

CITY OF BAXTER
COUNTY OF CROW WING
STATE OF MINNESOTA

**STORMWATER FACILITIES MAINTENANCE AGREEMENT
WITH ACCESS RIGHTS AND COVENANTS**

MENARD, INC

This AGREEMENT, made and entered into this ___ day of _____, 20___, for the maintenance and repair of certain Stormwater Management Facilities is entered into Menard, Inc., a **Wisconsin Corporation**, party of the first part, hereinafter referred to as "OWNER" and the City of Baxter a municipal corporation under the laws of Minnesota, party of the second part hereinafter referred to as "CITY") for the benefit of the CITY, the OWNER, the successors in interest to the CITY or the OWNER, and the public generally.

WITNESSETH

WHEREAS, the undersigned is the owner of **Lot 1, Block 1, MENARD THIRD ADDITION** in the City of Baxter, Crow Wing County, Minnesota according to the plat thereof on file with the Crow Wing County Recorder, a copy of which is attached hereto and made a part hereof as **Attachment A** and hereinafter called the "Property"; and

WHEREAS, the undersigned is proceeding to build on and develop the Property; and has submitted the Site Plan/Subdivision Plan known as **Menard Inc.**, Baxter, hereinafter called the "Plan", a copy of which is attached hereto as **Attachment B** and which is expressly made a part hereof, as approved or to be approved by the City, provides for detention of stormwater within the confines of the Property; and

WHEREAS, the City and the undersigned, its successors and assigns, including any homeowners association, (hereinafter the "Landowner") agree that the health, safety, and welfare of the residents of the City of Baxter, Minnesota, requires that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site stormwater management facilities as shown on the Plan **Attachment B** (the "Facilities") be constructed and adequately maintained by the Landowner.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions listed below and including **Attachment C**, the parties hereto agree as follows:

- (1) When a new drainage control facility is installed, the party having the facility installed shall obtain a copy of the as-built plans from the City of Baxter Engineering Department. Owner shall make records of the installation and of all maintenance and repairs, and shall retain records for at least ten years. These records shall be submitted to the City of Baxter's Engineering Department and shall be made available during inspection of the facility and at other reasonable times upon request by the City Engineer.

- (2) The following operational maintenance activities shall be performed on all permitted systems on a regular basis or as needed:
- a) Sweeping of sediment from parking lot,
 - b) Removal of trash and debris,
 - c) Inspection of inlets and outlets,
 - d) Removal of sediments when the storage volume or conveyance capacity of the stormwater management system is below design levels
 - e) Ensure systems designed for infiltration are drawing down within 48 hours, and
 - f) Stabilization and restoration of eroded areas.
- (3) Specific operational maintenance activities are required, depending on the type of permitted system, in addition to the practices listed in subsection (2), above.
- a) Retention, swale and underdrain systems shall include provisions for:
 - 1. Mowing and removal of grass clippings, and
 - 2. Aeration, tilling, or replacement of topsoil as needed to restore the percolation capability of the system. If tilling or replacement of the topsoil is utilized, vegetation must be established on the disturbed surfaces.
 - b) Exfiltration systems shall include provisions for removal of sediment and debris from pretreatment or sediment collection systems.
 - c) Wet detention systems shall include provisions for operational maintenance of the littoral zone. Replanting shall be required if the percentage of vegetative cover falls below the permitted level. It is recommended that native vegetation be maintained in the littoral zone as part of the system's operation and maintenance plan. Undesirable species such as cattail and exotic plants should be controlled if they become a nuisance.
 - d) Dry detention systems shall include provisions for mowing and removal of grass clippings.
- (4) If the system is not functioning as designed and permitted, operational maintenance must be performed immediately to restore the system. If operational maintenance measures are insufficient to enable the system to meet the design and performance standards, the permittee must either replace the system or construct an alternative design.
- (5) In the event the Landowner fails to maintain the Facilities in good working condition acceptable to the City, the City may undertake without a public hearing, to enter upon the Property and take such steps as are necessary to correct deficiencies identified in the inspection report and authorize the City to assess the entire final cost of the corrections against above stated Property. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City. The Landowner grants to the City, its authorized agents and employees, a non-exclusive, perpetual easement over, across, under and through the Property for such purposes.

(6) This Agreement shall inure to the benefit of and shall be binding upon the Landowner and the City and their respective successors, agents and assignees, and shall be binding upon all future owners of all or any part of **Lot 1, Block 1, MENARD THIRD ADDITION** and shall be deemed covenants running with the land. However, nothing in this Agreement, expressed or implied, shall give to any other person or entity any benefit or legal or equitable right, remedy or claim under this Agreement. This Agreement, at the option of the City, may be placed on record with the County Recorder so as to give notice hereof to subsequent purchases and encumbrances.

IN WITNESS THEREOF, the parties hereto acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered:

[SIGNATURES APPEAR ON PAGES 4 AND 5]

OWNER:

Menard Inc.

By: Theron J. Berg
Its: Real Estate Manager

STATE OF WISCONSIN)
) ss.
COUNTY OF EAU CLAIRE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Theron J. Berg, a Real Estate Manager of Menard Inc., Wisconsin Corporation, on behalf of the company.

Notary Public
My commission expires: _____

CITY:

