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2017063683

**POST CONSTRUCTION STORMWATER MANAGEMENT PLAN
MAINTENANCE AGREEMENT AND EASEMENT**

WHEREAS, Elk Hills Apartments Phase II, recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

WHEREAS, Elk Hills Apartments II, 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-20150828-3217-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 8th day of Aug., 2017.

Elk Hills Apartments II.

By: Lynnsey Danker

Lynnsey Danker, Managing Member

State of Nebraska)
)ss.
County of Douglas)

The foregoing agreement was acknowledged before me this 8th day of Aug., 2017 by Lynnsey Danker, Managing Member of Elk Hills Apartments II.



Melanie Hayden
Notary Public

EXHIBIT 'A'

PROJECT INFORMATION

Legal Description: Lot 1 Block 0 –Ex Irregular N 6.57 ft for R.O.W. – Lot 1 Elkhorn Valley, A Subdivision in Douglas County, Nebraska

Property Address: 2320 N Main Street
Omaha, NE 68022

Subdivision Name: Elkhorn Valley
Section: SE 12-15-10

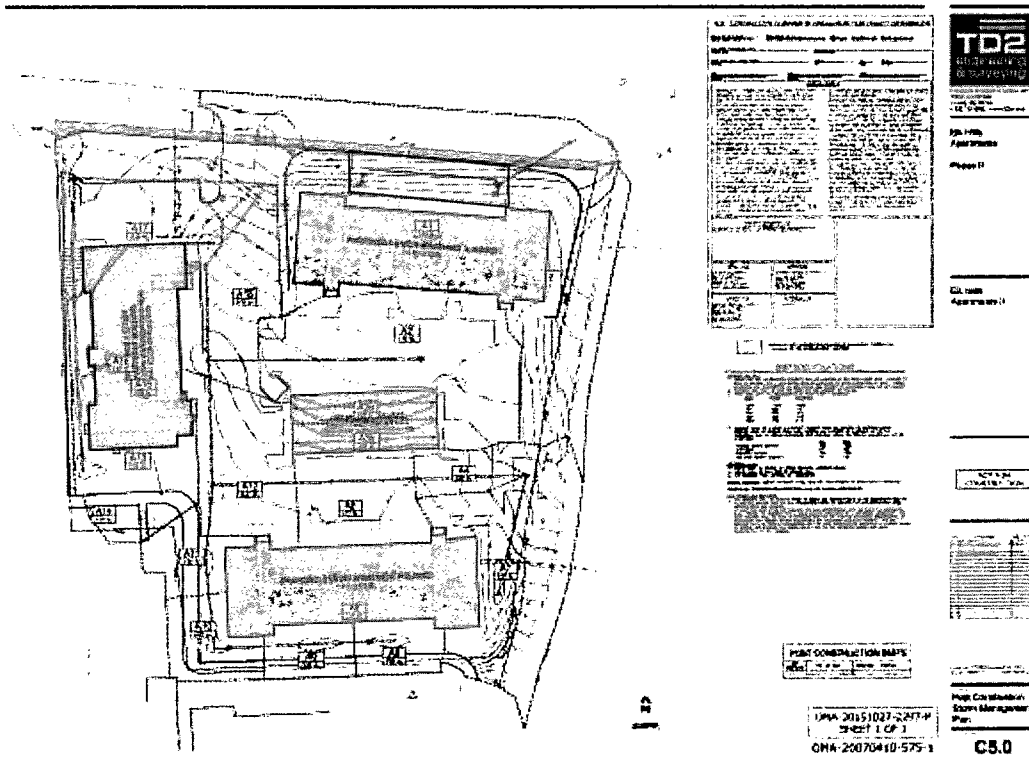
APPLICANT INFORMATION

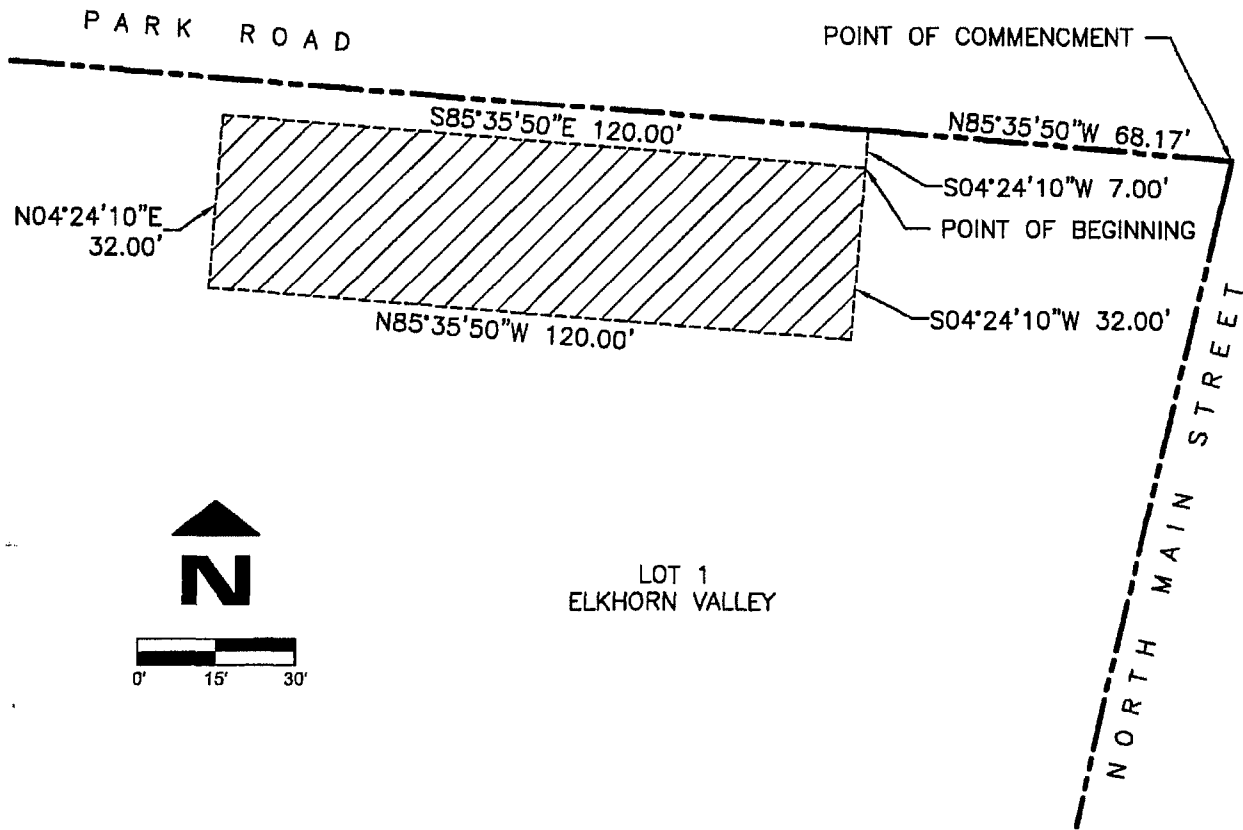
Business Name: **Elk Hills Apartments II**
Business Address: 3801 S 181st Street
Omaha, NE 68130

Representatives Name: Don Gardiner
Representative's Email: elkhillsapartments@npdodge.com
Representative's Phone: (402) 309-3646

BMP INFORMATION

Name	Description	Latitude/Longitude
UGC	Underground Chambers	N41.280214° W96.238614°





LOT 1
ELKHORN VALLEY

LEGAL DESCRIPTION

THAT PART OF LOT 1, ELKHORN VALLEY, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE NB5°35'50"W (ASSUMED BEARING) 68.17 FEET ON THE NORTH LINE OF SAID LOT 1; THENCE S04°24'10"W 7.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S04°24'10"W 32.00 FEET; THENCE NB5°35'50"W 120.00 FEET ON A LINE 39.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1; THENCE N04°24'10"E 32.00 FEET; THENCE S85°35'50"E 120.00 FEET ON A LINE 7.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.



Job Number: 1980-101 EX2
thompson, dreessen & dornier, inc.
10836 Old Mill Rd
Omaha, NE 68154
p.402.330.8860 f.402.330.5866
td2co.com

Date: 12/04/2015
Drawn By: MRS
Reviewed By: DHN
Revision Date:

EXHIBIT "A-1"

Book
Page

Exhibit "B"
BMP Maintenance Plan
Elk Hills Apartments II
OMA-20150828-3217-P

I. GENERAL BMP INFORMATION

BMP ID Name	Location	Legal Description
UGS	See Exhibit 'A1'	See Exhibit 'A'

II. BMP SITE LOCATION MAP
 See Exhibit 'A'

III. ROUTINE MAINTENANCE TASKS AND SCHEDULE

UGS-1: StormTech® Isolator™ Row

Inspection and Cleaning Cycle:

Inspections shall begin immediately after construction is completed and thereafter on a bi-annual basis until an understanding of the sites characteristics is developed whereas the inspection manager and owner can then revise the inspection schedule based on experience or local requirements.

Inspection and Maintenance Instructions:

To inspect the StormTech® Isolator™ Row for sediment, first remove the cover from the manhole at the end of the Isolator Row (note that there is a manhole and/or inspection port located at either end of the Isolator Row). Using a flashlight, inspect down Isolator Row through the outlet pipe. Mirrors on poles or cameras may be used to avoid confined space entry. If entering the manhole, follow OSHA regulations for confined spaces. Visually inspect the sediment depth, and, if the sediment is at or above the lower row of sidewall holes (approximately 3"), follow the maintenance procedures listed below. Check the interior of the chamber for excessive trash and/or debris and remove as necessary to prevent clogging of outlet pipe. If the sediment is at an acceptable level, replace all caps, lids and covers. Inspect and clean all inlets, catch basins, and manholes upstream of the StormTech system.

Maintenance Instructions:

Remove large debris (i.e. paper cups, bags, etc.) from Isolator Rows using suitable equipment that will not puncture or otherwise damage chamber lining system. Perform JetVac maintenance if sediment has been collected to an average depth of 3" inside the Isolator Row. The JetVac process utilizes a high pressure water nozzle to propel itself down the Isolator Row while scouring and suspending sediments. As the nozzle is retrieved, a wave of suspended sediments is flushed back into the manhole for vacuuming. Use a JetVac nozzle designed for culverts or large diameter pipe cleaning. Rear facing jets with an effective spread of at least 45" are best. Dispose of the polluted water, oils, sediment, and trash at an approved facility.

- Local regulations prohibit the discharge of solid material into the sanitary sewer system.
- It is the responsibility of the person providing the maintenance to the StormTech Chambers to dispose of the pollutants in accordance with local, state, and federal regulations.

Note: The current StormTech Isolator Row O & M Manual can be viewed at: http://www.stormtech.com/download_files/pdf/manual_iso_row.pdf

IV. MAINTENANCE INSPECTION REPORTS

Annual maintenance inspection reports must be commissioned by the property owner and provided to the City upon request. The first report shall be conducted according to Section III of Exhibit 'B' (Routine Maintenance Tasks and Schedule) as noted above, and each year thereafter. All maintenance activities and inspection reports must kept on file with the property owner for a minimum of five years. The maintenance and inspection reports shall at a minimum include the following information;

- a. Date and time inspection was performed.
- b. Visual inspection of Isolator Rows and Outlet Weir Manhole.
- c. Sediment depths.
- d. Date and time routine maintenance was performed on StormTech Isolator.

The following is a sample maintenance log which may be used to record this information;

Date	Stadia Rod Readings		Sediment Depth (ft)	Observations / Actions	Observer
	Fixed Point to Chamber Bottom (ft)	Fixed Point to Top of Sediment (ft)			
10/25/14	6.3	none		<i>New installation. Fixed point is CI frame at grade.</i>	GAN
4/25/15		6.2	0.1	<i>Some grit felt. Plastic Bags & cups removed from isolator rows</i>	GAN
10/25/15		5.8	0.5	<i>Mucky feel, debris visible in manhole and in Isolator row, maintenance due. No large trash observed.</i>	GAN
10/25/16	6.3	0	0	<i>System jetted and vacuumed</i>	GAN

Note: Per City of Omaha requirements, annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional.