

Storm Water Management Practice Maintenance Agreement

Document Number

Waukesha Commerce Center, LLC, 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

See Attached Exhibit A

Parcel Identification Number(s) – (PIN)

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 26th day of September, 2018

Owner:
Waukesha Commerce Center, LLC, by
Waucom MM, LLC, its Manager, by
J. Jeffers & Co., LLC, its Manager

By: Joshua J. Jeffers, President

Acknowledgements

State of Wisconsin:
County of Milwaukee

Personally came before me this 24th day of September, 2018, the above-named Joshua J. Jeffers, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Danielle M. Bergner
Notary Public, Milwaukee County, WI
My commission is permanent.

This document was drafted by:

Danielle M. Bergner, Esq.
225 E. Michigan Street, #300
Milwaukee, WI 53202

For Certification Stamp

City of Waukesha Common Council Approval

Dated this ____ day of _____, 201_.

Shawn N. Reilly, Mayor

Gina Kozlik, City Clerk

Acknowledgements

State of Wisconsin:
County of Waukesha

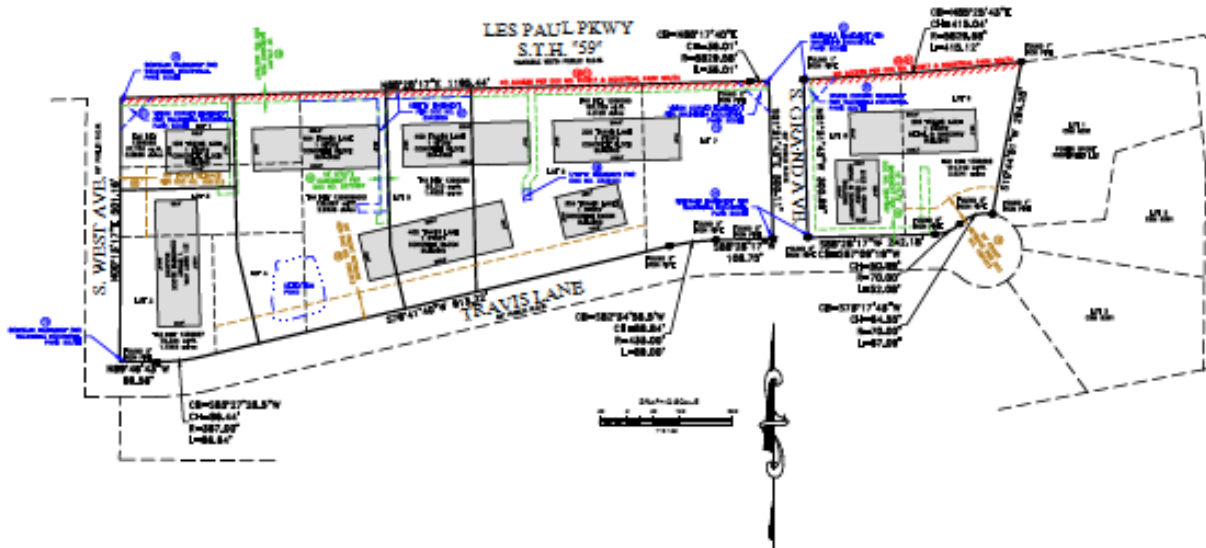
Personally came before me this ____ day of _____, 201_, the above named _____ to me known to be the person who executed the foregoing instrument and acknowledged the same.

[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 Commerce and Industrial Center** Acres: **13.9579**
Date of Recording: **Plat of Waukesha Industrial Park South** recorded **November 17, 1978**
Map Produced By: **Plat of Waukesha Industrial Park South** prepared by **Stanley J. Potrykus, RLS**
Legal Description: **Lots 1 through 9 inclusive in Waukesha Industrial Park South, being a Subdivision of a part of the Southwest ¼ & Southeast ¼ of the Southeast ¼ of Section 15, Town 6 North, Range 19 East, in the City of Waukesha, County of Waukesha, State of Wisconsin.**
Tax Key No's: **WAKC 1356.085, WAKC 1356.087, WAKC 1356.089, WAKC 1356.089.001, WAKC 1356.090 and WAKC 1356.092.**
Addresses: **406 Travis Lane, 400 Travis Lane, 404 Travis Lane, 300 Travis Lane, 2103 S. Grand Avenue, and 2111 S. West Avenue.**



ALTA Survey of the Property, above, dated June 27, 2018, prepared by raSmith, Stephan G. Southwell.

Drainage Easement Restrictions: A pending Certified Survey Map for the Property, attached, indicates a drainage easement for storm water collection, conveyance and treatment. No buildings or other structures are allowed in these areas. No grading or filling is allowed that may interrupt storm water flows in any way. See Exhibit C for specific maintenance requirements for storm water management practices

Attachments: Certified Survey Map, pending as of the date of this Agreement.

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 one wet detention basin, two forebays, two grass swales (conveying storm water to the forebays) and all associated pipes, earthen berms, rock chutes and other components of these practices. All of the noted storm water management practices are located within a drainage easement in Outlot 1 of the subdivision plat, as noted in Exhibit A.

Subdivision Name: **Plat of Waukesha Industrial Park South**
Storm water Practices: **Wet Detention Basin #1**
Location of Practices: **Part of Lots 1 and 2 in Waukesha Industrial Park South.**
Owner of Lots 1 and 2: **Waukesha Commerce Center, LLC***

Note: Lots 1 and 2 will be combined with adjacent parcels into one new Lot by CSM, attached; therefore, no cross-easements are required.

Figure 1
Plan View of Storm Water Practices

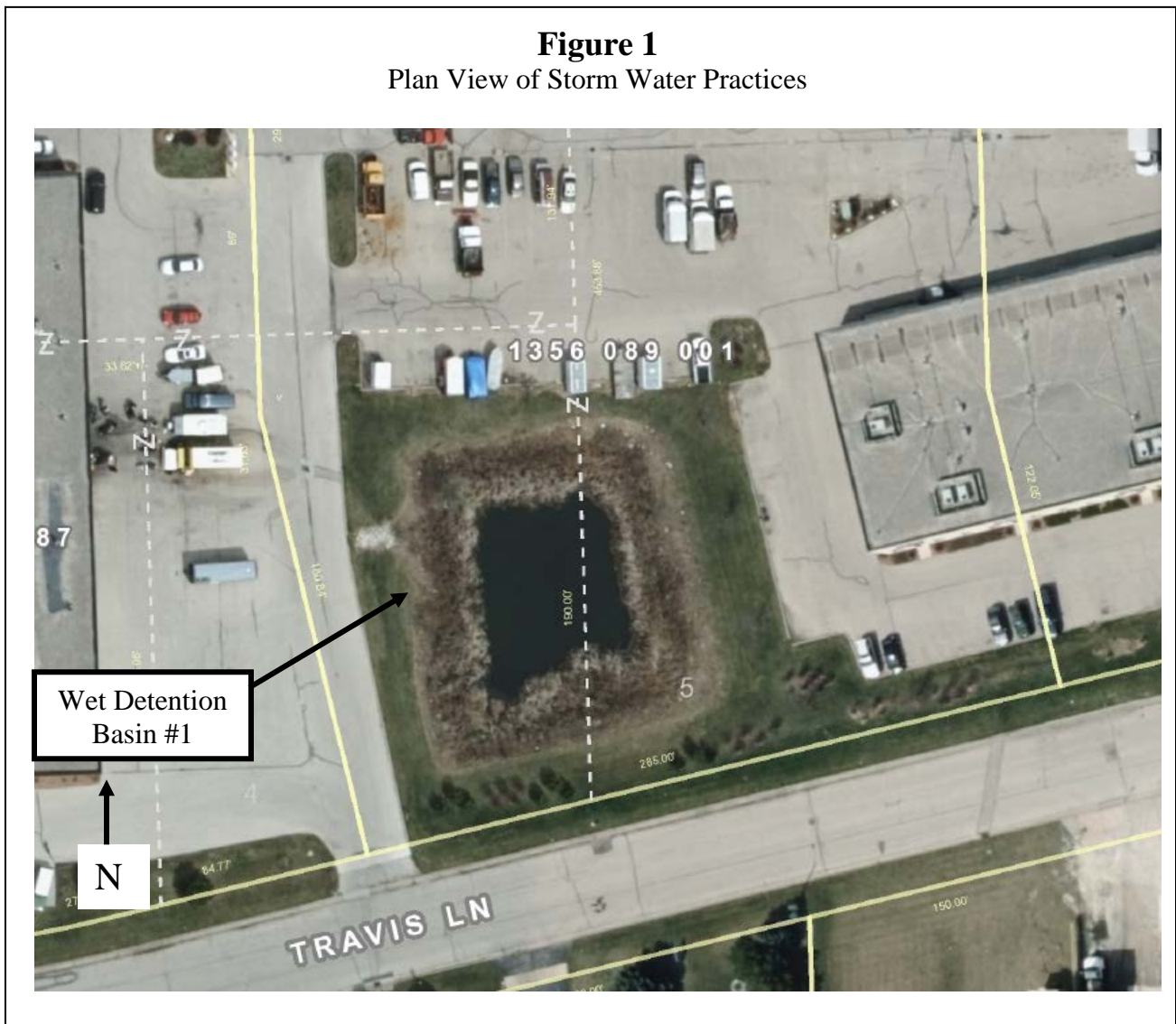


Exhibit C

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.

System Description:

The exact specifications of the wet detention basin are not known given that construction of the basin pre-dated current City stormwater regulation. It is generally understood that the basin is designed to trap sediment in runoff and maintain pre-development downstream peak flows; however, precise performance standards cannot be determined. To perform its function, the basin's water level and outlet structures must be maintained as specified in this Agreement (see Figures 1, 2 and 3).

"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.

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.