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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
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RETURN TO:

AL Hottovy @ LEOA. DALY
8600 INDIAN HILLS DR
OMAHA, NE 68114

CHECK NUMBER

POST CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASEMENT

WHEREAS, Quality Living Inc. (QLI) recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called QLI Stormwater Pond located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

WHEREAS, the Property Owner (whether one of more) is the owner of Quality Living Inc. (hereinafter referred to as "the Property"), and,

WHEREAS, the City of Omaha (hereinafter referred to as "the City") requires and the Property Owner, and its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of the City require that the facilities be constructed and maintained on the property, and,

WHEREAS, the Post Construction Stormwater Management Plan, OMA-20151208-3385-P/Stormwater P.M., (hereinafter referred to as "PCSMP"), should be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

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 facility or facilities shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of Omaha or its designee.
2. The Property Owner must develop and provide the "BMP Maintenance Requirements", attached here to as Exhibit "B", which have been reviewed and accepted by the City of Omaha or its designee. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the facilities and include a schedule for implementation of these practices. The Plan shall indicate that the facility or facilities shall be inspected by a professional qualified in stormwater BMP function and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be maintained and available for review by the City.
3. The Property Owner, its administrators, executors, successors, heirs, or assigns, shall construct and perpetually operate and maintain, at its sole expense, the facilities in strict accordance with the attached BMP Maintenance Requirements accepted by the City of Omaha or its designee.
4. The Property Owner, its administrators, executors, successors, heirs, or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The City shall provide the Owner copies of the inspection findings and a directive to commence with the repairs if necessary.

The City will require the Property Owner to provide, within 7 calendar days, a written response addressing what actions will be taken to correct any deficiencies and provide a schedule of repairs within a reasonable time frame. Whenever possible, the City shall provide notice prior to entry. The City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent acts during such entry upon the property.

5. The Property Owner its administrators, executors, successors, heirs, or assigns, agrees that should it fail to correct any defects in the facility or facilities within reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City of Omaha or its designee in its sole discretion, the City of Omaha or its designee is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City of Omaha or its designee deems necessary. Notwithstanding the foregoing, the City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent acts during such entry upon the property.


The City of Omaha or its designee shall have the right to recover from the Property Owner any and all reasonable costs the City of Omaha expends to maintain or repair the facility or facilities or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligent acts of the City. Failure to pay the City of Omaha or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City of Omaha 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 this agreement against the property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery to the successful party.


6. The Property Owner shall not obligate the City of Omaha to maintain or repair the facility or facilities, and the City of Omaha shall not be liable to any person for the condition or operation of the facility or facilities.
7. The Property Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnifies and holds 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 facility or 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 of Omaha and the Property Owner, each will be required to defend any such suit or claim against it 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 herewith except to the extent of the negligent act of the City.
8. The Property Owner shall not in any way diminish, limit, or restrict the right of the City of Omaha to enforce any of its ordinances as authorized by law.
 9. This Agreement shall be recorded with the Register of Deeds of Douglas County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.


IN WITNESS WHEREOF, the Property Owner (s) has/ have executed this agreement this 12 day of August, 2016.

INDIVIDUAL, PARTNERSHIP and/or CORPORATION

_____ Quality Living, Inc Name of Individual, Partnership and/or Corporation
_____ Todd Schuiteman Name
_____ VP & CEO Title
 Signature

_____ Name of Individual, Partnership and/or Corporation
_____ Name
_____ Title
 Signature

_____ Name of Individual, Partnership and/or Corporation
_____ Name
_____ Title
 Signature

_____ Name of Individual, Partnership and/or Corporation
_____ Name
_____ Title
 Signature

ACKNOWLEDGMENT

Nebraska)
State
Douglas)
County

On this 12th day of August, 2016 before me, a Notary Public, in and for said County, personally came the above named:

Todd Schuiteman, Vice President & CFO

who is (are) personally known to me to be the identical person(s) whose name(s) is (are) affixed to the above instrument and acknowledged the instrument to be his, her (their) voluntary act and deed for the purpose therein stated.

WITNESS my hand and Notarial Seal the day and year last above written.

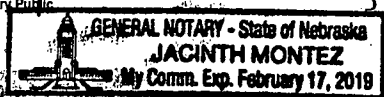
Jacinto Montez
Notary Public

Notary Seal

Exhibit “A”

Insert Real Property Depiction

LEGAL DESCRIPTION

01-60000
Parcel 1: Parcels of ground located in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section 36, Township 16 North, Range 12 East of the 6th P.M., in the city of Omaha, in Douglas County, Nebraska described as follows:

Beginning at a point 283 feet South of the Northwest corner of the Southeast Quarter of the Northwest Quarter of Said Section 36; thence East, 75 feet; thence North, 250 feet, to a point 75 feet East and 33 feet South of said Northeast corner of the Southeast Quarter of the Northwest Quarter; thence East, along the South line of Redick Avenue, 271.1 feet; thence South and parallel to the West line of said Southeast Quarter of the Northwest Quarter of said Section 1,287 feet, to a point on the South line of the Southeast Quarter of the Northwest Quarter; thence West, 346.1 feet, to the Southwest corner of the Southeast Quarter of the Northwest Quarter; thence North, 1,037 feet, to the Point of Beginning;

And,

Beginning at a point 33 feet South of the Northwest corner of the Southeast Quarter of the Northwest Quarter of Section 36; thence East, 75 feet; thence South, 250 feet; thence West, 75 feet; thence North, 250 feet, to the Point of Beginning.

