

1 RESOLUTION NO. 2009-456

2
3 SPONSOR Mr. Pry

4
5 DATE November 30, 2009 COMMITTEE Planning

6
7 **A Resolution authorizing the County Executive to grant an easement to the City of Akron**
8 **("Akron"), to access the bioretention basins and to assure the maintenance of storm water**
9 **management control at the location of the Veterans Service Commission Administration**
10 **Building, 1060 East Waterloo Road, in Council District 6, for the Executive's Department**
11 **of Administrative Services, Physical Plants Division, and declaring an emergency.**

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13 WHEREAS, the County has constructed the new Veterans Services Commission
14 Administrative Building at 1060 East Waterloo Road (the "Center"); and

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16 WHEREAS, plans for the Center included bioretention areas for the control of the flow
17 and quality of storm water from the Center, with the plans being approved by Akron
18 conditionally on the County operating and maintaining the bioretention areas; and

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20 WHERAS, Council has previously authorized an agreement with Akron, in which the
21 County promises to operate and maintain said bioretention areas in Resolution No. 2009-193;
22 and

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24 WHEREAS, Akron is requiring that the County grant it an easement to access the
25 bioretention areas and to assure their proper maintenance; and

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27 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
28 that it is necessary and in the best interest of the County to authorize the Executive to grant an
29 easement to Akron substantially in the form set forth in Exhibit "A" attached;

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31 NOW THEREFORE, BE IT RESOLVED, by the Council of the County of Summit, State
32 of Ohio, that:

33
34 SECTION 1

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36 The County Executive is hereby authorized to grant an easement to Akron substantially
37 in the form set forth in Exhibit "A" for access to the bioretention areas at the Center and to
38 assure their proper maintenance, in Council District 6, on behalf of the County of Summit.

39
40 SECTION 2

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42 This Resolution is hereby declared an emergency in the interest of the health, safety and
43 welfare of the residents of the County of Summit and for the further reason that it will
44 immediately authorize the County Executive to grant said easement, fulfilling a condition for the
45 approval of the plans for the Veterans Services Commission Administration Building.

46
47 SECTION 3

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49 Provided that this Resolution receives the affirmative vote of eight members, it shall take
50 effect immediately upon its adoption and approval by the Executive; otherwise it shall take effect
51 and be in force at the earliest time provided by law.

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RESOLUTION NO. 2009-456

PAGE TWO

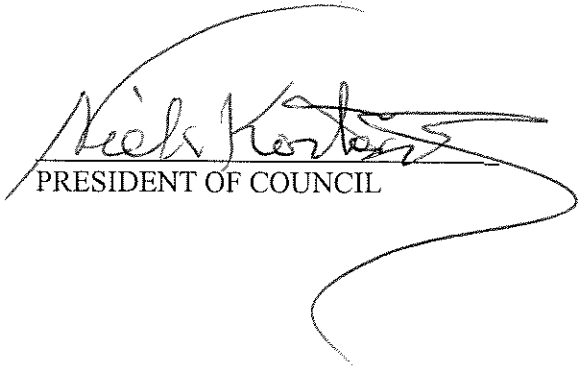
SECTION 4

It is found and determined that all formal actions of this Council concerning and related to the adoption of this Resolution were adopted in open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.

INTRODUCED November 16, 2009

ADOPTED November 30, 2009


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

APPROVED November 30, 2009


EXECUTIVE

ENACTED EFFECTIVE November 30, 2009

Voice Vote: 11-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras Poda, Prentice, Rodgers, Schmidt, Shapiro, Smith

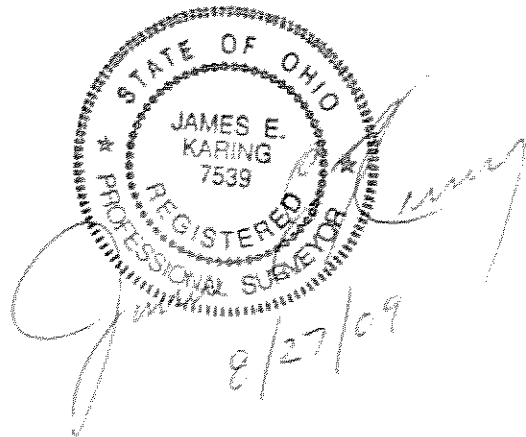
EXHIBIT "A"

