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When recorded, mail to:

Herriman City Recorder 5355 West Herriman Main Street Herriman UT 84096 12842103
09/04/2018 01:28 PM \$○.00
Book - 10709 P9 - 2068-2080
ADAM GARDINER
RECORDER, SALT LAKE COUNTY, UTAH
HERRIMAN
5355 W HERRIMAN MAIN ST
HERRIMAN UT 84096
BY: KRP, DEPUTY - MA 13 P.

LONG-TERM STORMWATER MAINTENANCE AGREEMENT

| THIS STORMWATER MAINTENANCE AGREEMENT (this "Agreement") is made and | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|
| entered into this day of, 2018, by and between Herriman City, a | | | | | | | | | | |
| municipal corporation of the State of Utah (the "City"); and | | | | | | | | | | |
| municipal corporation of the State of Utah (the "City"); and (the "Owner") whose address is | | | | | | | | | | |
| 595 South Riverwoods Parkway Suite 400, Logan, 4T. 84321 | | | | | | | | | | |
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| RECITALS | | | | | | | | | | |

- A. The City is authorized and required to regulate and control the disposition of storm and surface waters within the City, as set forth in the Herriman City Code, as amended ("Ordinance"), adopted pursuant to the Utah Water Quality Act, as set forth in Utah Code Ann § 19-5-101, et seq., as amended (the "Act").
- B. The Owner hereby represents and acknowledges that it is the owner in fee simple of certain real property more particularly described in exhibit "A," attached hereto and incorporated herein by this reference (the "Property"), which property is subject to the regulations described above.
- C. The Owner desires to build or develop the Property and/or to conduct certain regulated construction activities on the Property which will alter existing storm and surface water conditions on the Property and/or adjacent lands; and
- D. In order to facilitate these anticipated developments to the Property, the Owner desires to build and maintain, at Owner's expense, storm and surface water management facilities, including structures, improvements, grading and drainage plans and/or vegetation to control the quantity and quality of the storm water (the "Stormwater Facilities"); and
- E. The Stormwater Facilities are shown in the final site plan or subdivision approved for the Property, in any related engineering drawings, and in any amendments thereto, which plans and drawings are on file in the Herriman City Engineering Department, and are hereby incorporated herein by this reference (the "Development Plan"); and

- F. A detailed description of the Stormwater Facilities, which includes the operation and routine maintenance procedures required to enable the Stormwater Facilities to perform their designed functions (the "Long-Term Stormwater Management Plan"), is attached hereto as exhibit "B" and is incorporated herein by this reference; and
- G. As a condition of the Development Plan approval, and as required by the Jordan Valley Municipalities UTS000001 MS4 ("UPDES Permit") from the State of Utah, Owner is required to enter into this Agreement establishing a means of documenting the execution of the Long-Term Stormwater Management Plan.

AGREEMENT

NOW, THEREFORE, in consideration of the benefits received and to be received by the Owner, its successors and assigns, as a result of the City's approval of the Long-Term Stormwater Management Plan the parties agree as follows:

- 1. <u>Construction of Stormwater Facilities</u>. The Owner shall, at its sole cost and expense, construct the Stormwater Facilities in strict accordance with the Development Plan, specifications, and any amendments thereto which have been approved by the City or its agent.
- 2. <u>Maintenance of Stormwater Facilities</u>. The Owner shall, at its sole cost and expense, operate and maintain the Stormwater Facilities in strict accordance with the Long-Term Stormwater Management Plan. Owner's maintenance obligations shall be limited to structures, systems, and appurtenances on Owner's land, including all system and appurtenance built to convey stormwater, as well as all structures, improvements, and vegetation provided solely to control the quantity and quality of the stormwater. Maintenance, for purposes of this Agreement, is defined as good working condition so that the Stormwater Facilities are performing their design functions. The Owner shall, at its sole cost and expense, perform all work necessary to keep the Stormwater Facilities in good working condition.
- 3. Annual Maintenance Report. The Owner shall, at its sole cost and expense, inspect the Stormwater Facilities and submit an inspection report and certification to City's annually. The purpose of the inspection and certification is to assure safe and proper functioning of the Stormwater Facilities. The annual inspection shall cover all aspects of the Stormwater Facilities, including, but not limited to, the parking lots, structural improvements, berms, channels, outlet structure, pond areas, access roads, vegetation, landscaping, etc. Deficiencies shall be noted in the inspection report. The report shall also contain a certification as to whether adequate maintenance has been performed and whether the structural controls are operating as designed to protect water quality. The annual inspection report and certification shall be due by June 30, of each year and shall be in a form provided by the City and attached hereto as exhibit "C" attached hereto and incorporated herein by this reference.

