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FEES \$ 60.00
CHECK# _____
CHG PAY CASH _____
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FILED SARPY COUNTY NEBRASKA
INSTRUMENT NUMBER

2012-39981

12/19/2012 1:24:37 PM

Clay J. Dowling

REGISTER OF DEEDS



PEDESTRIAN EASEMENT DECLARATION

This EASEMENT DECLARATION made this 20th day of November, 2012, by L & B PROPERTIES, L.L.C., a Nebraska Limited Liability Company ("Grantor")

RECITALS

A. Grantor is the owner of certain real estate described as Lots 1 and 2, Mayfair 2nd Addition, Replat Five, located in the Southeast Quarter of Section 16, Township 14 North, Range 12 east of the 6th P.M., Sarpy County, Nebraska.

B. Grantor has agreed to provide for a public easement for pedestrian traffic as depicted on Exhibit "A" attached hereto.

NOW, THEREFORE, Grantor hereby declares the following:

1. Grant of Easement. Grantor hereby grants and establishes, as described on said Exhibit "A," a 10 foot wide permanent pedestrian easement located in Lots 1 and 2, Mayfair 2nd Addition Replat Five in the Southeast one-quarter of section 16, township 14 north, range 12 east of the 6th p.m., Sarpy county, Nebraska. being more particularly described as follows:

Commencing at the northeast corner of said lot 2, thence north 89°46'17" west (assumed bearing) for 19.00 feet along the north line of said lot 2 to the point of beginning; thence south 00°13'43" west for 756.37 feet along a line 19.00 feet west of and parallel with the east line of said lots 1 and 2; thence north 89°46'17" west for 10.00 feet along the south line of said lot 1; thence north 00°13'43" east for 756.37 feet along a line 29.00 feet west of and parallel with the east line of said lots 1 and 2; thence south 89°46'17" east for 10.00 feet along the north line of said lot 2 to the point of beginning. (Above described easement contains 7,564 square feet, more or less.)

PROVIDED, HOWEVER, that such easements shall be limited to improved platted portions of Exhibit "A" as a condition of development by the owner thereof from time to time.

2. Easements are Perpetual. The easements and rights herein granted shall be perpetual in nature and constitute covenants running with the title to the Property.

IN WITNESS WHEREOF, L & B PROPERTIES, L.L.C.. has executed this Declaration as of the date first above written.

L & B PROPERTIES, L.L.C., Grantor

By: *Larry G. Buland*
Larry G. Buland, Manager

STATE OF NEBRASKA)
)ss:
COUNTY OF DOUGLAS)

Before me, a Notary Public qualified in and for said County, personally appeared Larry G. Buland, as Manager of L & B PROPERTIES, L.L.C., known to me to be the identical person who executed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said company.

Witness my hand and seal this 18 day of DECEMBER, 2012.

Martin P. Griesbach
Notary Public



**EXHIBIT D
MAINTENANCE AGREEMENT**

[Space above the line for recording data]

**POST CONSTRUCTION STORM WATER MANAGEMENT PLAN
MAINTENANCE AGREEMENT**

This Post Construction Storm Water Management Plan Maintenance Agreement (hereinafter referred to as the "Agreement") is entered in to as of the date set forth below by and between _____, a _____ corporation (hereinafter referred to as the "Property Owner") and the City of La Vista, Nebraska (hereinafter referred to as the "City"). The Property Owner and the City are sometimes referred to herein as the "Parties".

WHEREAS, the Property Owner (whether one of more) is the owner of the real property legally described on Exhibit "A" which is attached hereto and incorporated herein by this reference (hereinafter referred to as "the Property");

WHEREAS, the Parties recognize that the health, safety and welfare of the citizens of the City require that storm water management facilities (hereinafter referred to as the "Facilities") must be constructed and maintained in conjunction with the development of the Property, which Property is located in the jurisdiction of the City;

WHEREAS, reference is made to the Post Construction Storm Water Management Plan, designated as Public Works Department project number OPW ___-PCSMP, (hereinafter referred to as the "PCSMP") which has been prepared by the Property Owner and approved by the City, and which is attached hereto as Exhibit "B" and incorporated herein by this reference; and,

WHEREAS, the Property Owner agrees that its obligations hereunder shall be binding on present and future owners of the Property.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the foregoing premises and the terms and provisions contained herein, the Property Owner agrees as follows:

1. The Facilities shall be constructed by the Property Owner in accordance with the PCSMP, which has been prepared by the Property Owner and which has been reviewed and accepted by the City or its designee. The Property Owner hereby reserves the right to continue to use the land on which the PCSMP is constructed for any uses or purposes which do not materially interfere with the use or operation of the Facilities or the BMP Maintenance Requirements (defined below).
2. The Property Owner has prepared, and the City has reviewed and accepted the "BMP Maintenance Requirements" which are attached hereto as Exhibit "C" and which are incorporated herein by this reference.

- C
3. The Property Owner shall, at its sole expense, construct and perpetually operate and maintain the Facilities in strict accordance with the BMP Maintenance Requirements.
 4. The Property Owner hereby grants permission to the City, its authorized agents and employees, upon reasonable notice and at reasonable times, to enter upon the Property, for inspections to ensure that the Facilities are maintained in accordance with this Agreement; provided, however, any such access by the City onto the Property shall be limited to paved areas and any pervious areas around the Facilities to the extent reasonably necessary to inspect the Facilities.
 5. In the event an inspection reveals that the Facilities have not been maintained in accordance with this Agreement and corrective action is needed, the City shall provide the Property Owner with written notice specifying what corrective action is reasonably required. If the Property owner has not completed the corrective actions within thirty (30) days of receipt of such notice, the City may perform the necessary corrective work. 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 reasonably deems necessary. The City shall be entitled to recover from the Property Owner the reasonable costs the City reasonably expends to maintain or repair the Facilities or to correct operational deficiencies in accordance with this Agreement or applicable law. Failure to pay the City all of its reasonably expended costs, after forty-five days written notice, shall constitute a breach of this Agreement. The City shall thereafter be entitled to bring an action against the Property Owner to recover such costs.
 6. 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.
 7. The Property Owner 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 Facilities by the Property Owner, unless such damages, accidents, casualties, occurrences or claims are caused by the negligence, gross negligence or willful misconduct of the City or its authorized agents or employees. In the event such 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 have the right to defend and settle, at its own expense, any suit based on such claim. If a final judgment is entered against the City for such a claim, the Property Owner shall pay such judgment unless such judgment is based on the negligence, gross negligence or willful misconduct of the City or its agents or employees.
 8. 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.
 9. The Property Owner shall comply with the time periods set forth in this Agreement; provided, however, that said periods shall be extended for a period or periods of time equal to any period or periods of delay caused by strikes, lockouts, fire or other casualty, the elements or acts of God, refusal or failure of governmental authorities to grant necessary permits and approvals for the construction of the Facilities contemplated hereunder (the Parties agreeing to use reasonable diligence to procure the same), or other causes, other than financial, beyond their reasonable control.

- 10. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Parties.
- 11. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto.
- 12. This Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement may be modified by only written agreement of the City and the Property Owner.
- 13. This Agreement may be modified by written agreement of the Parties hereto.
- 14. Upon conveyance of the Property, the conveying owner shall thereafter be relieved of any obligations under this Agreement arising out of any act, occurrence or omission that occurs after the date of such conveyance.
- 15. 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, and inure to the benefit of the Property Owner, its successors and assigns.

IN WITNESS WHEREOF, the Property Owner has executed this agreement this ____ day of _____, 2009.

DECLARANT:

By: _____

STATE OF _____)
) ss.
 COUNTY OF _____)

Before me, the undersigned Notary Public in and for said county and state appeared _____ of _____, a _____ corporation, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed on behalf of said _____.

WITNESS my hand and Notarial Seal this ____ day of _____, 2009.

 Notary Public

E

CONSENT OF BENEFICIARY AND TRUSTEE
UNDER DEED OF TRUST

In consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, _____, as Beneficiary and Trustee, under that certain _____ Deed of Trust recorded _____, as Instrument No. _____ ("Deed of Trust"), respectively, in the Office of the Register of Deeds of Douglas County, Nebraska, hereby consents to the foregoing Agreement such that the Deed of Trust shall be subject to said Agreement, and that for itself and its successors and assigns, hereby agrees that in the event of foreclosure of the Deed of Trust, it shall not take any action to terminate the foregoing Agreement.

