**STORMWATER MANAGEMENT PLAN**

**MAINTENANCE AGREEMENT AND EASEMENT**

WHEREAS, {owner} is the owner of {legal description}, Lincoln, Lancaster County, Nebraska (“Property”); and

WHEREAS, {owner} shall be referred to hereinafter as the “Property Owner”, and its administrators, executors, successors, heirs and assigns, shall hereinafter be referred to collectively as the “Successors”; and

WHEREAS, the City of Lincoln, Nebraska (hereinafter the “City”) requires, and the Property Owner agrees that the health, safety and welfare of the citizens of the City require that stormwater management facilities (hereinafter referred to as the “Facilities”) must be constructed and perpetually maintained on the Property.

NOW, THEREFORE, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the Property Owner agrees as follows:

1. The Property Owner shall construct the Facilities at its sole expense, in strict accordance with the {name of drainage plan} attached as Exhibit A (the “Drainage Plan”), which has been reviewed and approved by the City. Upon construction completion, all stormwater BMPs that are part of this Post Construction Stormwater Management Plan shall be certified by a licensed professional civil engineer or other professional approved by the City of Lincoln Transportation and Utilities Department. The following must be included with the certification attached as Exhibit C: A Best Management Practice (BMP) certification document and Record Drawing of the final Post Construction Stormwater Management Plan with “As-Built” stamp, date, and signature of the licensed professional. Any change in the function of the BMP, such as volume, capacity, release rate, etc. must be verified and documentation included with the Record Drawing.
2. The Property Owner and its Successors shall perpetually maintain, at their sole expense, the Facilities in strict accordance with the Drainage Plan, which shall include all of the inspection and maintenance activity described in the Maintenance Form attached as Exhibit B. The Property Owner and its successors shall also comply with any requirements set forth in Lincoln Municipal Code, the City’s Flood and Water Quality Protection Manual, and the City’s Design Standards.
3. The Property Owner and its Successors shall keep a record of annual maintenance reports for the Facilities in the form of Exhibit B. Said report shall be sent upon request to the City of Lincoln Watershed Management Division via email: NPDES@lincoln.ne.gov.
4. The Property Owner and its Successors hereby grant the City, its authorized agents and employees, permission to enter upon the Property and to inspect the Facilities whenever the City deems necessary. The City shall provide the Property Owner copies of any inspection findings upon request. If the City deems the Facilities are not in proper working condition, the City shall provide a directive to commence repairs if necessary. If repairs to the Facilities are necessary, the Property Owner must notify the City within fourteen (14) calendar days addressing what actions will be taken to correct any deficiencies and providing a schedule of repairs within a reasonable timeframe.
5. The Property Owner and its Successors agree that should it fail to correct any defects in the Facilities within a reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the Facilities in accordance with the attached Exhibit A and with the law and applicable executive regulations or, in the event of an emergency as determined by the City or its designee in its sole discretion, the City or its designee is authorized to enter the Property to make all repairs and to perform all maintenance, construction and reconstruction as the City or its designee deems necessary.
6. The City or its designee shall have the right to recover from the Property Owner any and all reasonable costs the City expends to maintain or repair the Facilities or to correct any operational deficiencies subject to the provisions of the immediately preceding paragraph relating to acts of the City. Failure to pay the City or its designee all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the Agreement. The City or its designee shall thereafter be entitled to bring an action against the Property Owner to pay or foreclose upon the lien hereby authorized by the Agreement against the Property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery of the successful party.
7. The Property Owner and its Successors agree that should it fail to correct any defects in the Facilities within a reasonable period of time provided in the Notice of Violation, or fourteen (14) days if not specifically provided in the Notice of Violation, said owner will be assessed BMP Inspection Fee(s) to compensate the City for costs associated with repeat inspections.
8. The Property Owner shall not obligate the City to maintain or repair the Facilities, and the City shall not be liable to any person for the condition or operation of the Facilities.
9. The Property Owner and its Successors hereby indemnify and hold harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence or maintenance of the Facilities by the Property Owner. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend, at its own expense, any suit based on such claim unless due solely to the negligence of the City, in which event the City shall be required to defend any such suit at its own expense. Notwithstanding the foregoing, if any claims are made against both the City and the Property Owner, each will be required to defend any such suit or claim at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection therewith except to the extent of the negligence or intentional act of the City.
10. The Property Owner shall not in any way diminish, limit or restrict the right of the City to enforce any of its ordinances as authorized by law.
11. The Agreement shall be recorded with the Register of Deeds of Lancaster County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner and its Successors, including any homeowners or business association or any other successors in interest.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates as set forth below.

**“PROPERTY OWNER”**

{property owner}

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF NEBRASKA )

 ) ss.

COUNTY OF LANCASTER )

 The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by {signatory representative of property owner}.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

**EXHIBIT A**

{Attach DRAINAGE PLAN}

**EXHIBIT B**

{attach Maintenance Form}

**EXHIBIT C**

**Post Construction BMP Certification**

(Complete form and send with the as-built plan to NPDES@lincoln.ne.gov after BMP is constructed)

Project Name:

Project Address:

BMP Type:

Contractor Company (who installed BMP):

**CERTIFICATION STATEMENT**

**This certification must be executed by a licensed professional civil engineer, Surveyor, or other professional approved by the City of Lincoln.**

Based upon my inspection of the constructed BMP(s) for the above-referenced project, I hereby certify that the BMP(s) are in compliance with the intent of the original city approved design plans and with the City of Lincoln's post construction stormwater management requirements.

Name (Signature): Date: Name (Printed):

Email Address:

Company Name:

**PERSON RESPONSIBLE FOR BMP MAINTENANCE**

Provide the following information on who will be responsible for ongoing maintenance:

Name:

Company Name:

Address:

Telephone Number:

Email:

**Review and inspection of the BMP(s) shall be done by a qualified individual who is knowledgeable in the principles and practices of post construction stormwater control.**