43-18091
Parcel 2: Lots 2 and 3, in IMMANUEL REPLAT, an Addition to the City of Omaha, as surveyed, plated and recorded, in Douglas County, Nebraska.

Parcel 3: Lots 1, 2, 4 and 5, and Outlot "B", in IMMANUEL SOUTH, and Lot 6, in THE SHOPS AT CROWN POINT, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska.

43-18098
(I.S.)

43-36415
(S.C.R.)

Exhibit “B”

Insert BMP Maintenance Requirements
(See Guidance Document for Information Needed)

EXHIBIT “B”
BMP Maintenance Plan
QLI - Stormwater Pond

I. General BMP Information

BMP ID Name	BMP Location	Lat/Long
Detention Basin	South of the North 70 th Plaza loop, between the Maintenance Building and the Lied Workcenter Building	Lat: 41° 18' 53.06" Long: 96° 1' 16.32"
Retention Pond	South of the North 70 th Plaza loop, between the Maintenance Building and the Lied Workcenter Building	Lat: 41° 18' 52.93" Long: 96° 1' 11.45"

II. BMP Site Location Map (See Attached)

III. Routine Maintenance Tasks and Schedule for typical BMP's

Detention Basin Maintenance Tasks and Schedule	
Short Term (Year 1 - Year 3)	
Task	Schedule
Water	Minimum once a week for the first three months
Eliminate weeds	Spot application of herbicide as needed throughout the first year
Check for erosion	Occasionally
Ensure that vegetation and other erosion stabilizing mechanisms are intact and check inlet/outlet structures and surrounding area for signs of erosion or instability	After Rainfall Equaling or Exceeding 0.5 Inches
Inspect all inlet/outlets and repair or restore clogged flow structures as needed	After Rainfall Equaling or Exceeding 0.5 Inches
Remove sediment and debris from pretreatment BMPs or forebay	After Rainfall Equaling or Exceeding 0.5 Inches
Confirm drainage systems functions and bank stability	After Rainfall Equaling or Exceeding 0.5 Inches
Inspect vegetation and all other supporting structure. Replace dead plants and remove invasive plant species.	After the first year
Test sediments for toxicants and ensure compliance with local disposal requirements	Prior to sediment disposal
Long Term (Year 3 - Later)	
Task	Schedule
Mow to a height no Less than 6 inches and remove debris	Early every spring
Inspect vegetation (remove weeds and invasive species)	Twice annually
Trim back or remove overgrown vegetation	As needed
Repair or restore clogged flow structures	As needed
Check for subsidence, erosion, cracking/tree growth on the embankment, sediment accumulation around the outlet, and erosion within the basin and banks	Twice annually
Test sediments for toxicants and ensure compliance with local disposal requirements	Prior to Sediment disposal

Retention Pond Maintenance Tasks and Schedule	
Short Term (Year 1 - Year 3)	
Task	Schedule
Water	Minimum once a week for the first three months
Eliminate weeds	Spot application of herbicide as needed throughout the first year
Check for erosion	Occasionally
Ensure that vegetation and other erosion stabilizing mechanisms are intact and check inlet/outlet structures and surrounding area for signs of erosion or instability	After Rainfall Equaling or Exceeding 0.5 Inches
Inspect all inlet/outlets and repair or restore clogged flow structures as needed	After Rainfall Equaling or Exceeding 0.5 Inches
Remove sediment and debris from pretreatment BMPs or forebay	After Rainfall Equaling or Exceeding 0.5 Inches
Confirm drainage systems functions and bank stability	After Rainfall Equaling or Exceeding 0.5 Inches
Inspect vegetation and all other supporting structure. Replace dead plants and remove invasive plant species.	After the first year
Test sediments for toxicants and ensure compliance with local disposal requirements	Prior to sediment disposal
Long Term (Year 3 - Later)	
Task	Schedule
Mow to a height no less than 6 inches and remove debris	Early every spring
Inspect vegetation (remove weeds and invasive species)	Twice annually
Trim back or remove overgrown vegetation	As needed
Repair or restore clogged high flow structures	As needed
Check for subsidence, erosion, tree growth on the embankment, sediment accumulation around the outlet, and erosion within the basin and banks	Twice annually minimum
Test sediments for toxicants and ensure compliance with local disposal requirements	Prior to Sediment disposal

- IV. The Property Owner shall perform maintenance and inspection in accordance with the above table. A written report of all maintenance and inspections shall be prepared annually and kept on file by the Owner for a period covering the last 3 years at all times. The first report shall be prepared within one year of receiving the Certificate of Occupancy. Upon request of the City, the Owner shall provide copies of the annual maintenance inspection reports within (3) business days.

*Maintenance Agreement will be submitted upon completion of construction prior to receiving the Certificate of Occupancy.