AGREEMENT TO MAINTAIN
STORMWATER FACILITIES
ENTERED INTO ON THIS ____ DAY OF
_____, _____,
BY AND BETWEEN
CITY OF SHEBOYGAN FALLS AND
_____, AND
ITS HEIRS, SUCCESSORS, OR ASSIGNS

The upkeep and maintenance of stormwater facilities and the implementation of pollution source control best management practices (BMPs) is essential to the protection of water resources in City of Sheboygan Falls. All property owners are expected to conduct business in a manner that minimizes impacts of stormwater runoff. This Agreement contains specific provisions with respect to maintenance of stormwater facilities. The authority to require maintenance and pollution source control is provided in City of Sheboygan Falls Construction Site Erosion Control and Stormwater Management Ordinance.

Name and Return Address:
City Administrator Shad Tenpas
CITY OF SHEBOYGAN FALLS
P.O. Box 186
Sheboygan Falls, WI 53085
*shad@cityofsheboyganfalls.wi.gov*

Whereas, Owner has constructed improvements, including but not limited to, buildings, pavement, and stormwater facilities on the property described above. In order to further the goals of the stormwater management goals of City of Sheboygan Falls, the City and Owner hereby enter into this Agreement. The responsibilities of each party to this Agreement are identified below.

OWNER SHALL:

(1) Implement the stormwater facility maintenance plan included herein as Attachment A.

(2) Implement the stormwater management plan included herein as Attachment B.

(3) Include a legal description of the property and map showing location of area served as Attachment C.

(4) Allow the City or designee to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

(5) Undertake corrective actions required by City within a reasonable time frame as set by the City.

(6) Maintain a record of steps taken to implement the programs referenced in (1) and (2) above. Record shall be available for inspection by City staff at Owners business during normal business hours. The record shall catalog the action taken, who took it, when it was done, how it was done, and any problems encountered or follow-on actions recommended.

CITY OF SHEBOYGAN FALLS SHALL:

(1) Provide technical assistance to Owner in support of its operation and maintenance activities conducted pursuant to its maintenance and source control programs. Said assistance shall be provided upon request, and as City time and resources permit.

(2) Maintain public records of the results of the site inspections, inform the party responsible for maintenance of the inspection results, and specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.

(3) Notify the Owner of maintenance problems that require correction.

REMEDIES:

(1) If corrective actions required by the City are not completed within the time set by the City, written notice will be sent to the persons who were given notice stating the City intention to perform such maintenance and bill the owner for all incurred expenses.

(2) If at any time the City determines that the existing system creates any imminent threat to public health or welfare, the City may take immediate measures to remedy said threat. No notice to the persons listed in (1), above, shall be required under such circumstances.

(3) The owner grants unrestricted authority to the City for access to any and all stormwater system features for the purpose of performing maintenance or repair as may become necessary under Remedies (1) and/or (2).

(4) The persons listed in (1), above, shall assume all responsibility for the cost of any maintenance and for repairs to the stormwater facility. Such responsibility shall include reimbursement to the City within 30 days of the receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by the City will be borne by the parties responsible for said reimbursements. If the reimbursement was not made that the costs would be placed on the Owner's tax bill pursuant to Wis. Stats. §66.0627.

(5) The owner hereby grants to the City a lien against the above-described property in an amount equal to the cost incurred by the City to perform the maintenance or repair work described herein.

(6) Owner shall defend, indemnify and hold harmless the City, its successors in interest, officers, employees, agents, invitees, and guesses, from and against any and all liability whatsoever, whether joint or several, from any and all claims, actions, demands, causes of action, liabilities and obligations of whatever nature, whether now known or hereafter made known, anticipated or unanticipated, choate or inchoate, whether arising by tort, contract or otherwise, at law or in equity, losses judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorney's fees, of any kind or any

nature whatsoever which may be imposed, incurred, sustained or asserted against the City, and its successors in interest, officers, employees, agents, invitees, and guests, by reason of any injury or death to any person or loss, damage or destruction of any property or loss of use thereof, or otherwise arising as a result of this Agreement or the Stormwater Systems, successors in interest, officers, employees, agents, invitees, and guests.

(7) Owner may not transfer, assign, or modify its obligations with respect to this Agreement without the City's written consent; except that Owner does not need the City's consent to transfer fee simple title to the Property to a new owner who will assume all of the Owner's obligations under this Agreement.

(8) If any portion of this Agreement shall be deemed illegal, null or void or against public policy, for any reason, or shall be held to be invalid or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

(9) This Agreement may not be modified or amended except by a written understanding that is then executed by the parties.

(10) The failure of either party to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provision or of the right of the party thereafter to enforce each and every such provision.

This Agreement is intended to protect the value and desirability of the real property described above and to benefit all the citizens of the City. It shall run with the land and be binding on all parties having or acquiring from Owner or their successors any right, title, or interest in the property or any part thereof, as well as their title, or interest in the property or any part thereof, as well as their heirs, successors, and assigns. They shall inure to the benefit of each present or future successor in interest of said property or any part thereof, or interest therein, and to the benefit of all citizens of the City.

_____
Signature of Owner

_____
Date

**STATE OF WISCONSIN CITY OF SHEBOYGAN FALLS**

On this day and year above personally appeared before me, a Notary Public in and for the State of Wisconsin duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____ and acknowledge the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year first above written.

_____

Notary Public in and for the State of Wisconsin, residing in _____

My Commission Expires: _____

Dated at City of Sheboygan Falls, Wisconsin, this _____ day of _____, _____.

CITY OF SHEBOYGAN FALLS

By:_____
Authorized Agent for City of Sheboygan Falls

This Document Drafted By:
STRAND ASSOCIATES, INC.
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