Executed this ____ day of _____, 2009.

BENEFICIARY AND TRUSTEE:

By: _____

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, a Notary Public qualified for said County and State, personally came _____ of _____, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said _____.

WITNESS my hand and Notary Seal on this ____ day of _____, 2009.

Notary Public

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Exhibit "A"
Legal Description of the Property

Being a replat of Lot 1, Mayfair 2nd Addition Replat Three, located in the Southeast One-Quarter of Section 16, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska. Being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South $00^{\circ}13'43''$ West (assumed bearing) for 622.28 feet; thence South $89^{\circ}46'17''$ East for 175.00 feet; thence North $00^{\circ}13'43''$ East for 20.00 feet; thence South $89^{\circ}46'17''$ East for 70.00 feet; thence South $00^{\circ}13'43''$ West for 50.00 feet along the West Right-of-Way line of 96th Street; thence North $89^{\circ}46'17''$ West for 245.00 feet; thence South $00^{\circ}13'43''$ West for 104.09 feet; thence North $89^{\circ}46'16''$ West for 459.09 feet; thence North $00^{\circ}09'02''$ East for 291.27 feet; thence South $89^{\circ}56'11''$ East for 35.18 feet; thence North $00^{\circ}09'02''$ East for 552.92 feet; thence North $44^{\circ}36'38''$ East for 44.83 feet; thence the following two (2) courses along the South Right-of-Way line of Brentwood Drive: (1)Southeasterly along a 516.00 foot radius curve to the left for 358.95 feet with a long chord bearing South $69^{\circ}49'51''$ East, 351.76 feet (2)South $89^{\circ}46'17''$ East for 63.04 feet to the Point of Beginning. Above described tract contains 8.17 acres, more or less.

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Exhibit "B"
Post Construction Stormwater Management Plan



Exhibit "C"
BMP Maintenance Requirements

BMP Maintenance Requirements

Name & Location

Project Name: CVS #2471
Address: SEC 84th St. and Harrison St., La Vista, NE 68128

Site Data

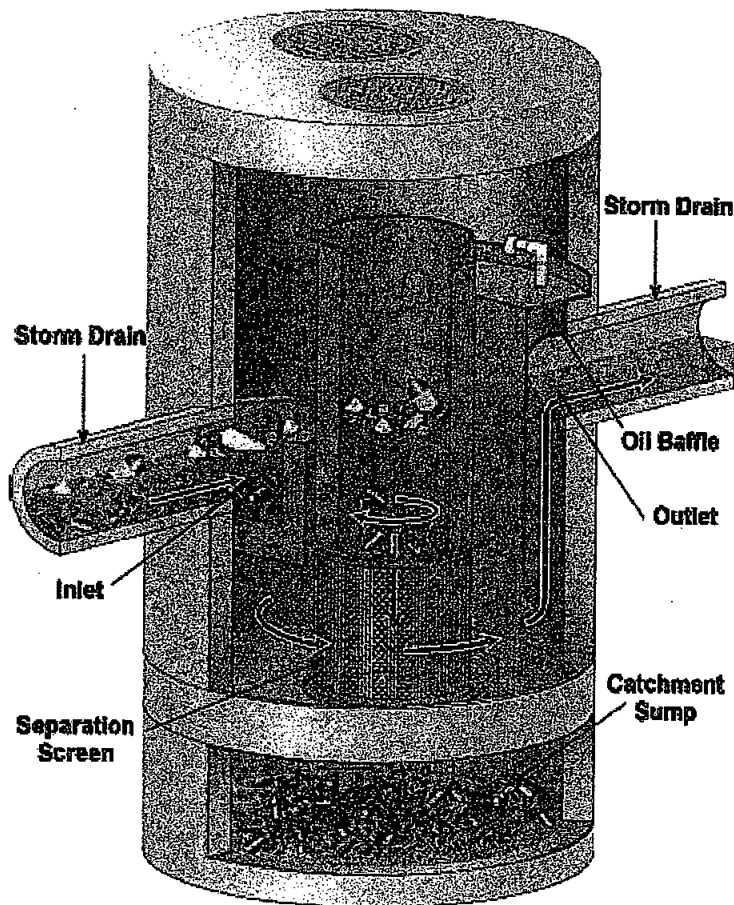
Total Site Area: 3.306 AC
Total Disturbed Area: 3.70 AC
Total Undisturbed Area: 0 AC
Impervious Area Before Construction: 92%
Impervious Area After Construction: 77%

BMP Information

BMP ID	TYPE OF BMP	Longitude/Latitude
CDS #1	Hydrodynamic Separator	96°02'33.5"W/41°11'22.6"N

Inspection Reports should be completed and kept on file with the Inspector and at the store location. Reports should be kept for a minimum of five years.

