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LEANN H KILTS, WEBER CTY. RECORDER
16-MAR-23 3:36 PM FEE \$.00 TN
REC FOR: PLEASANT VIEW CITY

When recorded, return to:

Pleasant View City
520 W. Elberta Dr.
Pleasant View, Utah 84414-1408

Affects Parcel No(s): Lot 1 of Bailey's 2700 North P.U.D.

LONG-TERM STORM WATER MANAGEMENT AGREEMENT

This Long-Term Storm Water Management Agreement ("Agreement") is made by and between Pleasant View City, a Utah municipal corporation ("City"), and Shiny Shell – Pleasant View, LLC, a Utah Limited Liability corporation ("Owner").

RECITALS

WHEREAS, the City is authorized and required to regulate and control the disposition of storm and surface waters within the Small Municipal Separate Storm Sewer System, also known as the Pleasant View City Storm Drain System, ("Small MS4"), as set forth in the Pleasant View City Storm Water Ordinance, 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 ("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 ("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 maintain, at Owner's expense, a storm and surface water management facility or improvements ("Storm Water Facilities"); and

WHEREAS, the Storm Water 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, as a condition of Development Plan approval, and as required as part of the City's Small MS4 Utah Pollutant Discharge Elimination System (UPDES) General Permit from the State of Utah, Owner is required to enter into this Agreement establishing a means of documenting the operations and maintenance of the Storm Water Facilities; 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 Storm Water Facilities, and the mutual covenants contained herein, the parties agree as follows:

Section 1

Construction of Storm Water Facilities. The Owner shall, at its sole cost and expense, construct the Storm Water Facilities in accordance with the City-approved Development Plans and specifications, and any amendments thereto which have been approved by the City.

Section 2

Maintenance of Storm Water Facilities. The Owner shall, at its sole cost and expense, adequately maintain the Storm Water Facilities. Owner's maintenance obligations shall include all system and appurtenances built to convey storm water, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the storm water. Adequate maintenance, for purposes of this Agreement, is defined as the maintenance and actions required such that the Storm Water Facilities are 1) performing their design functions, 2) in good working condition, 3) continuing to provide the design storm water volume and capacity, and 4) being maintained in accordance with manufacturer's recommendations, where applicable. The Owner shall, at its sole cost and expense, perform all maintenance necessary to keep the Storm Water Facilities functioning and in good working condition. A copy of the Storm Water Facilities Maintenance Plan is contained in Exhibit "B." Owner may amend the Storm Water Facilities Maintenance Plan upon submittal to and approval by the City.

Section 3

Annual Inspection Report and Certification. The Owner shall, at its sole cost and expense, inspect, or have inspected, the Storm Water 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 Storm Water Facilities. The annual inspection shall cover all aspects of the Storm Water Facilities, including, but not limited to, pipes, catch basins/boxes, parking lots, structural improvements (e.g. oil/water separators, underground infiltration galleries, underground detention basins), 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 30th of each year and shall be on forms acceptable to the City. Inspections shall be performed by qualified personnel.

Section 4

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 Storm Water Facilities upon reasonable notice not less than three (3) business days to the Owner. Such inspections shall be conducted in a reasonable manner and at reasonable times, as determined appropriate by the City. The purpose of the inspection shall be to determine and ensure that the Storm Water Facilities are being adequately operated and maintained to meet the intent of the design, are continuing to perform in an adequate manner, and are in compliance with the Act, the Ordinance, the Storm Water Facilities Maintenance Plan, and manufacturer's recommendations, where applicable. Notice may be waived in emergency conditions.

Section 5

Notice of Deficiencies. If the City finds that the Storm Water Facilities contain any defects or are not being maintained adequately, the City shall send Owner written notice of the defects or deficiencies and provide Owner with a reasonable time, but not less than thirty (30) days, to cure such defects or deficiencies. Such notice shall be confirmed delivery to the Owner or sent certified mail to the Owner at the address on file with the Weber County Tax Assessor.

In the event the Owner fails to adequately maintain the Storm Water Facilities in good working condition acceptable to the City, after due notice of deficiencies as provided in the above paragraph and failure to cure, then the City shall send a second notice to the Owner. Upon Owner's failure to cure or correct within thirty (30) days following the second notice, the City may issue a citation punishable as a Misdemeanor in addition to any local, State, or EPA fine.

Section 6

Owner to Make Repairs. The Owner shall, at its sole cost and expense, make such repairs, changes, or modifications to the Storm Water Facilities as may be determined as reasonably necessary by the City within the required cure period to ensure that the Storm Water Facilities are adequately maintained and continue to operate as designed and approved.

