City of Yakima

c/o Codes Division

129 North 2nd Street

Yakima, WA 98901

STORMWATER MAINTENANCE AGREEMENT

GRANTOR:

GRANTEE: CITY OF YAKIMA, a municipal corporation

ABBREVIATED LEGAL DESCRIPTION:

ASSESSOR’S TAX NO.:

STORMWATER MAINTENANCE AGREEMENT

 THIS AGREEMENT to maintain stormwater facilities is entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2023, by and between the CITY OF YAKIMA, a municipal corporation (hereinafter referred to as “CITY”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, its heirs, successors and/or assigns (hereinafter referred to as “LANDOWNER”).

 WITNESSETH:

 WHEREAS, the LANDOWNER has submitted a permit application and site plan seeking to develop property for approval to the City and said approval requires the construction and installation of stormwater management facilities pursuant to the City of Yakima Post-Construction Stormwater Runoff Ordinance, Yakima Municipal Code Chapter 7.83, and as amended; and

 WHEREAS, the Post-Construction Stormwater Runoff Ordinance requires as a condition of permit approval a maintenance agreement between the CITY and the LANDOWNER to ensure that the LANDOWNER will construct and maintain the stormwater facilities identified in the site plan; and

 WHEREAS, the CITY and the LANDOWNER, its successors and assigns, including any homeowner’s association associated with the properties subject to this Agreement, agree that the health, safety, and welfare of the residents of the CITY require that on-site stormwater management facilities be constructed and maintained on the property; and

 WHEREAS, under the Post-Construction Stormwater Runoff Ordinance, it is provided that private stormwater management facilities must be maintained by the property owner, and a maintenance agreement must be executed before the development plan for the property is approved, and LANDOWNER agrees to enter into a maintenance agreement pursuant thereto and to this Agreement;

 NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The foregoing recitals are incorporated into this Agreement as if fully set forth herein.
2. LANDOWNER owns the following real property:

[Insert FULL LEGAL DESCRIPTION here] [In the alternative, reference Exhibit “A” which must include the full legal description of the Property subject to the Agreement]

1. LANDOWNER covenants and agrees to construct and install stormwater management facilities as depicted and shown on the site plan, in accordance with the plans and specifications. The approved site plan showing the stormwater management facilities to be constructed and installed is on file with the City at City Hall (129 North 2nd Street, Yakima) under Permit Number SWPPP\_\_\_\_\_\_\_\_\_\_\_.
2. LANDOWNER shall maintain the stormwater management facilities as shown on the site plan in good working order acceptable to the CITY at all times, and as outlined in the maintenance schedule on file with City at City Hall (129 North 2nd Street, Yakima) under Permit Number SWPPP\_\_\_\_\_\_\_\_\_\_\_. In the event LANDOWNER seeks to transfer the property, LANDOWNER shall notify the CITY prior to transfer and provide contact information and an acknowledgement from the subsequent landowner of this Agreement.
3. LANDOWNER hereby grants permission to the CITY, its authorized agents, and employees, to enter the Property subject to this Agreement at any time, and without notice, to inspect any stormwater management facilities pursuant to the Post-Construction Stormwater Runoff Ordinance and this Maintenance Agreement. CITY may provide notice prior to entry to LANDOWNER, but is not required to provide such notice.
4. In the event LANDOWNER fails to maintain the stormwater maintenance facilities shown on the site plan in good working order acceptable to the CITY, the CITY may enter the Property and take whatever steps it may deem necessary to maintain said stormwater facilities. It is expressly understood and agreed that the CITY is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the CITY.
5. In the event the CITY, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, or materials, to maintain or repair said facilities, LANDOWNER shall reimburse CITY upon demand, within a time frame specified by the CITY, for all costs incurred, including reasonable attorney’s fees and costs in the event that an action to collect fees and costs must be instituted. Fees and costs, if not paid, shall become a lien on the Property.
6. It is the intent of this Agreement to insure the proper maintenance of stormwater management facilities by the LANDOWNER; provided, however, that this Agreement shall not be deemed to create or affect any additional liability on the part of the CITY for damage alleged to result form or be caused by stormwater management.
7. The LANDOWNER, its heirs, successors and/or assigns, shall release, indemnify, defend and hold harmless the CITY, its elected and appointed officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers from all liabilities, losses, damages, and expenses (including attorney’s fees) related to all claims, suits, arbitration actions, investigations, and regulatory or other governmental proceedings arising from this Agreement or in connection with the construction, presence, existence, or maintenance of the stormwater management facilities by LANDOWNER, CITY, or any third party; or the acts, failures to act, errors or omissions of LANDOWNER, or any of its heirs, successors, or assigns in performance of this Agreement. The CITY’s right to indemnification includes attorney’s fees and costs associated with establishing the right to indemnification hereunder in favor of the CITY.
8. In the event a claim is asserted against the CITY, its elected or appointed officials, officers, agents, employees or volunteers, the CITY shall notify LANDOWNER and the LANDOWNER shall defend at its own expense any suit based on such claim. If any judgment or claims against the CITY, its elected or appointed officials, officers, agents, representatives, insurers, attorneys, employees, or volunteers shall be allowed, the LANDOWNER shall pay all costs and expenses in connection therewith.
9. LANDOWNER shall record a plat showing and accurately defining the locations of the stormwater facilities. The plat shall reference the Yakima County Auditor’s Number of this instrument and contain a note that the LANDOWNER is responsible for maintaining the stormwater management facilities.
10. This Agreement shall constitute a covenant running with the land, and shall be binding on the LANDOWNER, its heirs, successors and assigns.
11. The SWPPP Permit Number for this LANDOWNER and Site Plan is \_\_\_\_\_\_\_\_\_\_\_\_\_\_.
12. The Project Name is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
13. This Agreement shall be recorded with the Yakima County Auditor by LANDOWNER at its expense.

DATED THIS \_\_\_\_\_\_ DAY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023.

LANDOWNER LANDOWNER

Print Name: Print Name:

STATE OF WASHINGTON )

 ) ss.

COUNTY OF YAKIMA )

I certify that I know or have satisfactory evidence that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are the persons who appeared before me and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

|  |  |
| --- | --- |
|  |  Print Name: Residing at: My appointment expires:  |

Accepted by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 City Manager