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RASHELLE HOBBS
Recorder, Salt Lake County, UT
PARAMOUNT TITLE
BY: eCASH, DEPUTY - EF 11 P.

When recorded, mail to:

Millcreek Recorder
3330 South 1300 East
Millcreek, UT 84106

STORMWATER MAINTENANCE AGREEMENT

THIS STORMWATER MAINTENANCE AGREEMENT (this "Agreement") is made and entered into this 22 day of COOPER, 2021, by and between Millcreek, a municipal corporation of the State of Utah (the "City"); and FRED HEALEY for Millcreek Land Co. (the "Owner") whose address is 3180 DE MAR DR, Millcreek City, UT - 84109.

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 Millcreek Code of Ordinances, as amended ("Code"), adopted pursuant to the Utah Water Quality Act, as set forth in Utah Code Ann § 19-5-101, *et seq.*, as amended.
- 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 Millcreek Planning Services Office 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 "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 Permit No. UTS000001 ("UPDES Permit") from the State of Utah, Owner is required to enter into this Agreement establishing a means of documenting the execution of the Stormwater Maintenance 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 Stormwater Maintenance Plan the parties agree as follows:

1. **Construction of Stormwater Facilities.** 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. **Maintenance of Stormwater Facilities.** The Owner shall, at its sole cost and expense, operate and maintain the Stormwater Facilities in strict accordance with the Stormwater Maintenance 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 acceptable to the City.

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 Stormwater Maintenance Plan.

5. **Notice of Deficiencies.** 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 chapter 17.22 of the 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.

7. **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 chapter 7.22 of the 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.

8. **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 its 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. **Successors and Assigns.** 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.

10. **Severability Clause.** 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. **Utah Law and Venue.** 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. **Indemnification.** 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. **Amendments.** 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. **Subordination Requirement.** 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. **Exhibits and Recitals.** 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]

Exhibit A

Parcel No. 16-28-430-044-0000

Legal Description:

LOT 8, WASATCH GARDENS AMENDED

Parcel No. 16-28-430-046-0000

Legal Description:

BEG S 0°04' W 1146.70 FT & N 89°56' W 264 FT & S 0°04' W 172.35 FT & S 0°04' W 7.65 FT & N 89°56' W 168 FT FR NE COR OF THE SE 1/4 OF SEC 28, T1S, R1E, SL MER; S 0°04' W 159.02 FT; N 89°56' E 66.4 FT; N 0°04' E 159.02 FT; S 89°56' W 66.4 FT TO BEG

Parcel No. 06-28-430-047-0000

Legal Description:

BEG S 0°04' W 1146.70 FT & N 89°56' W 264 FT & S 0°04' W 172.35 FT & S 0°04' W 7.65 FT & N 89°56' W 101.6 FT FR NE COR OF THE SE 1/4 OF SEC 28, T1S, R1E, SL MER; S 0°04' W 159.02 FT; N 89°56' E 66.4 FT; N 0°04' E 159.02 FT; S 89°56' W 66.4 FT TO BEG

Parcel No. 16-28-430-045-0000

Legal Description:

LOT 9, WASATCH GARDENS AMENDED

Exhibit B

Long-Term Stormwater Management Plan

AVAIL ENGINEERS
573 EAST 2700 SOUTH
SALT LAKE CITY, UT, 84106



MILLCREEK VILLAGE TOWNHOMES
1947 E. 1955 & 1983 E. 3300 SOUTH
MILLCREEK, UTAH

REV	DATE	DESCRIPTION
1	10/21/21	LTSM/AMF

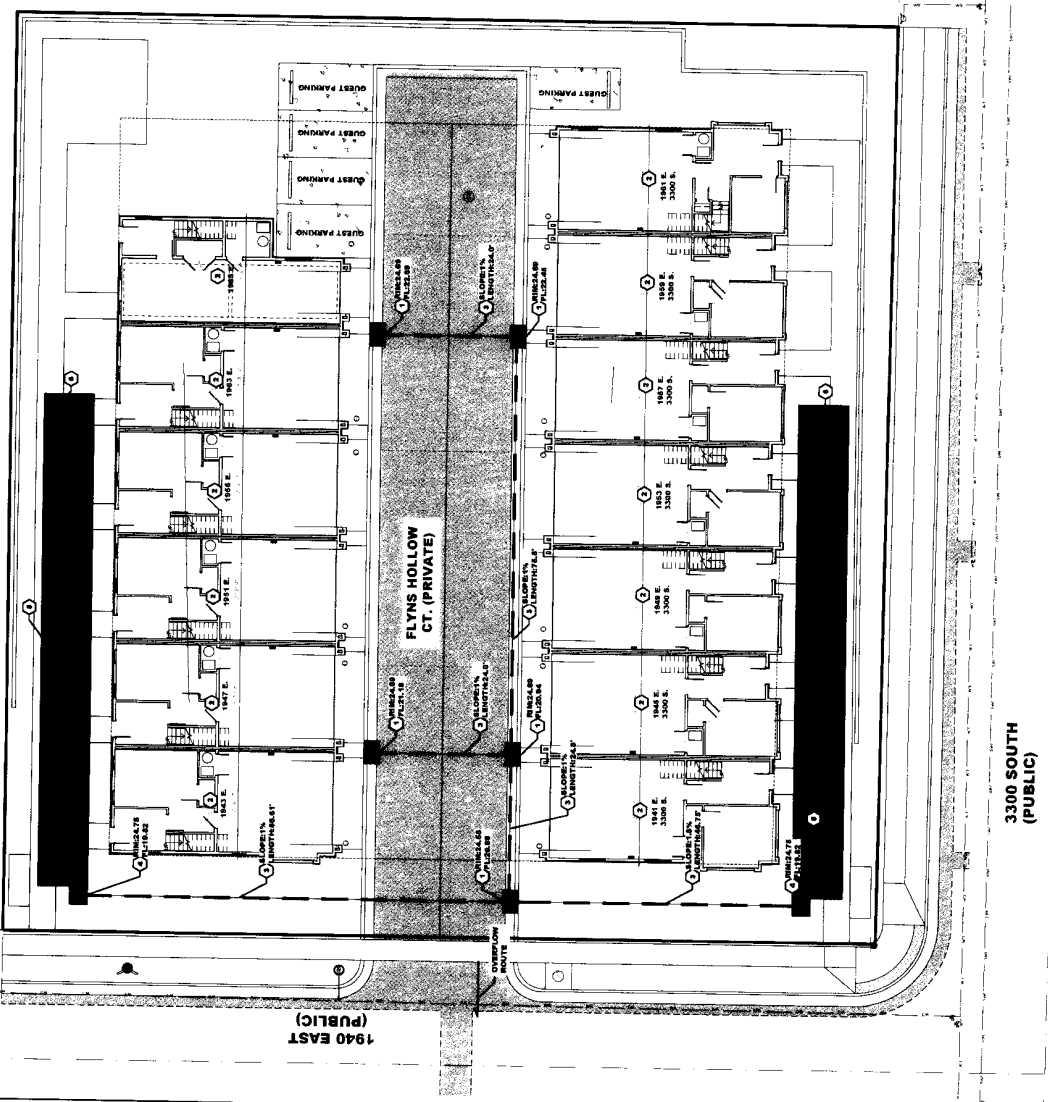
1

DESIGNED BY: J.P. BROWN, P.E.
CHECKED BY: J.P. BROWN, P.E.
PROJECT # 230718

LEGEND

- PRIVATE STORM DRAIN
- PRIVATE STORM DRAIN INLET
- PRIVATE STORM DRAIN MANHOLE/CLEANOUT
- RETENTION VAULT

- ① CURB INLET WITH GRATE
- ② BUILDING FOOT PRINT
- ③ 8" HOPE
- ④ 27X27 GATOR BUMP
- ⑤ UNDERGROUND RETENTION SYSTEM
- ⑥ INSPECTION POINT WITH GRATED LID



3300 SOUTH
(PUBLIC)

1940 EAST
(PUBLIC)



MILLCREEK VILLAGE TOWNSHIPS
1947 E. 1955 S. 1965 E. 1965 S. 3000 SOUTH
MILLCREEK, UTAH

REV	DATE	DESCRIPTION
1	10/21/12	LTSWMA

LTSWMA
2

PROJECT # 20012
CHECKED BY: J. BROWN, LIC. #195281
DESIGNED BY: J. BROWN, LIC. #195281

Deviation Panel Maintenance

Purpose: Develop standard operating procedures for maintaining deviation panels.

Process: Deviation panels are to be maintained per the Storm Water System Maintenance Plan. Schedule the panel maintenance work for a time when dry weather is expected. Inspect the panel for signs of wear, including cracks, corrosion, or other damage. Clean the panel as necessary. Repair any damage as needed. Document the maintenance work.

Storm Drain Pipe Maintenance

Purpose: Develop standard operating procedures for maintaining storm drain pipes.

Process: Storm drain pipes are to be maintained per the Storm Water System Maintenance Plan. Schedule the pipe maintenance work for a time when dry weather is expected. Inspect the pipe for signs of wear, including cracks, corrosion, or other damage. Clean the pipe as necessary. Repair any damage as needed. Document the maintenance work.

Storm Drain Structure Maintenance

Purpose: Develop standard operating procedures for maintaining storm drain structures (well manholes, junction boxes, and manholes).

Process: Storm drain structures are to be maintained per the Storm Water System Maintenance Plan. Schedule the structure maintenance work for a time when dry weather is expected. Inspect the structure for signs of wear, including cracks, corrosion, or other damage. Clean the structure as necessary. Repair any damage as needed. Document the maintenance work.

Sump/Injection Well Maintenance

Purpose: Develop standard operating procedures for maintaining sump/injection wells.

Process: Sump/injection wells are to be maintained per the Storm Water System Maintenance Plan. Schedule the well maintenance work for a time when dry weather is expected. Inspect the well for signs of wear, including cracks, corrosion, or other damage. Clean the well as necessary. Repair any damage as needed. Document the maintenance work.

Submersible Pump Maintenance

Purpose: Develop standard operating procedures for maintaining submersible pumps.

Process: Submersible pumps are to be maintained per the Storm Water System Maintenance Plan. Schedule the pump maintenance work for a time when dry weather is expected. Inspect the pump for signs of wear, including cracks, corrosion, or other damage. Clean the pump as necessary. Repair any damage as needed. Document the maintenance work.

Complaint/Storage Storage

Purpose: Develop standard operating procedures for handling complaints and storage.

Process: Respond to complaints promptly. Investigate the issue. Take appropriate action to resolve the issue. Document the complaint and the action taken.

Parking Lot Maintenance

Purpose: Develop standard operating procedures for maintaining parking lots.

Process: Schedule regular maintenance of parking lots. Inspect the lot for signs of wear, including cracks, potholes, or other damage. Repair the lot as necessary. Document the maintenance work.

Grffiti Removal

Purpose: Develop standard operating procedures for removing graffiti.

Process: Respond to graffiti reports promptly. Remove the graffiti as soon as possible. Document the removal.

Mowing and Trimming

Purpose: Develop standard operating procedures for mowing and trimming.

Process: Schedule regular mowing and trimming. Perform the work as scheduled. Document the work.

Open Space Management

Purpose: Develop standard operating procedures for managing open space.

Process: Schedule regular management of open space. Perform the work as scheduled. Document the work.

OWW/Separation Maintenance

Purpose: Develop standard operating procedures for maintaining OWW/separation.

Process: Schedule regular maintenance of OWW/separation. Perform the work as scheduled. Document the work.

Storm Water System Maintenance/Prioritization

Purpose: Develop standard operating procedures for maintaining storm water system.

Process: Schedule regular maintenance of storm water system. Perform the work as scheduled. Document the work.