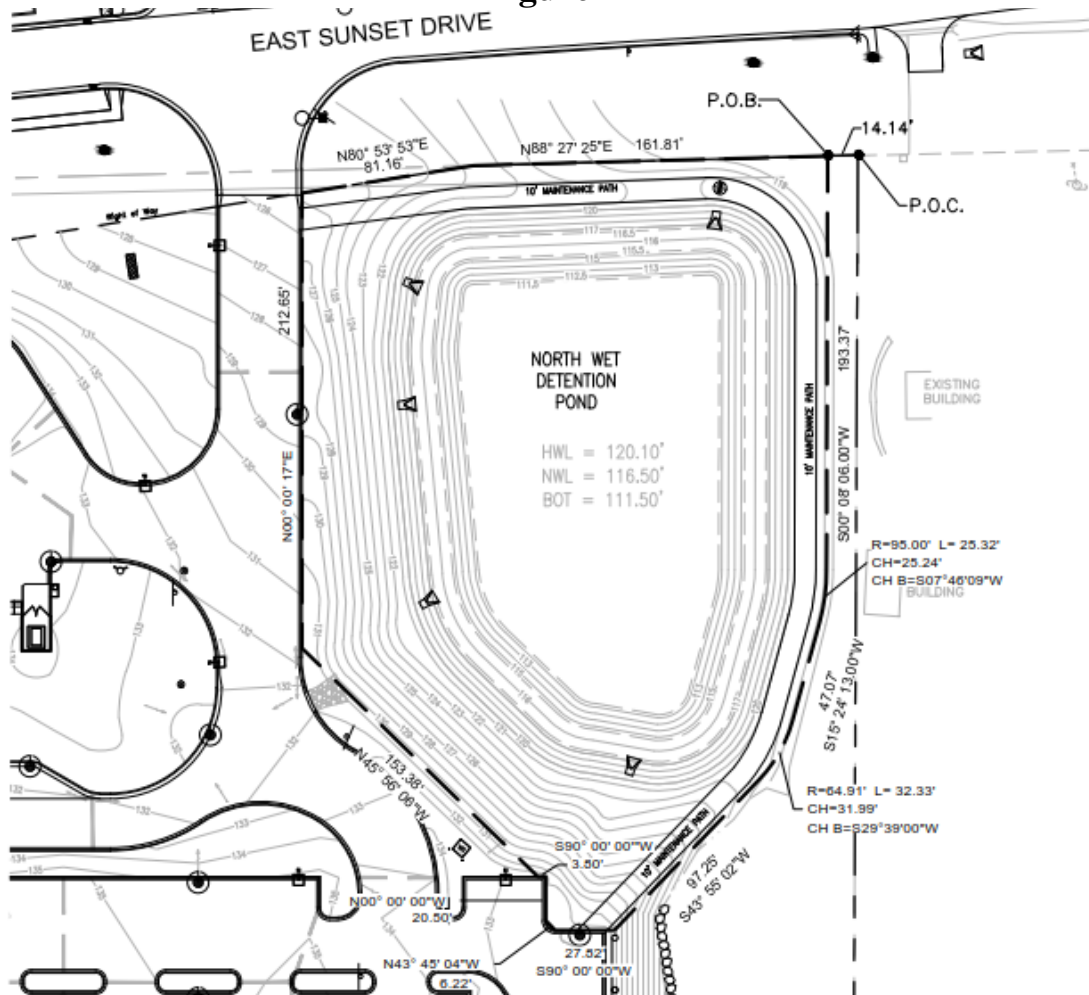
Exhibit B - Location Map
Storm Water Management Practices Covered by this Agreement

The storm water management practices covered by this Agreement are depicted in the reduced copy of a portion of the construction plans, as shown below. The practices include a wet detention basin, one infiltration basin with forebay, and all associated pipes and other components of these practices.

Exhibit B (continued)

Project Name: Waukesha Meijer
Storm water Practice: Wet Detention Basin
Location of Practice: Northeast corner of Lot 1

Figure 1



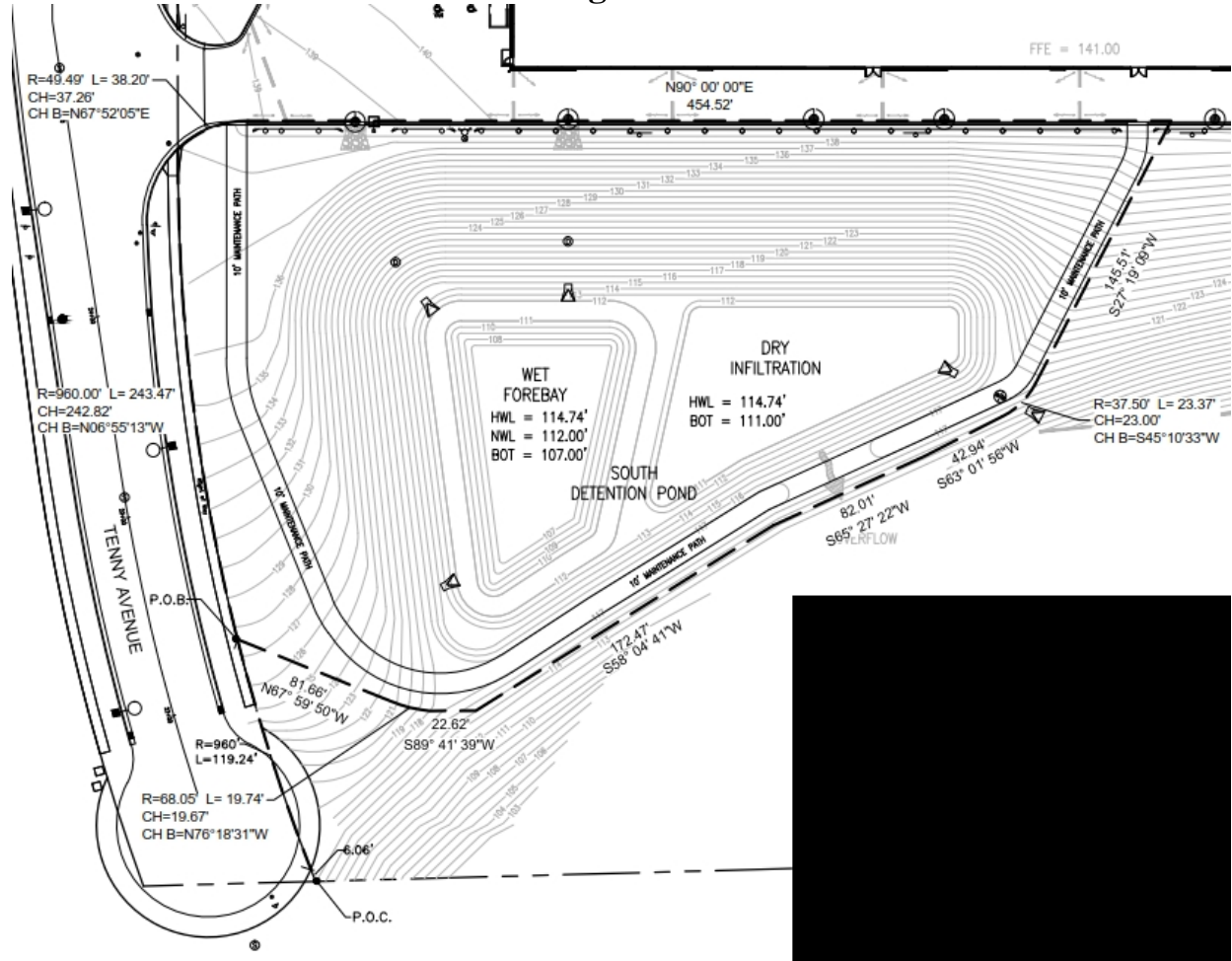
COMMENCING AT THE NORTHEAST QUARTER OF SECTION 14, TOWN 6 NORTH RANGE 19 EAST IN THE CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, ALSO BEING THE NORTHEAST CORNER OF LOT 1 AS RECORDED IN CSM MAP NO.11263; THENCE SOUTH 88 DEGREES 27 MINUTES 25 SECONDS WEST ALONG THE SOUTHERN RIGHT OF WAY LINE OF EAST SUNSET DRIVE A DISTANCE OF 14.14 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 8 MINUTES 6 SECONDS WEST, 193.37 FEET TO A POINT; THENCE 25.32 FEET ALONG AN ARC WHOSE RADIUS IS 95 FEET, AND WHOSE CHORD BEARS SOUTH 7 DEGREES 46 MINUTES 9 SECONDS WEST, 25.24 FEET; THENCE SOUTH 15 DEGREES 24 MINUTES 13 SECONDS WEST, 47.07 FEET TO A POINT; THENCE CONTINUING FOR 32.33 FEET ALONG AN ARC WHOSE RADIUS IS 