

**POST CONSTRUCTION STORMWATER MANAGEMENT PLAN  
MAINTENANCE AGREEMENT**

**WHEREAS, 192 Maple LLC**, recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called **West Maple Hotel LLC (Holiday Inn Express)**, located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

**WHEREAS, 192 Maple LLC**, is the owner (hereinafter referred to as "the Owner") of the property described on Exhibit A and Exhibit A-1, attached hereto and made a part hereof (hereinafter referred to as "the Property"), and,

**WHEREAS**, the City of Omaha (hereinafter referred to as "the City") requires and the Property Owner, or 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-20180711-4472-P**, (hereinafter referred to as "PCSMP"), be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns, and

**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 shall be constructed by the Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of Omaha or its designee.
2. The Owner must develop and provide the "BMP Maintenance Requirements", per the attached 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 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. During construction of the facilities, the 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 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 Owner harmless from any damage by reason of the City's or its employees, contractors or agents negligent acts during such entry upon the property.
5. The 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 Owner for corrective actions, or shall fail after 30 days' notice from City of Omaha to Owner, 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 reasonable repairs, and to perform all reasonable maintenance, construction and reconstruction. Notwithstanding the foregoing, the City shall indemnify and hold the Owner harmless from any damage by reason of the City's or its employees, contractors or agents negligence during such entry upon the property.
6. The City of Omaha or its designee shall have the right to recover from the 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 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.
7. The 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, unless caused by the City of Omaha or its employees, contractors or agents.
8. The 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 Owner unless caused by the City of Omaha or its employees, contractors or agents. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Owner and the Owner shall defend at its own expense any suit unless caused by the City of Omaha or its employees, contractors or agents.

- 9. Based on such claim unless due solely to the negligence or wrongful act 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 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 Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligent or wrongful act of the City.
- 10. The 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.
- 11. 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 Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

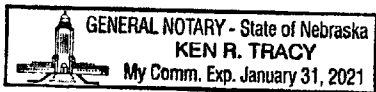
Dated this 8<sup>th</sup> day of Feb., 2019.

192 Maple LLC  
 West Maple Hotel LLC  
 By: [Signature]  
 Scott Brown, Manager

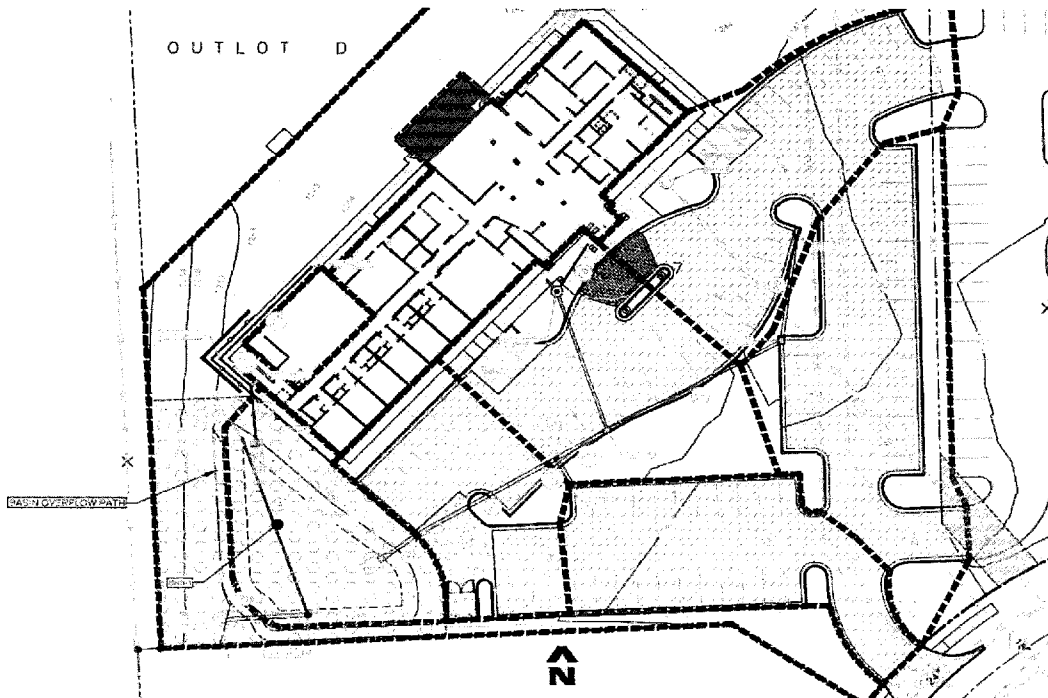
State of Nebraska )  
 )ss.  
 County of )

The foregoing agreement was acknowledged before me this 8<sup>th</sup> day of Feb. 2019 by **Scott Brown, Manager of West Maple Hotel LLC**, a Nebraska Limited Liability Company, on behalf of said limited Liability Company.

