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RASHELLE HOBBS
RECORDER, SALT LAKE COUNTY, UTAH
MIDVALE CITY RECORDER
7505 S HOLDEN ST
MIDVALE UT 84047
BY: TSP, DEPUTY - WI 15 P.

When recorded, mail to:

Midvale City Recorder
7505 South Holden Street
Midvale, UT 84047

Affects Parcel No(s): 2126401006

LONG TERM STORMWATER MANAGEMENT AGREEMENT

This Long Term Stormwater Management Agreement ("Agreement") is made and entered into this 15TH day of NOVEMBER, 2019, by and between Midvale City, a Utah municipal corporation ("City"), and

TALAUERA AT THE JUNCTION,
a LIMITED LIABILITY COMPANY ("Owner").

RECITALS

WHEREAS, 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 Midvale City Code, Chapter 13.16, pursuant to the Utah Water Quality Act, as set forth in *Utah Code Ann.* §§ 19-5-101, *et seq.*, as amended ("Act"); and

WHEREAS, 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 ("Property"); and

WHEREAS, 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

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Owner is required to build and, to the extent provided herein, maintain at Owner's expense a storm and surface water management facility or improvements on the Property ("Stormwater Facilities"); and

WHEREAS, the Stormwater Facilities are more particularly described and shown in the final site plan or subdivision approved for the Property and related engineering drawings, and any amendments thereto, which plans and drawings are on file with the City and are hereby incorporated herein by this reference ("Development Plan"); and

WHEREAS, a condition of Development Plan approval, and as required as part of the City's Small MS4 UPDES General 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 and,

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, and the mutual covenants contained herein, the parties agree as follows:

Section 1

Long Term Stormwater Management Plan. Upon completion of the Stormwater Facilities, the owner must provide a summary description of all Stormwater Facilities, details, and appurtenance draining to and affecting the Stormwater Facilities, and establish the standard operations and routine maintenance procedures for the Stormwater Facilities and control measures installed on the property. This Long Term Stormwater Management Plan, more particularly shown in Exhibit 'B', must be filed with the Midvale City Recorder.

Section 2

Construction of Stormwater Facilities. The Owner must, at its sole cost and expense, construct the Stormwater Facilities in accordance with the Development Plans and specifications, and any amendments thereto which have been approved by the City. Nothing herein shall require Owner to construct additional Stormwater Facilities beyond those required by the Development Plan or expand the Stormwater Facilities in the future to accommodate development on any other property or otherwise.

Section 3

Maintenance of Stormwater Facilities. The Owner must, at its sole cost and expense, adequately maintain the Stormwater Facilities to the extent provided in the Stormwater Management Plan. Owner's maintenance obligations include all obligations set forth in the Stormwater Management Plan. Adequate maintenance, for purposes of this Agreement, is defined as good working condition so that the Stormwater Facilities are performing their design functions. The Owner is solely responsible for ensuring that the Stormwater Facilities are in good working condition. Notwithstanding the foregoing to the contrary, Owner shall not be required to repair, replace or maintain any damage to the Stormwater Facilities as a result of the acts of omissions of the City, its agents, employees or contractors.

Section 4

Annual Maintenance Report of Stormwater Facilities. The Owner must, at its sole cost and expense, inspect the Stormwater Facilities and submit an inspection report and certification to the City annually. The purpose of the inspection and certification is to assure safe and proper functioning of the Stormwater Facilities. The annual inspection must 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, in each case to the extent located on the Property. Deficiencies must be noted in the inspection report. The report must 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 are due every year by the date of the executed Agreement and must be on forms acceptable to the City.

Section 5

City 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. Such inspections will be conducted in a reasonable manner and at reasonable times, as determined appropriate by the City. The purpose of the inspection is to determine and ensure that the Stormwater Facilities are being adequately maintained, are continuing to perform in an adequate manner, and are in compliance with the Act, the Ordinance, and the Long Term Stormwater Management Plan.

Section 6

Notice of Deficiencies. If the City finds that the Stormwater Facilities contain any defects or are not being maintained adequately by Owner to the extent required herein, the City will send Owner written notice of the defects or deficiencies and provide Owner with a reasonable time, but not less than 60 days, to cure such defects or deficiencies, or such additional time as may be reasonably necessary provided Owner has commenced the cure of such deficiencies and is diligently prosecuting such cure to completion. Such notice must confirm delivery to the Owner or be sent certified mail to the Owner at the address listed on the Salt Lake County Tax Assessor.

Section 7

Owner to Make Repairs. The Owner must, 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 within the required cure period to ensure that the Stormwater Facilities are adequately maintained in a manner consistent with the Stormwater Management Plan and continue to operate as designed and approved for the Property. Notwithstanding the foregoing to the contrary, Owner shall not be required to repair, replace or maintain any damage to the Stormwater Facilities as a result of the acts of omissions of the City, its agents, employees or contractors. Additionally, the Owner shall not be required to increase the capacity of the Stormwater Facility for any future development which is not located on the Property.

Section 8

City's Corrective Action Authority. In the event the Owner fails to adequately maintain the Stormwater Facilities in good working condition in accordance with this Agreement, after due notice of deficiencies as provided in Section 6 and failure to cure, then, upon Owner's failure to cure or correct within 30 days following a second notice delivered to Owner, the City may seek any combination of the following actions:

1. The City may require Owner to reimburse the City for any fines the City incurs as a result of the Owner's failure to abide by this Agreement.
2. In accordance with Midvale Municipal Code 5.04.020, the City may suspend or revoke Owner's business license.
3. In accordance with Midvale Municipal Code 13.16.130, the City may issue a citation punishable as a class B misdemeanor.
4. The City may pursue any remedy available under the City's Administrative Code Enforcement Program including, but not limited to, abating the violation.
5. The City may disconnect the facility storm drain connection after written notice to the Owner.

It is expressly understood and agreed that the City is under no obligation to maintain or repair the Stormwater Facilities, and this Agreement may not be construed to impose any such obligation on the City, except to the extent of any damage to the Stormwater Facilities caused by the acts or omissions of the City or its employees, agents or contractors. The actions described in this Section are in addition to and not in lieu of any and all equitable 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.

Section 9

Reimbursement of Costs. In the event the City, 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 Owner's Stormwater Facilities, the Owner must reimburse the City upon demand, which demand shall include supporting invoices, within 30 days of receipt thereof for all actual costs incurred by the City. After said 30 days, such amount is deemed delinquent and is subject to interest at the rate of 10% per annum. Owner is also liable for any collection costs, including attorneys' fees and court costs, incurred by the City in collection of delinquent payments.

Section 10

Successor and Assigns. This Agreement will be recorded in the Salt Lake County Recorder's Office and the covenants and agreements contained herein will run with the land. Whenever the Property is held, sold, conveyed or otherwise transferred, the transfer will be subject to the covenants, stipulations, agreements and provisions of this Agreement and will apply to, bind and be obligatory upon the Owner hereto, its successors and assigns, and will bind all present and subsequent owners of the Property described herein. In the event the Property is subdivided, each owner will only

be bound by this Agreement as to the owner's particular subdivided property. Upon the sale of the portion of the Property to a subsequent owner, the owner selling the Property, or subdivided portion thereof, shall be released from all obligations hereunder arising from and after the date of such sale with respect to the portion of the Property sold.

Section 11

Severability Clause. The provisions of this Agreement are 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 Covenant will not be affected thereby.

Section 12

Utah Law and Venue. This Agreement is interpreted under the laws of the State of Utah. Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement must be maintained in the appropriate court of competent jurisdiction in Salt Lake County, Utah.

Section 13

Indemnification. This Agreement imposes no liability of any kind whatsoever on the City, and the Owner agrees to indemnify and hold the City, its officials, officers, employees, and agents harmless from any damage, accident, casualty, occurrence, or claim in the event the Stormwater Facilities on the Property fail to operate properly. The Owner indemnifies and holds the City, its officials, officers, employees, and agents harmless for any damage, accident, casualty, occurrence, or claim which might arise or be asserted against the City from failure of Owner to comply with its obligations under this Agreement relating to the Stormwater Facilities on the Property. The Owner also indemnifies and holds the City, its officials, officers, employees, and agents harmless for any damage, accident, casualty, occurrence, or claim which may arise or be asserted against the City in the event the City utilizes any remedy under Section 8 of this Agreement.

Section 14

Amendments. This Agreement may not be modified except by written instrument executed by the City and the Owner of the Property at the time of modification. No modification is effective until recorded in the Salt Lake County Recorder's Office.

Section 15

Subordination Requirement. If there is a lien, trust deed or other property interest recorded against the Property, the trustee, lien holder, etc., is required to execute a subordination agreement or other acceptable recorded document agreeing to subordinate their interest to the Agreement.

Section 16

Exhibit B. The Long Term Stormwater Management Plan (LTSWMP) must adapt to change in good judgment when site conditions and operations change and when existing programs are ineffective. Exhibit B will not be filed with the agreement at County Recorder but is included by reference and kept on file with the City Recorder. Revision applications must be filed with the City Engineering Division and amended into the LTSWMP on file with the Midvale City recorder.

Attachments:

Exhibit A: Plat and Legal Description

Exhibit B: Stormwater Management Plan; Filed with Midvale City Recorder

Exhibit B (Stormwater Management Plan)

**TALAVERA AT THE JUNCTION APARTMENTS & TOWNHOMES
1004 TUSCANY VIEW ROAD, MIDVALE, UTAH
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 cleanup, 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.

Salt:

No salt will be stored on site. Salt will be used only as needed and careful practice will be used to not over-salt.

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.

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 Operation and Maintenance Inspection Report for Storm Drain Facilities

| Inspector Name: | | Subdivision / Property Name: | | | |
|--|---|----------------------------------|------------------------------------|---------------------------------|--------------------------|
| Inspection Date: | | Address: | | | |
| Frequency of Inspection | <input type="checkbox"/> Weekly | <input type="checkbox"/> Monthly | <input type="checkbox"/> Quarterly | <input type="checkbox"/> Annual | |
| Item Inspected | Checked | | Maintenance Required? | | Observations and Remarks |
| | Yes | NA | Yes | NA | |
| Detention/Retention Facilities | | | | | |
| 1 | Landscaping maintenance | | | | |
| 2 | Remove sedimentation/debris | | | | |
| 3 | Repair side slopes (channeling / sloughing) | | | | |
| 4 | Repair rip-rap protection | | | | |
| 5 | Repair control structure | | | | |
| 6 | Cleaning of outfall | | | | |
| 7 | Maintenance of inlets | | | | |
| 8 | Maintenance of outlets | | | | |
| Storm Drain System | | | | | |
| 1 | Remove sediment from catch basins | | | | |
| 2 | Cleaning storm drain pipes | | | | |
| 3 | Maintenance of drainage swales | | | | |
| 4 | Remove sediment from manholes | | | | |
| 5 | Remove sediment from sumps | | | | |
| 6 | Repair oil/ water separator | | | | |
| 7 | Repair sand filters | | | | |
| Parking Lot and Roads Maintenance | | | | | |
| 1 | Sweeping of parking lot | | | | |
| 2 | Sweeping of streets | | | | |
| 3 | Cleaning of garbage enclosure | | | | |
| 4 | Cleaning of non-hazardous spills | | | | |
| 5 | Managing fertilizer use | | | | |
| 6 | Managing pesticide use | | | | |
| 7 | Removal of grass after lawn mowing | | | | |

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel 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: _____ Date _____

Site Inspector



DocQuery

Parcel Number • 21-26-401-006-0000

Active Parcel Number

Acreage • 12.6100

Address • 1004 W TUSCANY VIEW RD • MIDVALE • 84047

Owner(s) of Record

TALAVERA AT THE JUNCTION, LLC

Property Description For Taxation Purposes Only

LOT 3A, JUNCTION AT MIDVALE WEST RESIDENTIAL PL LOT 3 AMD. 9907-8169