64.91, AND WHOSE CHORD BEARS SOUTH 29 DEGREES 39 MINUTES 0 SECONDS WEST, 31.99 FEET; THENCE SOUTH 43 DEGREES 55 MINUTES 2 SECONDS WEST, 97.25 FEET; THENCE SOUTH 90 DEGREES 0 MINUTES, 0 SECONDS WEST, 27.82 FEET THENCE NORTH 43 DEGREES 45 MINUTES 4 SECONDS WEST, 6.22 FEET; THENCE SOUTH 90 DEGREES 0 MINUTES 0 SECONDS WEST, 3.80 FEET; THENCE NORTH 45 DEGREES 56 MINUTES 6 SECONDS WEST, 153.38 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 17 SECONDS EAST, 212.65 FEET TO A POINT ON THE SOUTHERN RIGHT OF WAY LINE OF EAST SUNSET DRIVE; THENCE NORTH 80 DEGREES 53 MINUTES 53 SECONDS EAST CONTINUING ALONG SAID SOUTHERN RIGHT OF WAY, 81.16 FEET; THENCE NORTH 88 DEGREES 27 MINUTES 25 SECONDS EAST ALONG EAST SUNSET DRIVE SOUTHERN RIGHT OF WAY, 161.81 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 73,104 SQUARE FEET OF LAND MORE OR LESS BEING IN CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN.

Exhibit B (continued)

Project Name: Waukesha Meijer
Storm water Practice: Infiltration Basin
Location of Practice: Southwest corner of Lot 1

Figure 2



COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 AS RECORDED IN CSM MAP NO.11263 ALSO BEING A POINT ON THE EASTERN RIGHT OF WAY OF TENNY AVENUE; THENCE NORTH 21 DEGREES 17 MINUTES 8 SECONDS WEST ALONG SAID EASTERN RIGHT OF WAY LINE, 6.06 FEET; THENCE 119.24 FEET ALONG AN ARC WHOSE RADIUS IS 960 FEET, AND WHOSE CHORD BEARS NORTH 17 DEGREES 43 MINUTES 4 SECONDS WEST, 119.16 FEET TO A POINT BEING ON THE EASTERN RIGHT OF WAY OF TENNY AVENUE AND ALSO BEING THE POINT OF BEGINNING;

THENCE 243.47 FEET ALONG AN ARC WHOSE RADIUS IS 960 FEET ALSO BEING SAID EASTERN RIGHT OF WAY LINE OF TENNY AVENUE, AND WHOSE CHORD BEARS NORTH 6 DEGREES 55 MINUTES 13 SECONDS WEST, 242.82 FEET; THENCE 38.20 FEET ALONG AN ARC WHOSE RADIUS IS 49.49 FEET, AND WHOSE CHORD BEARS NORTH 67 DEGREES 52 MINUTES 5 SECONDS EAST, 37.26 FEET; THENCE NORTH 90 DEGREES 0 MINUTES 0 SECONDS EAST, 454.52 FEET; THENCE SOUTH 27 DEGREES 19 MINUTES 9 SECONDS WEST, 145.51 FEET; THENCE 23.37 FEET ALONG AN ARC WHOSE RADIUS IS 37.50 FEET, AND WHOSE CHORD BEARS SOUTH 45 DEGREES 10 MINUTES 33 SECONDS WEST, 23.00 FEET; THENCE SOUTH 63 DEGREES 1 MINUTE 56 SECONDS WEST, 42.94 FEET; THENCE SOUTH 65 DEGREES 27 MINUTES 22 SECONDS WEST, 82.01 FEET; THENCE SOUTH 58 DEGREES 4 MINUTES 41 SECONDS WEST, 172.47 FEET, THENCE SOUTH 89 DEGREES 41 MINUTES 39 SECONDS WEST, 22.62 FEET; THENCE 19.74 FEET ALONG AN ARC WHOSE RADIUS IS 68.05 FEET, AND WHOSE CHORD BEARS NORTH 76 DEGREES 18 MINUTES 31 SECONDS WEST, 19.67 FEET; THENCE NORTH 67 DEGREES 59 MINUTES 50 SECONDS WEST, 81.66 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 99,493 SQUARE FEET OF LAND MORE OR LESS BEING IN CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN.

Exhibit C

Storm Water Practice Maintenance Plan

This exhibit explains the basic function of each of the storm water practices listed in Exhibit B and prescribes the minimum maintenance requirements to remain compliant with this Agreement. The maintenance activities listed below are aimed to ensure these practices continue serving their intended functions in perpetuity. The list of activities is not all inclusive, but rather indicates the minimum type of maintenance that can be expected for this particular site. Access to the stormwater practices for maintenance vehicles is shown in Exhibit B. Any failure of a storm water practice that is caused by a lack of maintenance will subject the Owner(s) to enforcement of the provisions listed on page 1 of this Agreement by the City of Waukesha.

Wet Detention Basin System Description:

The wet detention basin is designed to trap 80% of sediment in runoff and maintain pre-development downstream peak flows. The basin has two forebays (smaller ponds) located at the low end of two grass swales. In addition to runoff conveyance, the grass swales also allow infiltration and filtering of pollutants, especially from smaller storms. The forebays are each 4 feet deep. They are connected to the main pool by 18 and 24-inch metal pipes that outlet onto a rock chute. The forebays will trap coarse sediments in runoff, such as road sands, thus reducing maintenance of the main basin. The main pool will trap the finer suspended sediment. To do this, the pond size, water level and outlet structures must be maintained as specified in this Agreement (see Figures 1, 2 and 3).

The wet detention basin receives runoff from a 17.05 acre drainage area. During high rainfall or snow melt events, the water level will temporarily rise and slowly drain down to the elevation of the control structure. "As-built" construction drawings of the basin, showing actual dimensions, elevations, outlet structures, etc. will be recorded as an addendum(s) to this agreement within 60 days after City of Waukesha accepts verification of construction from the project engineer.

Wet Detention Basin Minimum Maintenance Requirements:

To ensure the proper long-term function of the storm water management practices described above, the following activities must be completed:

1. All outlet pipes must be checked monthly to ensure there is no blockage from floating debris or ice, especially the washed stone in front of the 3-inch orifice and the trash rack on the riser in the main basin. Any blockage must be removed immediately. The washed stone must be replaced when it becomes clogged.
2. Grass swales shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans. No buildings or other structures are allowed in these areas. No grading or filling is allowed that may interrupt flows in any way.
3. Grass swales, inlets and outlets must be checked after heavy rains (minimum of annually) for signs of erosion. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the downstream forebays or basin. Erosion matting is recommended for repairing grassed areas.
4. NO trees are to be planted or allowed to grow on the earthen berms. Tree root systems can reduce soil compaction and cause berm failure. The berms must be inspected annually and any woody vegetation removed.
5. Invasive plant and animal species shall be managed in compliance with Wisconsin Administrative Code Chapter NR 40. This may require eradication of invasive species in some cases.
6. If the permanent pool falls below the safety shelf, a review shall be performed to determine whether the cause is liner leakage or an insufficient water budget. If the cause is leakage, the liner shall be repaired. Leakage due to muskrat burrows may require removal of the animals. If the permanent pool cannot be sustained at the design elevation, benching of the safety shelf may be necessary.
7. If floating algae or weed growth becomes a nuisance (decay odors, etc.), it must be removed from the basin or the forebay and deposited where it cannot drain back into the basin. Removal of the vegetation from the water reduces regrowth the following season (by harvesting the nutrients). Wetland vegetation must be maintained along the waters edge for safety and pollutant removal purposes.
8. When sediment in the forebays or the basin has accumulated to an elevation of three feet below the outlet elevation, it must be removed (see Exhibit D). All removed sediment must be placed in an appropriate upland disposal site and stabilized (grass cover) to prevent sediment from washing back into the basin. The forebays will likely need sediment removal first. Failure to remove sediment from the forebays will cause resuspension of previously trapped sediments and increase downstream deposition.

9. No grading or filling of the basin or berm other than for sediment removal is allowed, unless otherwise approved by the City of Waukesha.
10. Periodic mowing of the grass swales will encourage vigorous grass cover and allow better inspections for erosion. Waiting until after August 1 will avoid disturbing nesting wildlife. Mowing around the basin or the forebays may attract nuisance populations of geese to the property and is not necessary or recommended.
11. Any other repair or maintenance needed to ensure the continued function of the storm water practices or as ordered by the City of Waukesha under the provisions listed on page 1 of this Agreement.
12. The titleholder(s) or their designee must document all inspections as specified above. Documentation shall include as a minimum: (a) Inspectors Name, Address and Telephone Number, (b) Date of Inspections, (c) Condition Report of the Storm Water Management Practice, (d) Corrective Actions to be Taken and Time Frame for Completion, (e) Follow-up Documentation after Completion of the Maintenance Activities. All documentation is to be delivered to the attention of the City Engineer at the City of Waukesha Engineering Department on January 10th and July 10th each year.

Infiltration Basin System Description:

Infiltration basins are designed to reduce runoff volumes from a site after development by intercepting the runoff and allowing it to slowly seep (infiltrate) into the underlying soil and groundwater. The infiltration basin receives runoff from a 11.99 acre drainage area. Pretreatment of the runoff is provided in a forebay to reduce sedimentation in the basin and prevent the risk of groundwater pollution.

Infiltration Basin Minimum Maintenance Requirements:

To ensure the proper function of storm water infiltration basin, the following list of maintenance activities are recommended:

1. A minimum of 70% soil cover made up of native grasses must be maintained on the basin bottom to ensure infiltration rates. Periodic burning or mowing is recommended to enhance establishment of the prairie grasses (which may take 2-3 years) and maintain the minimum native cover. To reduce competition from cool season grasses (bluegrass, fescues, quack, etc.) and other weeds:
 - o For the first year, cut to a 6" height three times – once each in June, July and early August. To prevent damage to the native grasses, do not mow below a 6" height. Remove excessive accumulation of clippings to avoid smothering next year's seedlings.
 - o After the first year, mowing may only be needed in early June each year to help control the spread of cool season plants. The mowing should also be raised to 10-12" to avoid damage to the warm season plants.
 - o Burning may also be used to manage weeds in 2-5 year intervals. Late spring burns (mid-late May) provide maximum stimulus to warm season grasses and work well to control cool season grasses. Burn when the cool season grasses are growing and the warm season plants are just barely starting to grow to get maximum control of cool season species.
 - o Any major bare areas or areas taken over by nonnative species must be reseeded. To clear area of weeds and cool season grasses, treat with an herbicide that contains glyphosphate in accordance with manufacture's instructions. Ensure a firm seedbed is prepared to a depth of 3 inches (a roller is recommended). Seeding should occur in early-mid June. Seed with Big Bluestem, Indian Grass, Little Blue Stem or Switchgrass (preferably an equal mix of all four types). A companion crop of oats is recommended. Seed must be placed at a depth of 1/4 – 1/2" and a minimum rate of 1/4 pound per 100 square feet. If broadcast seeding by hand, drag leaf rake over soil surface after seeding. Then roll it again and cover with a light layer of mulch and staked erosion control netting to hold it in place until germination. For other planting details, see NRCS standard 342 (Critical Area Planting).
2. Invasive plant and animal species shall be managed in compliance with Wisconsin Administrative Code Chapter NR 40. This may require eradication of invasive species in some cases.
3. The basin and all components (grass swales, forebay, inlets, outlets, etc.) should be inspected after each heavy rain, but at a minimum of once per year. If the basin is not draining properly (within 72 hours), further inspection may be required by persons with expertise in storm water management and/or soils.
 - o If soil testing shows that the soil surface has become crusted, sealed or compacted, some deep tillage should be performed. Deep tillage will cut through the underlying soils at a 2-3 feet depth, loosening the soil and improving infiltration rates, with minimal disturbance of the surface vegetation. Types of tillage equipment that can be used include a subsoiler or straight, narrow-shanked chisel plow.

- If sedimentation is determined to be causing the failure, the accumulated sediment must be removed and the area reseeded in accordance with the notes above.
 - If inspection of the monitoring well shows that groundwater is regularly near the surface, additional design features may need to be considered, such as subsurface drainage or conversion to a wetland treatment system.
 - If the washed stone trench has become clogged, the stone – and possibly the soil immediately around the stone - must be replaced.
4. All outlet pipes, stone trenches and other flow control devices must be kept free of debris. Any blockage must be removed immediately.
 5. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the system. Erosion matting is recommended for repairing grassed areas.
 6. Heavy equipment and vehicles must be kept off of the bottom and side slopes of infiltration basins to prevent soil compaction. Soil compaction will reduce infiltration rates and may cause failure of the basin, resulting in ponding and possible growth of wetland plants.
 7. No trees are to be planted or allowed to grow on the earthen berms of the bottom of the basin. On the berms, tree root systems can reduce soil compaction and cause berm failure. On the basin bottom, trees may shade out the native grasses. The basin must be inspected annually and any woody vegetation removed.
 8. Grass swales leading to the basin shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans. No buildings or other structures are allowed in these areas. No grading or filling is allowed that may interrupt flows in any way.
 9. If floating algae or weed growth becomes a nuisance in the forebay (decay odors, etc.), it must be removed and deposited where it cannot drain back into the basin or forebay. Removal of the vegetation from the water reduces regrowth the following season (by harvesting the nutrients). Wetland vegetation must be maintained along the water's edge for safety and pollutant removal purposes.
 10. When sediment in the forebay has accumulated to an elevation of three feet below the outlet elevation, it must be removed (refer to figure). All removed sediment must be placed in an appropriate upland disposal site and stabilized (grass cover) to prevent sediment from washing back into the basin. Failure to remove sediment from the forebays will cause resuspension of previously trapped sediments and increase deposition in the infiltration basin.
 11. No grading or filling of the basin or berms other than for sediment removal is allowed.
 12. Periodic mowing of the grass swales will encourage rigorous grass cover and allow better inspections for erosion. Waiting until after August 1 will avoid disturbing nesting wildlife. Mowing around forebay may attract nuisance populations of geese to the property and is not necessary or recommended.
 13. Any other repair or maintenance needed to ensure the continued function of the infiltration basin as ordered by the City of Waukesha under the provisions listed on page 1 of this Agreement.
 14. The titleholder(s) or their designee must document all inspections as specified above. Documentation shall include as a minimum: (a) Inspectors Name, Address and Telephone Number, (b) Date of Inspections, (c) Condition Report of the Storm Water Management Practice, (d) Corrective Actions to be Taken and Time Frame for Completion, (e) Follow-up Documentation after Completion of the Maintenance Activities. All documentation is to be delivered to the attention of the City Engineer at the City of Waukesha Engineering Department on January 10th and July 10th each year.