- 4. Oversight Inspection Authority. The Owner hereby grants permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the Stormwater Facilities upon reasonable notice of not less than three business days to the Owner. The purpose of the inspection shall be to determine and ensure that the Stormwater Facilities are adequately maintained, are continuing to perform in an adequate manner, and are in compliance with all applicable laws, regulations, rules, and ordinances, as well as the Long-Term Stormwater Management Plan.
- 5. <u>Notice of Deficiencies</u>. If the City or its agent finds the Stormwater Facilities contain any defects or are not being maintained adequately, the City or its agent shall send the Owner written notice of the defects or deficiencies and provide the Owner with reasonable time to cure such defects or deficiencies, as provided in Herriman City Code. Such notice shall be sent certified mail to the Owner's address set forth above.
- 6. Owner to Make Repairs. The Owner shall, at its sole cost and expense, make such repairs, changes or modifications to the Stormwater Facilities as may be determined as reasonably necessary by the City or its agent within the required cure period to ensure the Stormwater Facilities are adequately maintained and continue to operate as designed and approved.
- Corrective Action. In the event the Owner fails to adequately maintain the Stormwater Facilities in good working condition acceptable to the City agent, the City or its agent may proceed with any enforcement mechanism provided in Herriman City Code. The City or its agent may also give written notice that the Stormwater Facilities will be disconnected from the City's municipal separate storm sewer system. Any damage resulting from the disconnected system will be the Owner's responsibility. It is expressly understood and agreed that neither the City nor its agent are under any obligation to maintain or repair the Stormwater Facilities, and in no event shall this Agreement be construed to impose any such obligation on the City or its agent. The actions described in this Section are in addition to and not in lieu of the legal remedies available to the City as provided by law for Owner's failure to remedy deficiencies or any other failure to perform under the terms and conditions of this Agreement.
- Reimbursement of Costs. In the event the City or its agent, pursuant to this Agreement, incurs any costs, or expends any funds resulting from enforcement or cost for labor, use of equipment, supplies, materials, and the like related to storm drain disconnection from the City's municipal separate storm sewer system, the Owner shall reimburse the City or its agent upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City or it agent. After said thirty (30) days, such amount shall be deemed delinquent and shall be subject to interest at the rate of ten percent (10%) per annum. Owner shall also be liable for any collection costs, including attorney's fees and court costs, incurred by the City or its agent in collection of delinquent payments. The Owner hereby authorizes the City or its agent to assess any of the above-described costs, if remained unpaid, by recording a lien against the Property.
- 9. <u>Successors and Assigns</u>. This Agreement shall be recorded in the office of the County Recorder and the covenants and agreements contained herein shall run with the land and whenever the Property shall be held, sold, conveyed or otherwise transferred, it shall be subject to the

covenants, stipulations, agreements and provisions of this Agreement which shall apply to, bind and be obligatory upon the Owner hereto, its successors and assigns, and shall bind all present and subsequent owners of the Property described herein. If the property is sold, the parties may execute an assignment of this Agreement and release of the seller's liability upon the City's consent and agreement.