Section 7

City's Corrective Action Authority. Upon the expiration of the thirty (30) days following the second notice, if the Owner fails to cure defects or deficiencies, the City and its authorized agents and employees shall have the authority to enter the Property and perform the necessary maintenance or corrective actions.

It is expressly understood and agreed that the City is under no obligation to maintain or repair the Storm Water Facilities, and in no event shall this Agreement be construed to impose any such obligation on the City. 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 8

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 correction of the defects or deficiencies, the Owner shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City. 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 attorneys' fees and court costs, incurred by the City in collection of delinquent payments. City reserves the right to file a lien on the Property in the event of non-payment.

Section 9

Successor and Assigns. This Agreement shall be recorded in the Weber County Recorder's Office, and the covenants and agreements contained herein shall run with the land. 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.

Section 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 Covenant shall not be affected thereby.

Section 11

Utah Law and Venue. This Agreement shall be 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 shall be maintained in the appropriate court of competent jurisdiction in Weber County, Utah.

Section 12

Indemnification. This Agreement imposes no liability of any kind whatsoever on the City, and the Owner agrees to hold the City harmless from any liability in the event the Storm Water Facilities fail to operate properly. The Owner shall indemnify and hold the City harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against the City from failure of Owner to comply with its obligations under this agreement relating to the Storm Water Facilities.

Section 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 Weber County Recorder's Office.

Section 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 the Agreement.

Section 15

Storm Water Facilities Maintenance Plan. The Storm Water Facilities Maintenance Plan ("Maintenance Plan") must adapt to change in good judgment when site conditions and operations change, and when existing programs are ineffective. Exhibit B, containing the Maintenance Plan, will not be filed with the agreement at the County Recorder but is included by reference and kept on file with the City Recorder. Revision applications must be filed with the City and amended into the Maintenance Plan on file with the City Recorder.

Section 16

Exhibits to this Agreement. Exhibits to this Agreement are enumerated as follows:

1. Exhibit A – Property Description
2. Exhibit B – Storm Water Facilities Maintenance Plan

(continued on next page)

**EXHIBIT A
PROPERTY DESCRIPTION**

All of Lot 1 of Bailey's 2700 North P.U.D.

Map below for reference only.

