

**DECLARATION OF EASEMENT AND CONDITIONS FOR
MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES**

RECITALS:

- A. Dane County, Wisconsin ("Owner") is the owner of the land located at 1701 Wright Street, Madison, Wisconsin (the "Property"), more particularly described on Exhibit A attached hereto.
- B. Madison Area Technical College ("MATC") leases the Property from Owner pursuant to a long-term lease that includes an option to purchase the Property.
- C. MATC desires to construct buildings, parking facilities, and stormwater management facilities (the "Facilities") on the Property in accordance with certain plans and specifications approved by the City of Madison, Wisconsin ("City").
- D. As a condition of its approval of the foregoing plans and specifications, City requires Owner to record this Declaration of Easement and Conditions for Maintenance of Stormwater Management Facilities (the "Declaration") regarding maintenance of the Facilities.
- E. As a condition of its consent to the construction of improvements on the Property as described in the foregoing plans and specifications, and its execution of this Declaration, Owner requires MATC to assume and undertake Owner's obligations with respect to maintenance of the Facilities, as set forth below.

This space is reserved for recording data

Return to:

City Engineering Division
Rm. 115, City-County Building
Madison, Wisconsin

Tax PN # 251081029400869

NOW, THEREFORE, in consideration of the declarations herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agree as follows:

- 1. Maintenance. Owner and its successors and assigns shall be responsible for inspecting, and repairing and maintaining the Facilities in good condition and working order, in compliance with the approved plans on file with the City Engineer, and the Inspection, Repair and Maintenance Requirements attached hereto as Exhibit B. All inspection, repair, and maintenance work required hereunder shall be in accordance with all applicable federal, state, and local laws and regulations, and shall be performed at the sole cost and expense of Owner and its successors or assigns.
- 2. Easement to City. In the event Owner or its successors and assigns fail to comply with the provisions of Section 1 above, City shall give Owner and its successors and assigns written notice thereof containing a description of such noncompliance. In the event Owner or its successors and assigns do not cure the aforesaid noncompliance within 30 days of receipt of the notice thereof, City is hereby granted an easement to enter upon the Property in order to perform the inspection, repair or maintenance described in said notice. All costs and expenses incurred by City for work performed hereunder may be charged to the Property by placing the amount on the tax roll for the Property as a special charge in accordance with Section 66.0627, Wis. Stats. and Section 4.09 of the Madison General Ordinances. Work performed by City under this Declaration shall not unreasonably interfere with the use of the Property by Owner or its successors and assigns.
- 3. Owner Assigns Obligations to MATC. Owner hereby assigns to MATC its obligations regarding the inspection, repair, and maintenance of the Facilities, as set forth in Section 1 above, and MATC hereby accepts such assignment and agrees to perform the assigned obligations at its sole cost and expense.

4. Term. The term of this Declaration shall commence on the date that it is recorded in the Register of Deeds Office for Dane County, Wisconsin, and shall continue in perpetuity or until terminated by recording in said Register of Deeds Office a written instrument of termination signed by all parties bound hereby on the date said instrument is recorded.

5. Miscellaneous.

(a) Notices. Any notice, request or demand required or permitted under this Declaration shall be in writing and shall be deemed received upon personal service or upon delivery to the addressee after the same has been deposited with the United States Post Office, registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner: Dane County
 c/o Director, Dane County Regional Airport
 4000 International Lane
 Madison, WI 53704

If to MATC: Madison Area Technical College
 1701 Wright Street
 Madison, WI 53704

If to City: City Engineering Division
 Room 115, City County Building
 210 Martin Luther King Jr. Blvd.
 Madison, WI 53703-3342
 Attention: City Engineer

An entity named above may change its address for the receipt of notice by providing written notice thereof to the other named entities.

- (b) Governing Law. This Declaration shall be governed and construed in accordance with the laws of the State of Wisconsin.
- (c) Amendments to be in Writing. This Declaration may be modified only by written agreement signed by all parties bound hereby at the time of modification.
- (d) Covenants Running with the Land. The easement, rights, and responsibilities granted and set forth in this Declaration shall run with the land, and shall be binding upon, inure to the benefit of, and be enforceable by City and the parties hereto, and their successors and assigns.
- (e) Partial Invalidity. In the event any term or condition of this Declaration shall be deemed to be invalid or unenforceable in full or part, such term or condition, and all other terms and conditions herein, shall remain in full force and effect to the extent they are valid and enforceable.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF Dane County, Wisconsin and Madison Area Technical College, each by its respective authorized representative, have executed this Declaration of Easement and Conditions for Maintenance of Stormwater Management Facilities on the dated set forth below.

FOR DANE COUNTY:

Scott McDonell
Dane County Clerk

State of Wisconsin)
)ss
County of Dane)

Personally came before me this _____ day of _____, 2015, the above named Scott McDonell, Dane County Clerk, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

Print or Type Name
My Commission: _____

FOR MADISON AREA TECHNICAL COLLEGE:



~~Mark Thomas, Jr.~~
~~Vice President for Administrative Services~~

Terrance S. Webb
Provost

State of Wisconsin)
)ss
County of Dane)

Personally came before me this 18th day of August, 2015, the above named ~~Mark Thomas, Jr.~~ *Terrance S. Webb* to me known to be the person who executed the foregoing instrument and acknowledged the same.



Ellen R. Hustad

Notary Public, State of Wisconsin

Ellen R. Hustad

Print or Type Name
My Commission: expires 8/14/16

Drafted by: Rodney Knight

Airport Counsel
Dane County

EXHIBIT A

LEGAL DESCRIPTION

BEG AT INTERS E LN WRIGHT ST & N LN ANDERSON ST, TH S 88 DEG 34 MIN 23 SEC E 589.89 FT; TH ON A CUR TO THE L, RAD 310 FT, LC BRS N 68 DEG 58 MIN 35 SEC E, 236.77 FT; TH N 46 DEG 31 MIN 33 SEC E 225.99 FT; TH ON A CUR TO THE RT, RAD 390 FT, LC BRS N 67 DEG 01 MIN 33 SEC E 273.16 FT; TH N 87 DEG 31 MIN 33 SEC E 160 FT; TH ON A CUR TO THE L, RAD 25 FT, LC BRS N 42 DEG 31 MIN 33 SEC E 35.36 FT TO W HWY R/W; TH N ALG SD R/W 680 FT; TH W 1290 FT TO E LN WRIGHT ST; TH S ALG SD E LN 1060.03 FT TO POB.

EXHIBIT B

INSPECTION, REPAIR AND MAINTENANCE REQUIREMENTS

All components of the stormwater management facilities shall be inspected at least semi-annually in early Spring and early Autumn. Repairs will be made whenever the performance of a stormwater control device is compromised as described below. Owner or its successors or assigns shall maintain records of all inspection and maintenance activities.

UNDERDRAIN

- Visual inspection of components shall be performed and debris removed from outlet.
- Repair outlet areas that are damaged or show signs of erosion.
- Repairs must restore the component to the specifications of the original plan.

BIORETENTION BASIN

- Owner or its successors or assigns shall install a Rain Garden/Bio-Retention System in accordance with plans approved by City Engineer.
- Maintenance procedures shall be in accordance with Wisconsin Department of Natural Resources post construction standard 1004 – Bioretention for Infiltration.
- Owner or its successors or assigns shall maintain records of installation, inspections, cleaning and any other maintenance all in accordance with Chapter 37 of the Madison General Ordinances.
- Visual Inspection of the Rain Garden/ Bio-Retention System shall be performed, at a minimum, annually.
- Maintenance shall be required when system shows standing water beyond 24 hours of rain event.
- Cleaning shall consist of removal of sediment, two (2) foot undercut, undercut replacement with material consisting of 30% compost and 70% sand and restoration in-kind.
- Restoration of plant material shall be by plugging, not seeding alone.
- Any alterations to approved Rain Garden/ Bio-Retention System shall be approved by City Engineer.
- Infiltration surface shall be protected from construction sediment with staging or through the use of erosion control measures. The Bio-Retention Basin (the "Basin") shall be inspected upon completion to confirm that clogging due to construction sediment has not occurred.
- In the first spring and summer after construction, water the area once per week during the first 8 weeks if rainfall has not occurred within the previous 7 days. At least 1 inch of water is recommended per week.
- Inspect and record status of components of the Basin including infiltration surface, surface mulch, plug plants, and the Basin overflow. Also record days since last rainfall and approximate rainfall depth.
- The Basin shall be considered compromised if surface water remains ponded greater than 24 hours after termination of previous rainfall event.
- If compromised, the Basin shall be restored per specifications of originally approved plan or modified as approved by the City Engineer.
- Mowing is prohibited in the Basin
- Vehicles and equipment shall not be permitted in the Basin
- Pedestrian traffic is prohibited in the Basin
- Snow shall not be dumped directly onto the infiltration surface.

OUTLET STRUCTURE

- Visual inspection of components shall be performed and debris removed from inlets and storm drain pipes.
- Repair inlet/outlet areas, including apron enwalls, which are damaged or show signs of erosion.
- Rip-rap shall be replaced as necessary.
- Repairs must restore the component to the specifications of the original plan.