- 10. <u>Severability Clause</u>. The provisions of this Agreement shall be severable and if any phrase, clause, sentence or provision is declared unconstitutional, or the applicability thereof to the Owner, its successors and assigns, is held invalid, the remainder of this Agreement shall not be affected thereby.
- 11. <u>Utah Law and Venue</u>. This Agreement shall be interpreted under the laws of the State of Utah. Suits for any claims or for any breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in Salt Lake County, Utah.
- 12. <u>Indemnification</u>. This Agreement imposes no liability of any kind whatsoever on the City or its agent. The Owner hereby agrees to indemnify and hold the City and its officers, employees, agents and representatives from and against all actions, claims, lawsuits, proceedings, liability, damages, losses, and expenses (including attorneys' fees and court costs) that result from the performance of this agreement, but only to the extent the same are caused by any negligent or wrongful act or omissions of the Owner, and the Owner's officers, employees, agents, and representatives.
- 13. <u>Amendments</u>. This Agreement shall not be modified except by written instrument executed by the City and the owner of the Property at the time of modification, and no modification shall be effective until recorded in the office of the County Recorder.
- 14. <u>Subordination Requirement</u>. If there is a lien, trust deed or other property interest Recorded against the Property, the trustee, lien holder, etc., shall be required to execute a subordination agreement or other acceptable recorded document agreeing to subordinate their interest to this Agreement.
- 15. <u>Exhibits and Recitals</u>. The recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have signed and subscribed their names hereon and have caused this Agreement to be duly executed as of the day and year first set forth above.

By:
Title:

By:
Title:

OWNER ACKNOWLEDGMENT

STATE OF UTAH

:ss.

COUNTY OF SALT LAKE)

On the day of the day, 2018, personally appeared before me who being by me duly sworn, did say that he is the Manager of an elo Surff Surfa Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

John Alexander Dahlstrom
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 12/22/2021
Commission # 698148

My Commission Expires:

2/22/202/

Residing at: Sullake City, UT

CITY

By: <u>Fall</u>

Blake Thomas, City Engineer

ATTEST

MMC City Recorder

CITY ACKNOWLEDGMENT

STATE OF UTAH

:ss.

COUNTY OF SALT LAKE)

On the 24 day of Aug., 2018, personally appeared before me Blake Thomas who being by me duly sworn, did say that he is the City Engineer of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Engineer acknowledged to me that the City executed the same.

Delinda Bodrew

My Commission Expires: May 13,2020

Residing at: 5355 W. Herriman Main

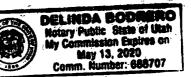


Exhibit A (Legal Description)

Lot 3001 of the South Hills Pod 3 Subdivision Plat (See attached)

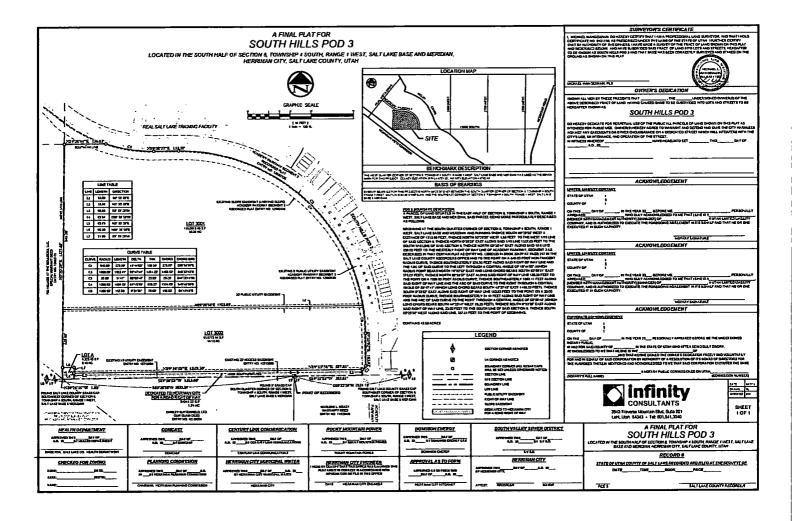


Exhibit B (Stormwater Management Plan)

CAMELOT APARTMENTS 14858 SOUTH ACADEMY PARKWAY POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN

Maintenance Plan and Inspection Schedule

Spill Containment/Clean-up:

Timing: In the event of a fuel, oil, or chemical (including herbicides, pesticides and fertilizers) spill, timely clean-up is important for protection of the storm water system. All spills must be cleaned up immediately.

Procedure: All workers and/or supervisors shall be familiar with these Standard Operating Procedures (SOP's), and shall have the tools and materials needed for spill containment and clean-up available at all times. Never wash spills to the storm drain system! Use dry clean-up methods such as absorbent materials, broom and shovel, and vacuum operations. After dry clean-up, washing with soap & water may be needed. Soap & water clean-up must also be absorbed with dry clean-up methods and vacuuming operations.

All chemical spills need to be cleaned up with absorbent materials and disposed of as hazardous waste. Document all spills and the action taken.

Landscaping and Mowing Clean-up:

Timing: Clean-up of plant matter and debris should be accomplished after mowing in order to reduce the chance of wind and water carrying the material to the storm water system. A cover shall be placed over the storm drain inlets adjacent to mowing operations or spraying operations in order to keep clippings and chemical spray out of the storm drain system.

Procedure: All workers and/or crews shall have the clean-up tools necessary to accomplish the clean-up work. Never sweep or blow plant matter or debris to the storm drain system, the parking area or the street! Sweep, rake or blow the materials into piles to be picked up thoroughly, and disposed of immediately. Never leave bags open, and never leave them overnight.

Disposal: All solid waste shall be disposed of in the landfill. Plant matter may be mulched and/or composted in an acceptable manner. When hauling to the landfill, loads shall be covered in such a manner as to prevent plant matter or debris from blowing out of the vehicle.

Landscaping Maintenance:

Timing: Irrigation must be timed to adequately water the landscape and keep it alive not only for aesthetic reasons, but also to reduce erosion of the soils and to keep plant debris to a minimum. Watering heads and watering patterns must be checked weekly for proper operation and to ensure that broken heads are replaced promptly in order to minimize water waste and soil erosion. Lawn areas must be mown weekly to ensure healthy turf and that sprinkler heads are

able to spray above the grass. Fertilizers, herbicides and pesticides must be used judiciously but with sufficient frequency to maintain healthy landscaping growth.

Procedure: Care must be taken not to over-apply fertilizer, herbicides and pesticides, and to sweep/clean up excess fertilizer if accidentally over-applied or spilled. Care must also be taken not to fuel mowing equipment or to fill herbicide or pesticide sprayers where they could spill into the storm drain system or onto the parking lot where it could be washed into the storm drain system.

Parking Area Clean-up:

Timing: Cleaning of the parking areas will include periodic sweeping and garbage pick-up. (Spill Clean-up is covered above). Sweeping must be done in such a way as to minimize the sediment that gets into the storm drain system and with sufficient frequency to keep large amounts of sediment from building up where a large storm event could transport it into a storm drain inlet. The parking areas should be inspected on a monthly basis for the first year to determine proper timing for sweeping and garbage pick-up.

Procedure: Sediment must be either swept and vacuumed up or swept into piles and picked up with shovels and brooms. Debris must be manually picked up or vacuumed up.

Disposal: Sediment must be disposed of in a landfill. Wind-blown debris must be disposed of in the dumpsters or in a landfill.

Garbage Collection Clean-up and Maintenance:

Timing: There will be an enclosed, gated area for dumpsters which will be used to collect solid waste generated at the building. Dumpsters must be emptied on a regular basis and with sufficient frequency to prevent tenant from needing to place garbage on the ground beside the dumpsters. Dumpster lids must be kept closed when the dumpsters are not being filled, and the gates must be kept closed when the dumpsters are not being accessed. Any debris found on the ground in the vicinity of the dumpsters must be picked up immediately and disposed of into the dumpsters or hauled to a landfill. On-site outdoor garbage receptacles must be kept operational and must be emptied on a regular basis. They must never be allowed to become so full that tenants would be inclined to stack debris around them or throw it onto the ground. The grounds must be checked daily for litter, which must be picked up immediately to keep it from washing or blowing into the storm drain system.

Disposal: Garbage must be disposed of at a landfill or other approved garbage collection facility.

Storm Drain System Cleaning and Maintenance:

Procedure: It is important to storm water quality that the storm drain system be cleaned before sediment or debris build-up compromises the ability of the system to separate the water from the solids. The main system components involved in this separation are the sumps in the bottom of the storm drain structures, the underground detention basin at the northwest end of the property

under the parking lot, and the stormwater oil/water separator on the outfall pipe from the detention basin.