Operations and Maintenance Guidelines for CDS Units:



INSPECTION AND CLEANOUT OVERVIEW

Once pollutants are captured in CDS units, they will be retained until clean out. Floatable and neutrally buoyant contaminants are held within the separation chamber while negatively buoyant debris is stored in the sump.

The visual inspection should ascertain that the unit is functioning properly and that there are no blockages or damage to the inlet, separation chamber or separation screen. The quantities of captured pollutants within the separation chamber and solids storage sump should be assessed. The amount of solids in the sump may be estimated using a calibrated measuring rod or tape. If floatables accumulate more rapidly than the settleable solids, the floatables should be removed with a vacuum or skimming net. CDS cleanout procedures entail opening the access to the screening chamber / sump and removing the trapped pollutants. Visual verification that the cleanout is complete by the equipment operator is easily done due to the open nature of the CDS unit.

J

OPERATIONS

The CDS unit is a non-mechanical self-operating system and will function any time there is flow in the storm drainage system. The unit will continue to effectively capture pollutants in flows up to the design capacity even during extreme rainfall events when the design capacity may be exceeded. Pollutants captured in the CDS unit's separation chamber and sump will be retained even when the units design capacity is exceeded.

CDS UNIT INSPECTIONS/CLEANOUT

The CDS unit shall be inspected by the maintenance personnel two times (six to eight months apart) during an annual period. During the inspection, the unit's internal components should not show any signs of damage or any loosening of the bolts used to fasten the various components to the manhole structure and to each other. If any of the internal components are damaged or if any fasteners appear to be damaged or missing, please contact CONTECH Stormwater Solutions, Inc. to make arrangements to have the damaged items repaired or replaced:

CONTECH Stormwater Solutions, Inc.
Phone, Toll Free: (800) 548-4667 ex 157
Direct (707) 987-8500
Fax: (800) 561-1271

The screen assembly is fabricated from Type 316 stainless steel and fastened with Type 316 stainless steel fasteners that are easily removed and/or replaced with conventional hand tools. The damaged screen assembly should be replaced with the new screen assembly placed in the same orientation as the one that was removed.

The floatable materials shall be removed and the separation screen shall be power washed by the maintenance personnel during the inspections (twice a year). The settled solids shall be removed by the maintenance personnel once a year during one of the inspections. The CDS Unit Record of Operations and Maintenance sheet shall be filled out after each inspection and shall be kept on file with the inspector and at the store location.

CONFINED SPACE

The CDS unit is a confined space environment and only properly trained personnel possessing the necessary safety equipment should enter the unit to perform particular maintenance and/or inspection activities beyond normal procedure. Inspections of the internal components can, in most cases, be accomplished by observations from the ground surface.

K

CDS Unit Record of Operations & Maintenance

Owner: _____

Address: _____

Owner Representative: _____ Phone: _____

Model Designation:

- CDS3025-6-C

Site Location:

- SEC 84th St. and Harrison St., Omaha, NE 68128

Depth from Cover to Bottom Sump (Sump Invert):

- 146 inches

Volume of Sump:

- 163 cubic feet

Volume/Inch of Depth:

- 2.36 cubic feet

Inspections:

Date	Inspector	Screen/Inlet Integrity	Floatables Depth	Depth to Sediment (inches)	Sediment Volume * (cubic feet)

*Calculate Sediment Volume = (Depth to Sump Invert – Depth Sediment)x(Volume/inch of Depth)

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Inspection Observations:

Cleanout:

Date	Depth of Floatables (inches)	Volume of Sediment (cubic feet)	Method of disposal of floatables and sediment	Screen Power Washed (Y or N)