Situated in the City of Akron, County of Summit, State of Ohio, and known as being a part of original Springfield Township Tract 1, Township 1 North, Range 10 West, also known as being all of the parcels of land conveyed to the County of Summit as recorded in Reception No. 55511945 of said County's records, and being further bounded and described as follows:

Commencing at a disk with a punch mark in a monument box found at the centerline intersection of E. Waterloo Rd. (variable width) and S. Arlington St. (C.H. 15), thence along the centerline of said S. Arlington St., S 0° 22' 35" W for a distance of 268.21 feet to a point, S 89° 04' 03" E for a distance of 260.00 feet to a point, said point being the **TRUE PLACE OF BEGINNING** of the parcel of land hereinafter described, thence clockwise along the following five (5) courses and distances:

- 1) Thence N 0° 22' 35" E for a distance of 197.82 feet to a point on the south right of way line of said E. Waterloo Rd.;
- 2) Thence along said south right of way line, S 89° 04' 03" E for a distance of 146.52 feet to a point;
- 3) Thence continuing along said south right of way line, S 82° 56' 54" E for a distance of 325.08 feet to a point;
- 4) Thence S 0° 55' 57" W for a distance of 163.16 feet to a point;
- 5) Thence N 89° 04' 03" W for a distance of 467.83 feet to the True Place of Beginning and containing 2.0002 acres of land, more or less, and subject to all easements, restrictions and covenants of record as surveyed under the supervision of James E. Karing, P.S. Number 7539, for GPD Associates, in August of 2009.

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09-456

VETERANS SERVICE COMMISSION

POST CONSTRUCTION BMP INSPECTION & MAINTENANCE AGREEMENT

1060 East Waterloo Road

Akron, Ohio 44306

Summit County

PROJECT NO. 2008070.00

October 9, 2008

Prepared For: City of Akron

Prepared by:
GPD Associates
Architects-Engineers-Planners
520 South Main Street
Suite 2531
Akron, Ohio 44311-1010
Phone: 330-572-2100
Fax: 330-572-2102



Operation and Maintenance Manual Guideline For Veterans Service Commission Bioretention Areas

(Source: EPA 1999, 2003; CDHE Rainwater and Land Development 2006; Georgia Stormwater Management Manual Vol. 2, North Carolina State University, RAI 2006)

Maintenance Tasks

Task	Frequency	Maintenance Notes
Activity log	Every event related to the bioretention area	Maintain an active neatly organized log of all events, maintenance activities. Keep log available for officials to review at any time.
Pruning	1 - 2 times / year	Nutrients in runoff often cause vegetation to flourish. Do not let area become overgrown "jungle like"
Mowing	2 - 12 times / year	frequency depends upon location and desired aesthetic appeal limited to the side slopes and top of embankment
Mulching	1 - 2 times / year	Use triple-shredded hardwood mulch, remove and replacement when erosion is evident. Mulch depth shall not exceed 3 inches.
Mulch removal	1 time / 2 - 3 years	Mulch accumulation reduces available water storage volume. Removal of mulch also increases surface infiltration rate of fill soil.
Watering	1 time / 2 - 3 days for first 1 - 2 months. Sporadically after establishment	if droughty, watering after the initial year may be required.
Fertilization	1 time initially	One time spot fertilization for "first year" vegetation only.
pH testing	1 time / year	The planting soils should be tested for pH to establish acidic levels. If the pH is below 5.2, limestone should be applied. If the pH is above 7.0 to 8.0, then iron sulfate plus sulfur can be added to reduce the pH.
Remove and replace dead plants	1 time / year	Within the first year, 10 percent of plants may die. Survival rates increase with time. (Trees and shrubs should be inspected to evaluate their health and remove any dead or severely diseased vegetation. Semi-annually)
Miscellaneous upkeep	12 times / year and as necessary	Tasks include trash collection, spot weeding, and removing mulch from overflow device, ensure drainage system is always free of debris and is functioning as intended.
Soil Media Replacement	As required	Tasks include soil testing of physical and chemical properties by a qualified facility. Replace soil as needed in accordance with current environmental regulations and standard practices.

Additional Maintenance Considerations and Requirements

The site facility maintenance individuals shall be provided all of these requirements as well as access to the maintenance log for event entries. The individuals responsible for the everyday and regular maintenance of the Bioretention Areas shall be informed on how and why these living water quality feature work to ensure premature failure does not occur. The surface of the ponding area may become clogged with fine sediment over time. Core aeration or cultivating of unvegetated areas may be required to ensure adequate filtration. Should ponding persist soil media tests shall be completed by a qualified testing facility and may be removed and replaced with the specified mix with in the current environmental regulations and current standard practices for Bioretention Areas. Regular inspection and maintenance is critical to the effective operation of bioretention facilities as designed. The up to date Maintenance Log will provide an accurate history of the functionality of the Bioretention Area which will also be used for future maintenance task decisions and task due dates. Maintenance responsibility for a bioretention area should be vested with a

responsible authority by means of a legally binding and enforceable maintenance agreement that is executed as a condition of plan approval.

Landscaping Notes

- Landscaping is critical to the performance and function of bioretention areas.
- A dense and vigorous vegetative cover should be established over the contributing pervious drainage areas before runoff can be accepted into the facility.
- The bioretention area should be vegetated to resemble a terrestrial forest ecosystem, with a mature tree canopy, subcanopy of understory trees, scrub layer, and herbaceous ground cover. Three species each of both trees and scrubs are recommended to be planted.
- The tree-to-shrub ratio should be 2:1 to 3:1. On average, the trees should be spaced 8 feet apart. Plants should be placed at regular intervals to replicate a natural forest. Woody vegetation should not be specified at inflow locations.
- After the trees and shrubs are established, the ground cover and mulch should be established.
- Choose plants based on factors such as whether native or not, resistance to drought and inundation, cost, aesthetics, maintenance, etc. Planting recommendations for bioretention facilities are as follows:
 - Native plant species should be specified over non-native species.
 - Vegetation should be selected based on a specified zone of hydric tolerance.
 - A selection of trees with an understory of shrubs and herbaceous materials should be provided.

Soil Media Mix

Selection of the appropriate fill soil media for a bioretention area is important to ensure adequate drainage, reduce pollutant loads, and support plant growth. The coefficient of permeability or hydraulic conductivity for the following soils is predicted to be between 1.5 to 2.6 inches/hour.

The half day soil mix shall be tested and certified to meet the following criteria (ODNR):

- Texture class: sandy loam or loamy sand. Having no less than 72% sand and no greater than 10% clay considering only the mineral fraction of the soil.
- pH Range 5.2-7.0
- Soluble Salts: 500 ppm maximum
- Organic matter: 5-20%
- Phosphorus: soil p-index should be between 15 and 40.
- Sand added to meet textural class or the composition below shall be clean and meet AASHTO M-6 or ASTM C-33 with a grain size of 0.02-0.04 inches

Alternate: The following "recipe" for a bioretention soil media, or fill-soil mix, works best (BAE):

- 85 to 88 percent sand. A washed, medium sand is sufficient. A USGA greens mix is not necessary and can be costly.
- 8 to 12 percent fines. Fines include both clay and silt.
 - o 12% to obtain 1 in/hr infiltration rate for nitrogen removal
 - o 8% to obtain 2 in/hr infiltration rate for phosphorus, metal, and other pollutant removal

- 3 to 5 percent organic matter. Studies in Maryland have shown newspaper mulch to be an ideal source of organics. In North Carolina, peat moss has been successfully used.

Soil Chemistry

To support plant growth while removing phosphorus from runoff, the fill soil must have a P-index between 10 and 30. If the bioretention area is not designed to reduce phosphorus in runoff, a P-Index for the fill soil of 25 to 40 is recommended. In addition to having a low P-Index, it is best for fill media to have a relatively high cation exchange capacity (CEC). Higher CECs describe soils that have a greater ability to capture and retain phosphorus. While a minimum CEC has yet to be established, CECs exceeding 10 are expected to work relatively well at removing target pollutants in bioretention systems.

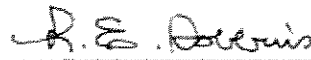
Owner/Operator Signature

Owner/Operator agrees to perform the Maintenance Tasks and complete the attached Log Report as frequently as requested. Also the Owner/Operator agrees to submit the completed Log Report to the City of Akron on an annual basis for their records.

APPROVED AS TO FORM:



 RUSSELL M. PRIT, EXECUTIVE
 COUNTY OF SUMMIT
 Date 12/30/08



 RICHARD E. DOBBINS, DIRECTOR
 DEPARTMENT OF LAW
 DATE 12/30/08

City of Akron Signature

Printed Name _____

Signature _____

Date _____

Veterans Service Commission Inspection Log

Post-Construction BMP Inspection and Maintenance Log Report

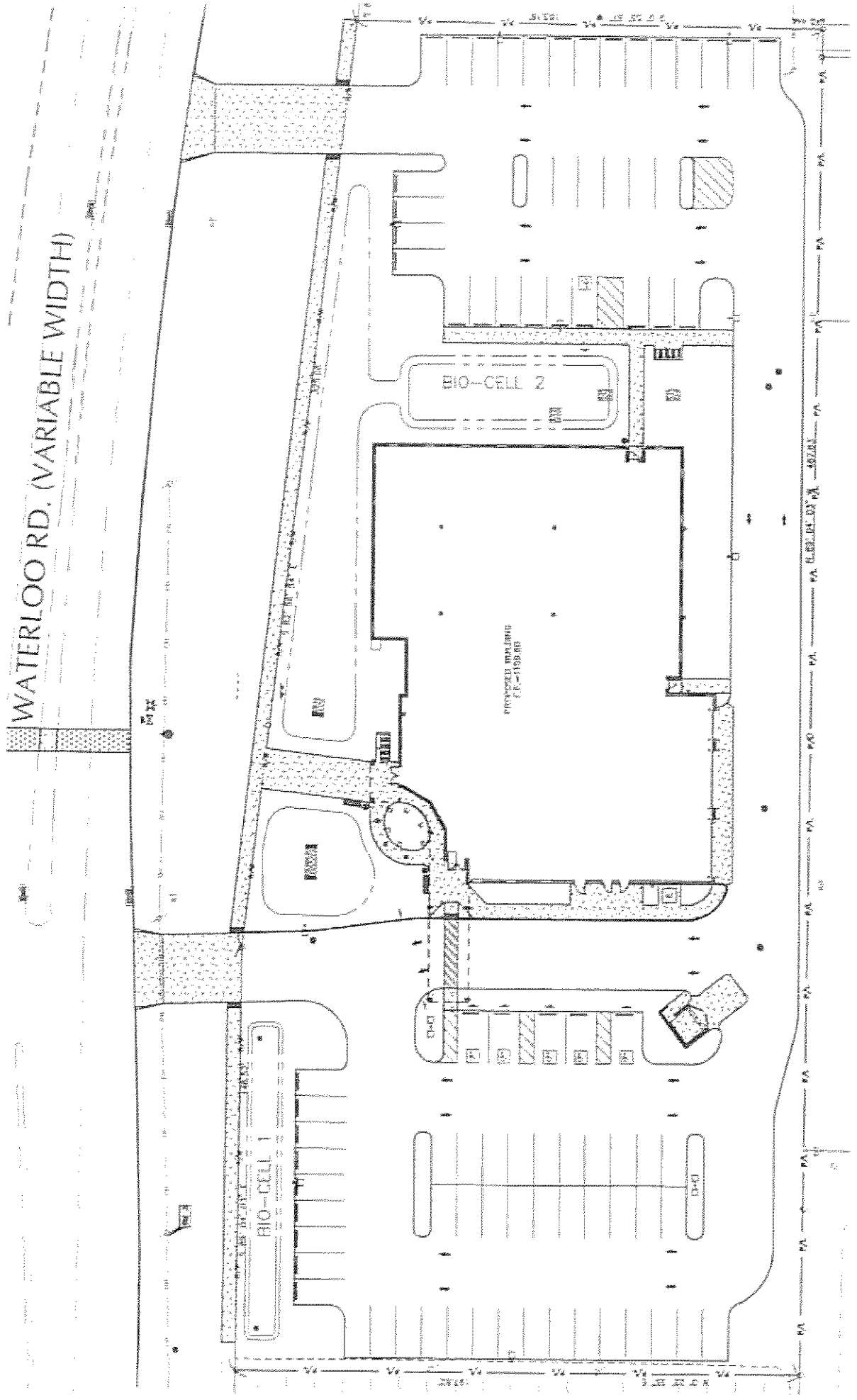
Facility Address: 1060 East Waterloo Road
 City, State: Akron, OH 44306

Owner/Operator shall maintain this log sheet per the specified Maintenance Tasks specified in the Inspection and Maintenance Agreement. Owner/Operator must submit this Inspection Log to the City of Akron on an annual basis.

Post-Construction BMP:		Bio-Cell 1 or Bio-Cell 2 (circle one)		
Task	Frequency	Maintenance Notes	Date Task Completed	Completed By
Activity log	Every event related to the bioretention area			
Pruning	1 - 2 times / year			
Mowing	2 - 12 times / year			
Mulching	1 - 2 times / year			
Mulch removal	1 time / 2 - 3 years			
Watering	1 time / 2 - 3 days for first 1 - 2 months. Sporadically after establishment			
Fertilization	1 time initially			
pH testing	1 time / year			
Remove and replace dead plants	1 time / year			
Miscellaneous upkeep	12 times / year and as necessary			
Soil Media Replacement	As required			

09-456

WATERLOO RD. (VARIABLE WIDTH)



EASEMENT

THIS DEED OF EASEMENT, made and entered into this _____ day of _____, 2009, by THE COUNTY OF SUMMIT and its successors, contractors and assigns, hereinafter referred to as GRANTOR, for the consideration of ONE DOLLAR (\$1.00) and other good and valuable considerations received to its full satisfaction, does hereby grant to the CITY OF AKRON, OHIO, its successors, contractors, licensees and assigns, hereinafter referred to as GRANTEE, an easement and right-of-way for the purpose of guaranteeing the maintenance of each storm water management control as shown and described on the approved Storm Water Pollution Prevention Plan (SWP3) which is on file in the Office of the City Engineer, together with all of the rights and privileges hereinafter enumerated pertaining to said property, being more particularly bounded and described as follows:

[Description of Property]

See Attached Exhibit A which is incorporated herein by reference and made a part hereof as if the same be rewritten herein.

WHEREAS, GRANTOR has submitted for approval by the GRANTEE an SWP3 pursuant to Section 50.80 *Erosion and Sediment Control – Post-Construction Stormwater Quality*, of the Code of the City of Akron; and

WHEREAS, Section 50.80 of the Codified Ordinances of the City of Akron requires permanent facilities for storm water detention, the maintenance of which must be guaranteed in perpetuity by the GRANTOR; and

WHEREAS, the GRANTEE and/or its authorized agent has reviewed the proposed SWP3 and has indicated that the Storm Water Management Controls (each Storm Water Management Control referred to herein as a “Control” and collectively the “Controls”), as detailed in the plans prepared by GPD Associates are adequate provided that the GRANTOR provides the maintenance of each Control;

This easement is granted for the following purposes and subject to the following conditions:

This easement shall exist in perpetuity unless both parties agree upon a discontinuation of the easement.

The GRANTOR and any successors reserve the right to occupy and use each Control for purposes not inconsistent with said easement. Items considered inconsistent with said easement include, but are not limited to, any structure that may impact or cause damage to any Control.

The GRANTEE shall at all times have a right to enter said easement and right-of-way for the purpose of installing, constructing, reconstructing, modifying, altering, maintaining, repairing, operating, monitoring and/or inspecting any Control within said easement and right-of-way, the right of entry to be along the property herein designated;

The GRANTEE shall have the right to set up on the GRANTOR's property such devices necessary to conduct sampling and/or metering of the GRANTOR's stormwater operations or discharges.

1. Maintenance of the Storm Water Management Controls

The GRANTOR agrees that it shall maintain indefinitely each Control in accordance with the Post Construction BMP Inspection and Maintenance Agreement, attached as Exhibit B and incorporated herein by reference, in a manner which will permit each Control to perform the purposes for which it was designed and constructed, and in accordance with the standards by which it was designed and constructed, all as shown and described on the approved SWP3 herein above referred to.

2. Final Inspection Reports

The GRANTOR agrees that, upon completion of all of the Controls, it will retain at its expense a Professional Engineer registered in Ohio to certify in writing to the GRANTEE within thirty (30) days of completion that each Control is constructed in accordance with the approved plans and specifications.

3. Inspection for Preventive Maintenance

A. The GRANTOR agrees to cause annual inspections to be made of each Control by a Professional Engineer registered in Ohio, retained by the GRANTOR at its expense. The annual inspection requirement begins the calendar year following the completion of the project. The application sheet and the proper forms for completing the annual certification will be available from the GRANTEE.

B. The annual certification shall be completed and submitted by October 1st of each year.

C. The GRANTOR agrees to perform promptly all needed maintenance reported by the Inspector.

D. The GRANTOR agrees to comply with the maintenance requirements established within the City of Akron Storm Water Management Application and Procedure Manual, which may be modified from time to time.

4. Rights of the GRANTEE in the Event of Default by the GRANTOR

In the event of any default or failure by the GRANTOR in the performance of any of the covenants and warranties pertaining to the maintenance of any Control, in accordance with the terms and conditions hereof, after notice in writing given to the GRANTOR by the GRANTEE, the GRANTEE shall have the right to enter upon the properties owned by the GRANTOR and, for the account of the GRANTOR, maintain or repair such Control. All costs incurred in the performance of the work, furnishing of materials and advertising of notice shall be paid by the GRANTEE and billed to the GRANTOR. If the GRANTOR fails, neglects or refuses to pay the total cost within thirty (30) days after the costs are billed, then the GRANTEE shall certify the amount so paid by the GRANTEE, including all necessary charges to the County Fiscal Officer. The County Fiscal Officer shall enter the amount as an assessment against the GRANTOR's real estate at issue.

5. No Public Rights

The parties hereto expressly do not intend by execution of this Agreement to create in the public, or any member thereof, any rights as a third party beneficiary or to authorize anyone not a party hereto to maintain a suit for any damages pursuant to the terms or provisions of this Agreement.

6. Covenants Running With the Land

GRANTOR hereby warrants that GRANTOR has full power and authority to grant this Easement subject to the prior rights of holders of existing liens and encumbrances which GRANTOR warrants shall not adversely affect GRANTEE'S right to exercise the privileges herein granted, and GRANTOR agrees to forever defend the Easement and rights granted herein unto GRANTEE and GRANTEE'S successors and assigns, against every person or entity lawfully claiming an interest in the Easement or any part of it, except as noted above.

The provisions of this Easement shall be deemed to be covenants, running with the land, binding upon and inuring to the benefit of the parties hereto, their respective heirs, executors, administrators, lessees, invitees, successors and assigns unless otherwise stated herein. To ensure that, if the property is sold, transferred, or leased to another person or entity, the sales, transfer, or lease agreement is conditioned so that the recipient assumes full responsibility for all conditions of this easement, the deed transfer or any lease agreements shall include the details of these requirements and information about each Control such as the following: a) location of each Control; b) how and when to perform the necessary inspections and maintenance and c) how to send proof of inspection and maintenance to the GRANTEE.

To have and to hold the said Easement with all the rights incident thereto, unto the GRANTEE forever, and the GRANTOR covenants with the said GRANTEE that at and until the ensealing of these presents said GRANTOR is well seized of the above described premises as a good and indefeasible estate in fee simple, and has good right to grant the easements, rights and privileges in the manner and form above set forth.

In witness whereof, COUNTY OF SUMMIT by its duly authorized officer, has hereunto set its hand this ____ day of _____, A.D. 20____.

WITNESSES:

SIGNATURES:

COUNTY OF SUMMIT

By:

Russell M. Pry, Executive

State of Ohio)
) SS
Summit County)

Before me, a Notary Public in and for said County, personally appeared Russell M. Pry, Executive of the County of Summit, who acknowledged the signing of the foregoing instrument to be his voluntary act and deed, and the voluntary act and deed of said County of Summit and that he is fully authorized to execute this instrument on behalf of said County of Summit.

In witness whereof, I have hereto set my hand and official seal this day of _____, A.D. 2009.

NOTARY PUBLIC

APPROVED AS TO FORM
AND CORRECTNESS:

Richard E. Dobbins
Law Director
County of Summit

ACCEPTANCE OF EASEMENT

The City of Akron accepts and agrees to the terms and provisions of the within easement.

Signed and acknowledged in
The presence of:

CITY OF AKRON

Richard A. Merolla, Director
Department of Public Service

State of Ohio)
) SS
Summit County)

Before me, a Notary Public in and for said County, personally appeared Richard A. Merolla, Director of Public Service for the City of Akron who acknowledged the signing of the foregoing instrument to be his voluntary act and deed, and the voluntary act and deed of said municipal corporation and that he is fully authorized to execute this instrument on behalf of said municipal corporation.

In witness whereof, I have hereto set my hand and official seal this day of _____, A.D. 20____ .

NOTARY PUBLIC

**APPROVED AS TO FORM
AND CORRECTNESS:**

Max Rothal
Law Director
City of Akron

This Instrument
Prepared by:

City of Akron and County of Summit