

**DECLARATION OF RESTRICTIVE COVENANTS REGARDING
MAINTENANCE AND OPERATION OF STORM WATER RUN-OFF FACILITIES**

This Declaration of Restrictive Covenants is made this ____ day of _____, 20__, by the following owner(s):

[list the name and address of each party executing the agreement]

WHEREAS, the foregoing person(s) is/are the owner(s) of the following-described lands located in the Township of _____ (the "Township"), which are to be benefitted by the storm water run-off facilities which are the subject of this Declaration (the "Benefitted Lands"):

[insert legal description of Benefitted Lands]

WHEREAS, pursuant to _____ Township Ordinance No. _____, pertaining to storm water management, storm water facilities are to be constructed for the benefit of the above-described Benefitted Lands, in accordance with a drainage plan dated _____ and the conditions and requirements of a Township storm water drainage permit;

WHEREAS, the owner(s) of the Benefitted Lands is responsible for the maintenance, upkeep, repair costs and other decisions concerning use and maintenance of the storm water run-off facilities;

WHEREAS, it is in the interest of the public health, safety and welfare of the residents of the Township that such facilities continue to be maintained in a safe and effective manner.

1. **Easement.** For the benefit of the above-described Benefitted Lands, the owner(s) shall provide and record in the Kent County Register of Deeds records all storm water management easements necessary to implement the approved drainage plan and to otherwise comply with Township Ordinance No. ____, so as to assure access for proper inspection and maintenance of storm water run-off facilities and adequate emergency overland flow-ways. The easements shall constitute a restrictive covenant on the Benefitted Lands.

2. **Duty to Maintain Storm Water Run-off Facilities.** The owner(s) of the Benefitted lands shall be responsible for routine, emergency and long term maintenance of the storm water run-off facilities, in accordance with the drainage plan and the storm water permit issued for the Benefitted Lands. Such responsibility shall include proper inspection and

sampling, maintenance of the storm water monitoring facilities, record keeping, and normal maintenance of the storm water run-off facilities themselves.

The provisions of this Declaration pertaining to the maintenance of the storm water run-off facilities may be enforced against each owner, and each owner's successors and assigns, jointly and severally, by the Township. If the Benefitted Lands are divided, each portion of the Benefitted Lands shall be subject to these restrictive covenants and each owner shall be jointly and severally responsible for maintenance of the storm water run-off facilities and such other responsibilities as are imposed herein.

Township personnel and consultants are hereby authorized to enter the Benefitted Lands for the purpose of inspecting, sampling, maintaining and repairing the storm water run-off facilities or for such other purposes, including enforcement, pertaining to this Declaration.

3. **Failure to Maintain.** If the owner(s), in the opinion of the Township, fails to comply with any term of this Declaration, including but not limited to the duty to maintain the storm water run-off facilities, the Township is hereby authorized to enter the Benefitted Lands and to maintain and repair the storm water run-off facilities as may be reasonably necessary, at the owner's expense.

4. **Recovery of Costs.** If the Township incurs costs enforcing this Declaration or maintaining the storm water run-off facilities, all costs incurred, including the costs of maintenance, repair, legal fees, engineering costs and other costs and fees, shall be paid by owner(s), within 30 days of the date an invoice is mailed by the Township.

As provided in Section _____ of the Township Storm Water Ordinance, costs incurred by the Township and the Drain Commissioner shall be a lien on the Benefitted Lands which shall be enforceable in accordance with the procedures contained in Act No. 94 of the Public Acts of 1933, as amended from time-to-time. Any such charges which are delinquent for six (6) months or more may be certified annually to the Township Treasurer who shall enter the lien on the next tax roll against the Benefitted Lands and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the role and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township or the Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

5. **Indemnification.** The owner(s) hereunder shall indemnify and hold the Township harmless from any and all claims for personal injury or property arising out of or in any way related to the use of the storm water run-off facilities, or of the failure to properly construct, maintain, repair and replace the storm water run-off facilities, in whole or in part.

Notwithstanding the foregoing, the Township may, in its discretion, require that an owner or owners post such bond or other security as the Township may request to assure adequate construction and maintenance of the storm water run-off facilities and to otherwise assure performance under this Agreement.

6. **Binding Agreement.** This Declaration and all the terms and conditions of this Declaration shall run with the land and shall be binding upon and shall benefit all of the owners

of the Benefitted Lands, or any portion thereof, and the heirs, successors and assigns of such owner(s).

7. **Recording.** This Declaration shall be recorded in the records of the Kent County Register of Deeds, and a recorded copy thereof shall be promptly furnished to the Township.

8. [insert other provisions, if any]

Owner(s)

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____.

Notary Public, _____ County, Michigan
Acting in Kent County, Michigan
My commission expires: _____