

STORMWATER MAINTENANCE AGREEMENT

THIS AGREEMENT is made and entered into as of the ____ day of _____, _____, by and between _____ (the “Applicant”) and the City of St. Francis, a Minnesota municipal corporation (the “City”).

WITNESSETH:

WHEREAS, the Applicant owns certain real property located in Anoka County, Minnesota, legally described as:

See ATTACHMENT A.

(the “Property”); and

WHEREAS, the Applicant intends to construct within the Property certain stormwater improvements (the “Stormwater Improvements”) for the benefit of the Property; and

WHEREAS, the Stormwater Improvements consist of **INFILTRATION BASIN 11 & INFILTRATION BASIN 23 as shown on ATTACHMENT B** and for stormwater purposes which must receive periodic maintenance and inspections in order to remain effective; and

WHEREAS, the Operation and Maintenance Plan for the Property consists of the items listed below in this Agreement; and

WHEREAS, the Minnesota Pollution Control Agency requires permanent provisions for handling of storm runoff, including provisions for operation and maintenance of all stormwater runoff facilities, and such provisions are to be set forth in an agreement to be recorded in the real estate records; and

WHEREAS, the City and the Applicant intend to comply with certain conditions, including entering into a maintenance agreement regarding the Stormwater Improvements; and

NOW, THEREFORE, in consideration of mutual covenants of the parties set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Maintenance of the Stormwater Improvements. The Applicant and its successor or assigns as fee owner of the Property shall be responsible for maintaining the Stormwater Improvements and for observing all drainage laws governing the operation and maintenance of the Stormwater Improvements. The Applicant shall complete inspections of the Stormwater Improvements at least once annually and shall keep record of all inspections and maintenance activities, and submit such records to the City upon request. Maintenance activities may consist of removal of sediment and re-establishment of plantings, noxious weed removal, debris removal, actions stated in the Operation and Maintenance Plan, and other activities. The cost of all inspections and maintenance shall be the obligation of the Applicant and its successors or assigns as the fee owner of the Property.

a. Operation and Maintenance Plan.

The Operation and Maintenance Plan consists of the following items:

1. Applicant will inspect the Improvements at least annually.
2. Applicant will maintain and repair the Improvements:
 - a. In the case of basins and other Improvements where sediment collects, to preserve live storage or capacity at or above the design volume or, where no design live storage volume or capacity is incorporated into the permit, the volume or capacity recommended by the manufacturer.
 - b. In the case of conveyances and other structures, to preserve design hydraulic capacity.
 - c. In the case of Improvements relying on soils and vegetation for stormwater management or treatment, to preserve healthy vegetation and design soil permeability.
 - d. In the case of all Improvements, as necessary to preserve the integrity and intended function of the Improvement.
3. Applicant will submit to the City of St. Francis annually, within 30 days of the anniversary of permit issuance, a report listing inspection dates, Improvements inspected, Improvements conditions and actions taken, and dates of actions taken.

2. Permanent Access and Maintenance Easement. The Applicant or its successors or

assigns grants the City, its agents and Contractor(s) the right to enter the Property to inspect and maintain the Stormwater Improvements as set forth in this agreement.

3. City's Maintenance Rights. The City may maintain the Stormwater Improvements, as provided in this paragraph, if the City reasonably believes that the Applicant or its successors or assigns has failed to maintain the Stormwater Improvements in accordance with applicable drainage laws and other requirements and such failure continues for 30 days after the City gives the Applicant written notice of such failure. The City's notice shall specifically state which maintenance tasks are to be performed. If Applicant does not complete the maintenance tasks within 30 days after such notice is given by the City, the City shall have the right to enter upon the property to perform such maintenance tasks. In such case, the City shall send an invoice of its reasonable maintenance costs to the Applicant or its successors or assigns, which shall include all staff time, engineering and legal and other costs and expenses incurred by the City. If the Applicant or its assigns fails to reimburse the City for its costs and expenses in maintaining the Stormwater Improvements within 30 days of receipt of an invoice for such costs, the City shall have the right to assess the full cost thereof against all of the lots within the Property. The Applicant, on behalf of itself and its successor and assigns, acknowledges that the maintenance work performed by the City regarding the Stormwater Improvements benefits the lots in the Property in an amount which exceeds the assessment and hereby waives any right to hearing or notice and the right to appeal the assessments otherwise provided by Minnesota Statutes Chapter 429. Notwithstanding the foregoing, in the event to an emergency, as determined by the City Engineer, the 30-day notice requirement to the Applicant for failure to perform maintenance tasks shall be and hereby is waived in its entirety by the Applicant, and the Applicant shall reimburse the City and be subject to assessment for any expense so incurred by the City in the same manner as if written notice as described above has been given.

4. Hold Harmless. The Applicant hereby agrees to indemnify and hold harmless the City and its agents and employees against any and all claims, demands, losses, damages, and expenses (including reasonable attorneys' fees) arising out of or resulting from the Applicant's or the Applicant's agents or employee's negligent or intentional acts, or any violation of any safety law, regulation or code in the performance of this Agreement, without regard to any inspection or review made or not made by the City, its agents or employees or failure by the City, its agents or employees to take any other prudent precautions. In the event the City, upon the failure of the Applicant to comply with any conditions of this Agreement, performs said conditions pursuant to its authority in this Agreement, the Applicant shall indemnify and hold harmless the City, its employees, agents and representatives for its own negligent acts in the performance of the Applicant's required work under this Agreement, but this indemnification shall not extend to intentional or grossly negligent acts.

5. Costs of Enforcement. The Applicant agrees to reimburse the City for all costs incurred by the City in the enforcement of this Agreement, or any portion thereof, including court costs and reasonable attorneys' fees.

6. Notice. All notices required under this Agreement shall be personally delivered to applicant, and either personally delivered or sent by certified or registered mail to the city and addressed as follows:

To the Applicant: Minnetonka Game & Fish Club
8310 Hill and Dale Dr. NW
St. Francis, MN 55330

To the City: City of St. Francis
23340 Cree Street NW
St. Francis, MN 55070

All notices given hereunder shall be deemed given when personally delivered or two business days after being placed in the mail properly addressed as provided herein. Applicant may change this address by a certified letter to the City of St. Francis referencing the permit number.

7. Successors. All duties and obligations of Applicant under this Agreement shall also be duties and obligations of Applicant's successors and assigns. The terms and conditions of this Agreement shall run with the Property.

8. Effective Date. This Agreement shall be binding and effective as of the date hereof.

(Intentionally Left Blank)

APPLICANT

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____,
2023, by _____, of _____.

Notary Public

CITY OF ST. FRANCIS

By: _____
Joseph Muehlbauer, Mayor

And by: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Joseph Muehlbauer, the Mayor and _____, the _____ of the City of St. Francis, a Minnesota municipal corporation, on behalf of the municipal corporation.

Notary Public

This instrument drafted by:
Barna, Guzy & Steffen (DRS)
200 Coon Rapids Blvd. Suite 400
Coon Rapids, MN
55433

**ATTACHMENT A:
Legal Description of the Property**

ATTACHMENT B
Stormwater Improvement Plans