[Signature: Ken R. Tracy]  
 Notary Public



**EXHIBIT 'A'**



**PROJECT INFORMATION**

Legal Description: Lot 7, Antler View, in Douglas County, Nebraska,  
 Property Address: 19040 Evans Street  
 Omaha, NE 68022  
 Subdivision Name: Antler View  
 Section: NW 08-15-11

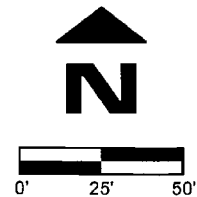
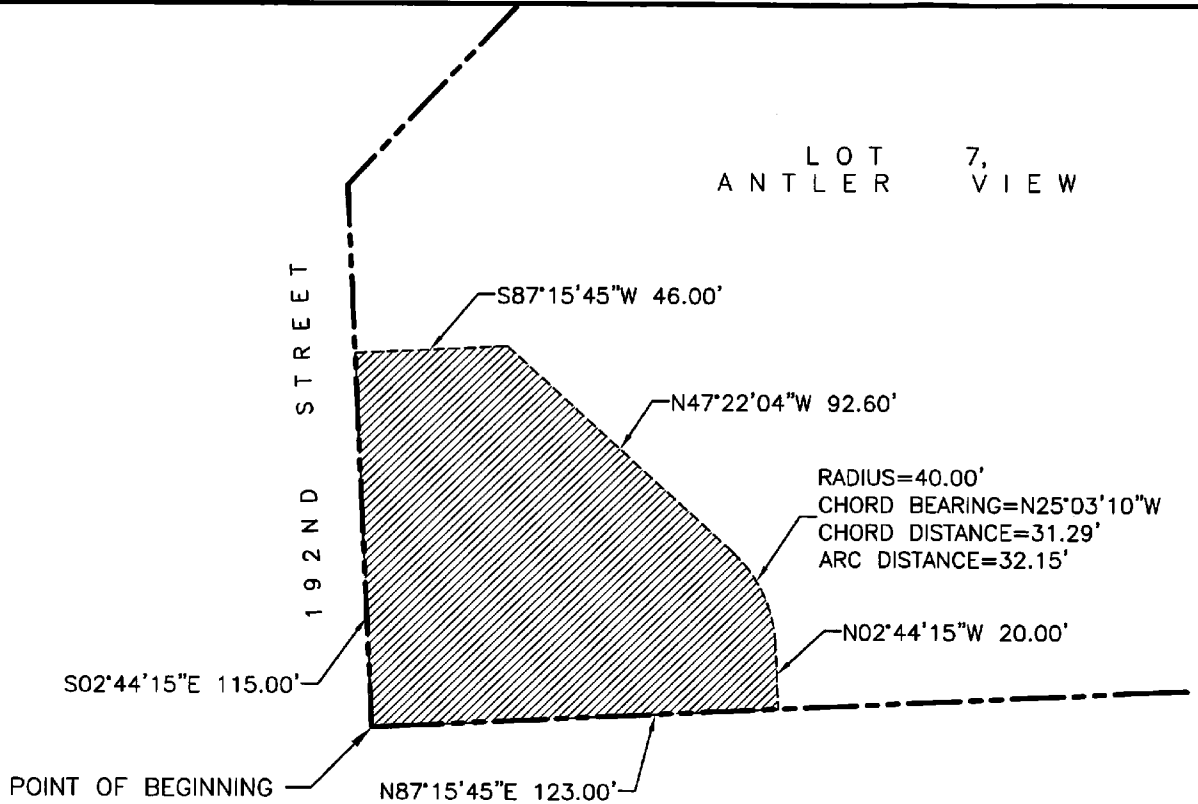
**APPLICANT INFORMATION**

Business Name: West Maple Hotel LLC  
 Business Address: 1925 N 120<sup>th</sup> Street  
 Omaha, NE 68154  
 Representatives Name: Scott Brown  
 Representative's Email: [sbrown@quantumqre.com](mailto:sbrown@quantumqre.com)  
 Representative's Phone: (402) 934-4029

**BMP INFORMATION**

Name	Description	Latitude/Longitude
BRB-1	Bio-Retention Basin 1	N41.290824° W96.215363°

10/8/2018 9:19 AM BEN KASREL H:\1400\1431-109 Quantum Real Estate LLC - Antler View Strip Center Phase 1\Survey\Drawings\1431-109EX.dwg



**LEGAL DESCRIPTION**

BEGINNING AT THE SOUTHWEST CORNER OF LOT 7, ANTLER VIEW, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA;  
 THENCE N87°15'45"E 123.00 FEET ON THE SOUTH LINE OF SAID LOT 7;  
 THENCE N02°44'15"W 20.00 FEET;  
 THENCE NORTHWESTERLY ON A 40.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N25°03'10"W, CHORD DISTANCE 31.29 FEET, AN ARC DISTANCE OF 32.15 FEET;  
 THENCE N47°22'04"W 92.60 FEET;  
 THENCE S87°15'45"W 46.00 FEET TO A POINT ON THE WEST LINE OF SAID LOT 7;  
 THENCE S02°44'15"E 115.00 FEET ON THE WEST LINE OF SAID LOT 7 TO THE POINT OF BEGINNING.



Job Number: 1431-109  
 thompson, dreessen & dornier, inc.  
 10836 Old Mill Rd  
 Omaha, NE 68154  
 p.402.330.8860 f.402.330.5866  
 td2co.com

Date: 10-4-2018  
 Drawn By: BBK  
 Reviewed By: DHN  
 Revision Date:

**EXHIBIT "A-1"**

Book  
 Page

**Exhibit "B"**  
**BMP Maintenance Plan**  
**West Maple Hotel LLC**  
**Holiday Inn Express**  
**Lot 7, Antler View**  
 OMA-20180711-4599-P

I. GENERAL BMP INFORMATION

BMP ID Name	Location	Legal Description
BRB-1	See Exhibit 'A'	See Exhibit 'A-1'

II. BMP SITE LOCATION MAP  
 See Exhibit 'A'

III. ROUTINE MAINTENANCE TASKS AND SCHEDULE

<b>BMP Type (Bio-Retention Basin)</b>	
Task	Schedule
<ul style="list-style-type: none"> <li>Inspect for accumulation of trash, leaves, and other debris and remove as required.</li> </ul>	Weekly during mowing season (March – June)
<ul style="list-style-type: none"> <li>Inspect after rainfall events to determine if system is draining properly.</li> </ul>	After rainfall events of 1" per 24-hour period or greater
<ul style="list-style-type: none"> <li>Remove weeds and maintain plantings.</li> </ul>	Monthly during mowing season (March – June)
<ul style="list-style-type: none"> <li>Remove and Replace Amended Soil</li> </ul>	As Needed (When evidence of plugging is apparent) (if applicable)
<ul style="list-style-type: none"> <li>Inspect Inflow Points for erosion and vegetative failure. If necessary, fix erosion by adding and compacting backfill and fix vegetative failure by reseeding and covering with erosion control blanket.</li> <li>Check Inlet Points and Outlet Structure for obstructions.</li> <li>Check for displacement/sedimentation of fabric/rip-rap/proprietary matting and repair as needed.</li> <li>Check for Energy dissipation structural issues and repair as needed.</li> <li>Check for animal burrows (in embankment areas) and repair as needed.</li> <li>Check for signs of seepage on downstream face (in embankment areas).</li> </ul>	Monthly

IV. Maintenance Inspection Reports.

The Property Owner shall perform maintenance and inspection in accordance with the above table and the PCWP Dry Detention Basin Annual Inspection Form (<https://omahastormwater.org/development/post-construction/>). A written report of all maintenance and inspections shall be prepared annually and kept on file by the Owner. The first report shall be prepared within one year following the final acceptance date of the Post Construction Stormwater Management Plan and each year thereafter on or before the acceptance anniversary date. Annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional. Upon request of the City, the Owner shall provide copies of the annual maintenance inspection reports.