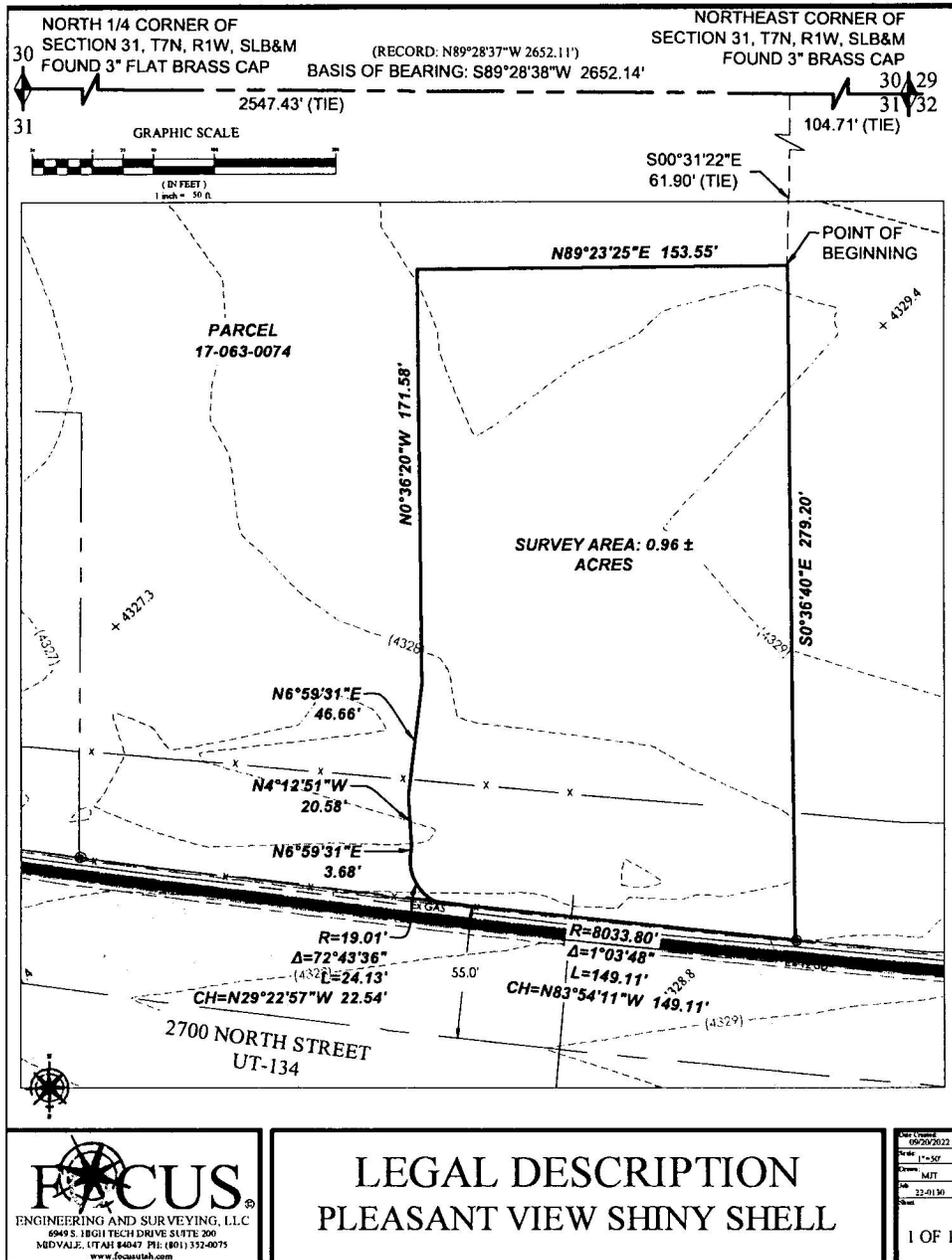




EXHIBIT B – Post-Construction Storm Water Maintenance Plan and Inspection Schedule

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.

Disposal: Liquid waste from surface cleansing of petroleum/chemical spills including but not limited to gasoline, oils, pesticides, fertilizers, antifreeze, etc. may be disposed to the sanitary sewer system if waste amounts are small and diluted with water, however the preferred method of disposal is to absorb the spill material onto rags or paper towels and finish the clean-up by washing the spill area with detergent which would then also be absorbed onto rags or paper towels. Typically, absorbent materials and sweepings may be disposed of in the onsite dumpster or in a landfill. Larger quantities of contaminants or contaminants in liquid form may not be disposed of in the onsite dumpster. Rather, they must be disposed of in approved hazardous waste receptacles off-site such as those provided by the Salt Lake Valley Hazardous Waste Disposal facility located at 6030 West California Ave. If there is any question in the mind of the operator as to the appropriate disposal method, he or she must contact the receiving landfill to see if they will accept the waste in question.

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 aboveground detention basin at the west end of the property.

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 detention basin is a above ground pond. Below are some recommendations and signs maintenance need to occur on the pond.

ARE ANY OF THESE PRESENT?	POTENTIAL CAUSE	RECOMMENDATION
Undesirable vegetation is invading the pond/basin	Nuisance, poisonous, or noxious weeds	Manually remove undesirable vegetation. Seek advice from the University of Idaho Cooperative Extension System (Ada County) or the Idaho Dept. of Agriculture before applying pesticides. Certain pesticides should not be used near waterbodies.
Water flows through holes in dam or berm; holes are present around pond	Rodents	Control rodents and repair dam or berm. Contact the Idaho Department of Fish and Game for information on controlling rodents.
Accumulated sediment exceeds 10% of the designed pond depth	Excessive sediment	Clean out sediment to original shape and depth of the pond. Re-seed the pond or check landscaping, if necessary, to control erosion.
Bare soil is visible at top of spillway or outside slope	Inadequate rock layer	Add enough rock to cover up bare soil.

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.

Overall Site Issues

Below are some general site issues that should be assessed during inspections.

	Control/activity	Implemented?	Maintenance required?	Corrective action needed and notes
1	Are any discharge points and receiving waters free of any sediment deposits?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Are storm drain inlets properly protected?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Is trash/litter from work areas collected and placed in covered dumpsters?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Are any washout facilities (e.g., paint, stucco, concrete) available, clearly marked, and maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Are any vehicle and equipment fueling, cleaning, and maintenance areas free of spills, leaks, or any other deleterious material?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6	Are any materials that are potential stormwater contaminants stored inside or under cover?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	Are non-stormwater discharges (e.g., wash water, dewatering) properly controlled?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
8		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
9		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
10		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Non-Compliance/Pollution Reports

Describe any incidents of non-compliance not described above or any incidence of pollution:

Additional Control Measures Needed

Describe any additional control measures needed to comply with the permit requirements:

Notes

Use this space for any additional notes or observations from the inspection:

Inspector name: _____

Signature: _____ **Date:** _____