Cleaning:

- The "sump" is the area between the bottom of the structure and the invert of the outlet pipe. The sumps provide storage space for solids that have settled out and provide a lag time or resident time between inflow and outflow to allow those solids to settle out of suspension. Cleaning is best accomplished with a vacuum truck and no matter what method is used it must be done when there is no ongoing precipitation that would tend to wash the agitated water with sediment load into the outlet pipe.
- The underground detention basin is a StormTech system and has "isolater rows" that trap trash and sediment to allow the system to be cleaned as needed.
- The stormwater oil/water separator unit is a concrete box with sediment and oil chambers that can be cleaned with the use of a vacuum truck as needed.

Timing: All storm drain structures should be inspected for sediment and debris build-up at a minimum of one time per year, but is best to be completed monthly.

Disposal: Material removed from the storm drain structures must be disposed of in a landfill.

Washing of vehicles is not allowed on-site.

Exhibit C (Report Form)

Standard Operation and Maintenance Inspection Report

| | Facility O | peration and Mo | inte | nai | nce Ins | pectio | n Re | po | rt for Storm Drai | n Facilities | |
|---------------------------------------|--|-----------------|----------|----------|----------|---------------|--------------|--------------------------|---------------------------------------|--|--|
| | | | | | | Subdivision / | | | | | |
| Inspector | | | | | Property | | | y | | | |
| Name: | | | | | | Name: | | | e: | | |
| Inspection | | | | | | | | | | | |
| Date: | | | | | Ac | | ٩da | ress | s: | | |
| | | | | | | | | | | | |
| Frequency of 🔠 Weekly | | | y | ' □ Mc | | onthly | | | □ Quarterly □ Annual | | |
| Inspection | | | | | | 1 | | | | | |
| | | | | | | Maintenc | | an | | | |
| Item Inspected | | | Checked | | ce | | | Observations and Remarks | | | |
| i i i i i i i i i i i i i i i i i i i | | | | | Required | | | | | | |
| Yes NA Yes NA | | | | | | | | | | | |
| | Detention/Retention Facilities | | | | | | | | | | |
| | Landscaping | - | | | | - | | | | | |
| 2 | Remove | faladada |] | | | | | | | | |
| | sedimentation/debris | | | _ | | - | - | | , | | |
| 3 | Repair side slopes (channeling / sloughing) | | | | | | | | i, | | |
| | | | + | | | | - | | | | |
| <u>4</u> 5 | Repair rip-rap protection | | | | | | ┢ | | | | |
| 6 | Repair control structure | | | | | | | | | | |
| 7 | | | | \dashv | <u> </u> | | ļ — — | | | ······································ | |
| 8 | Maintenance of outlets | | | | | | | | | | |
| Storm Drain System | | | | | | | | | | | |
| , Remove sediment from | | | | | | | | | | | |
| 1 | catch basins | | | | | | | | | | |
| 2 | Cleaning sto | t^- | | | | \vdash | | | | | |
| | | e of drainage | | \neg | | _ | | | | | |
| 3 | swales | | | | | | | ĺ | | | |
| | Remove sediment from | | | \neg | | | | | | | |
| 4 | manholes | | | | | i | | | | | |
| _ | Remove sediment from | | | | | | | | | | |
| 5 | sumps | | l | | | | | | | | |
| 6 | Repair oil/ water separator | | | | | | | | | | |
| 7 | Repair sand t | ilters | | | | | | | | | |
| | Parking Lot and Roads Maintenance | | | | | | | | | | |
| 1 | Sweeping of | parking lot | | | | | | | | | |
| 2 | Sweeping of | streets | | | | | | | | | |
| 3 | Cleaning of g | garbage | | | | | | | | | |
| ა | enclosure | | <u> </u> | | | | | | | | |
| 4 | | non-hazardous | | | | | | | | | |
| | spills | | | | | | <u> </u> | | = · · · · · · · · · · · · · · · · · · | | |
| 5 | | | | | | | | | | | |
| _6_ | Managing pe | | | | | | <u> </u> | | | | |
| 7 | Removal of grass after lawn | | | | | | | | | | |
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| direction or supervision in accordance with a system designed to ensure that qualified personne properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information provided is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. BY: | raluate the information submitted. Based on my inquiry of the person or the system, or those persons directly responsible for gathering the ation provided is to the best of my knowledge and belief, true, accurate, ware that there are significant penalties for submitting false information, of fine and imprisonment for knowing violations. |
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| Site Inspector | ita Inspactor |