

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

DETENTION MAINTENANCE AGREEMENT

This unilateral Detention Maintenance Agreement is made and entered into the _____ day of , 20____, by _____ (“Developer”).

WITNESSETH:

WHEREAS, Developer is the owner of a parcel of land (“the Tract”) located within the corporate boundaries of the City of Overland Park, Kansas (the “City”) and legally described on Exhibit A attached hereto; and,

WHEREAS, Developer proposes to construct _____ on the said Tract; and

WHEREAS, Developer has proposed a detention facility which shall, in part, be incorporated into the public storm sewer system; and

WHEREAS, Chapter 15.10 of the Overland Park Municipal Code requires the Developer to maintain the detention facility.

NOW THEREFORE, Developer hereto agrees as follows:

ARTICLE I - DEVELOPER COVENANTS

Developer hereby states that Developer will fulfill the following conditions and requirements of Chapter 15.10 of the Overland Park Municipal Code:

- 1.1 Developer agrees that one of the duties and obligations of Developer is to properly operate and maintain the detention facility, including that portion incorporated into the public storm sewer. Proper maintenance includes, but is

1 Rev. 11-30-12
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not limited to, the periodic certification of the detention facility in accordance with Chapter 15.10 of the Overland Park Municipal Code.

- 1.2 Developer acknowledges that the City shall have the right at all times to make necessary repairs to or replacement of the public storm sewer, including the portion of detention facility included in the public storm sewer. This right does not create an obligation for the City to maintain, repair, or replace the portion of the detention facility incorporated into the public storm sewer.
- 1.3 Developer agrees that in the event Developer fails in its duty and obligation to properly operate and maintain the portion of the detention facility incorporated into the public storm sewer, and the consequences of such failure threaten the public safety or welfare, the City, with advance notice to Developer, shall have the right to operate, maintain, repair, demolish, construct, reconstruct or take other actions necessary to remove the threat to the public safety or welfare. If the City exercises this right, Developer shall be assessed and agrees to pay all expenses of such exercise.
- 1.4 Developer agrees to provide permanent drainage easements and maintenance access easements as required for the City to carry out its responsibilities for the public storm sewer, at no cost to the City.
- 1.5 Developer agrees that the City is under no past, present or future obligation to expend any public funds or to take any other action to maintain or improve any portion of the private facility incorporated into the public storm sewer.
- 1.6 Developer hereby releases the City, members of the Governing Body and employees of the City from any and all past, present or future liability for any damage that may be caused at any time to any person or to any real or personal property by the City's permitting of a portion of a private detention facility to be incorporated into a public storm sewer.
- 1.7 Developer agrees to indemnify and hold harmless the City, members of the Governing Body and employees of the City from and against any and all losses, damages, costs and expenses, including reasonable attorney fees, that may be incurred or suffered by any of them as a result of or in connection with any claims that may be asserted against any of them in connection with this Agreement and the detention facility constructed hereunder.
- 1.8 Developer shall carry commercial general liability insurance covering bodily injury or property damage to a third party arising out of or resulting from the failure to properly repair and/or maintain the detention facility, including that portion incorporated into the public storm sewer. Said insurance shall be in an amount

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of no less than \$500,000 per occurrence, naming the City of Overland Park as an additional insured.

- 1.9 Developer will comply with all applicable laws and city codes in the performance of this Agreement, including but in no way limited to, the requirement of obtaining any necessary permit or other approvals to accomplish installation, maintenance and/or repairs related to the detention facility.

ARTICLE II – MISCELLANEOUS

- 2.1 This Agreement shall be binding upon Developer and its respective successors and assigns. It is the intent that this Agreement shall be a covenant running with the land and shall bind all successive owners of any interest in the Tract.
- 2.2 This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.
- 2.3 This Agreement shall be filed of record in the office of the Johnson County Office of Register of Deeds, Johnson County Kansas.
- 2.4 This Agreement shall not be altered or amended without the express written approval of the City.

ARTICLE III – RECORDING OF DOCUMENT

- 3.1 The City, at Developer’s cost, shall cause this Agreement to be filed with the Johnson County Office of Register of Deeds, Johnson County Kansas. The City and Developer shall each receive a duly executed copy of this agreement for its official records.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the date first above written.

Developer: _____

By: _____

Title: _____

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CORPORATE ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____, of _____, a corporation duly organized, incorporated and existing under and by virtue of the laws of Kansas who is personally known to me to be the same person who executed as such officer the forgoing instrument on behalf of the Corporation, and such person duly acknowledged the execution of the same to be the act and deed of the Corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

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PARTNERSHIP ACKNOWLEDGEMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____ who is personally known to me to be the same person who executed the foregoing instrument on his/her own behalf and as a partner of and on behalf of _____, a Kansas General Partnership and he/she acknowledged that he/she executed the same as his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

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LIMITED LIABILITY PARTNERSHIP ACKNOWLEDGEMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this _____ day of _____, 20__ before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____, a partner in _____, a Kansas limited liability partnership, who is personally known to me to be the same person who executed as such partner the foregoing instrument of writing on behalf of the limited liability partnership and said person duly acknowledged the execution of the same to be the act and deed of the limited liability partnership.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:
