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RECORDED, MAIL TO:  
Washington City  
1305 E Washington Dam Rd.  
Washington, UT 84780

DOC # 20190008839

Agreement Page 1 of 8  
Russell Shirts Washington County Recorder  
03/11/2019 03:48:19 PM Fee \$ 0.00  
By WASHINGTON CITY



Storm Water Management BMP  
Maintenance Agreement  
Washington City, Utah

Tax ID: W-6334-A-1

**WHEREAS**, the Property Owner TRIPLE CHERRIES LLC recognizes that the post construction storm water facilities (hereinafter referred to as "Facilities") must be maintained for the development called, WHITWORTH ESTATES, located in Washington City, Washington County, Utah; and

**WHEREAS**, the Property Owner is the owner of real property more particularly described on Exhibit A attached hereto (hereinafter referred to as "the Property") and on which the Facilities are located, and

**WHEREAS**, The City of Washington (hereinafter referred to as "the City") and the Property Owner, or its administrators, executors, successors, heirs, or assigns, including any homeowners association, 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**, it is required that the Facilities as shown on the approved development plans and specifications be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners association.

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

**SECTION 1**

The Facilities shall be constructed by the Property Owner in accordance with the approved plans and specifications for the development.

**SECTION 2**

The Property Owner, its administrators, executors, successors, heirs or assigns, including any homeowners association, shall maintain the Facilities in good working condition acceptable to the City and in accordance with the Schedule of Long Term Maintenance Activities agreed hereto and attached as Exhibit B.

### **SECTION 3**

The Property Owner, its administrators, executors, successors, heirs or assigns, including any homeowners association, 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. Whenever possible, the City shall provide notice prior to entry. All easements as shown on the Final Plat shall be maintained to allow access to the Facilities.

### **SECTION 4**

In the event the Property Owner, its administrators, executors, successors, heirs or assigns, including any homeowners association, fails to maintain the Facilities as shown on the approved plans and specifications in good working order acceptable to the City, the City, with due notice, may enter the property and take whatever steps it deems necessary to return the Facilities to good working order. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the property. It is expressly understood and agreed that the City is under no obligation to maintain or repair the Facilities and in no event shall this Agreement be construed to impose any such obligation on the City.

### **SECTION 5**

In the event the City, pursuant to the Agreement, performs work of any nature, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, the Property Owner shall reimburse the City within thirty (30) days of receipt thereof for all the costs incurred by the City hereunder. If not paid within the prescribed time period, the City shall secure a lien against the real property in the amount of such costs. The actions described in this section are in addition to and not in lieu of any and all legal remedies available to the City as a result of the Property Owner's failure to maintain the Facilities.

### **SECTION 6**

It is the intent of this agreement to insure the proper maintenance of the Facilities by the Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or caused by storm water runoff.

### **SECTION 7**

Sediment accumulation resulting from the normal operation of the Facilities will be properly removed. The Property Owner will make accommodation for the removal and disposal of all accumulated sediments. Accumulated sediments will be disposed of properly offsite.

### **SECTION 8**

The Property Owner shall use the standard SMP Operation and Maintenance Checklist, available from the City and by this reference made a part hereof for the purpose of a minimal annual inspection of the Facilities by a qualified inspector. This annual inspection shall be submitted to the City on or before July 1<sup>st</sup> each year, after inspection is completed by a qualified inspector.

**SECTION 9**

The Property Owner, its administrators, executors, successors, heirs and assigns, including any homeowners association, hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City from the construction, presence, existence or maintenance of the Facilities by the Property Owner or the City when the City acts in accordance with Section 4 of this agreement. In the event 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 defend at its own expense any suit based on such claim. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith.

**SECTION 10**

This Agreement shall be recorded among the deed records of the Recorder of Washington County and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, heirs, assigns, including any homeowners association, and any other successors in interest.

**SECTION 11**

This Agreement may be enforced by proceedings at law or in equity by or against the parties hereto and their respective successors in interest.

**SECTION 12**

Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions and all other provisions shall remain in full force and effect.

**MAINTENANCE AGREEMENT  
PROPERTY OWNER**

BY: [Signature]

Title: Manager

Attachments: Exhibit A Legal Description(s) of Property  
Exhibit B Schedule of Long Term Maintenance Activities

STATE OF Utah  
COUNTY OF Washington :ss.

On the 6 day of March, 2019, personally appeared before me Teresa Ball and Leslie J Bowler, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature] F Bowler, witness

[Signature]  
NOTARY PUBLIC  
Residing at: 710 Telegraph

My Commission Expires:  
8-17-21



Exhibit A

Storm Water Management BMP Maintenance Agreement  
Legal Description(s)

(Parcel W- 6334 - A-1 )

LEGAL DESCRIPTION –

BEGINNING AT A POINT NORTH 01°02'48" EAST 1642.72 FEET ALONG THE SECTION LINE FROM THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN AND EAST 16.40 FEET TO A POINT ON THE EAST RIGHT OF WAY OF 240 WEST STREET, AND RUNNING THENCE ALONG SAID RIGHT OF WAY NORTH 01°02'48" WEST 348.08 FEET; THENCE SOUTH 89°12'35" EAST 1297.14 FEET TO A POINT ON THE WEST RIGHT OF WAY OF 20 EAST STREET; THENCE RUNNING ALONG SAID RIGHT OF WAY SOUTH 00°46'55" WEST 343.73 FEET; THENCE NORTH 89°24'06" WEST 1298.75 FEET TO THE POINT OF BEGINNING.

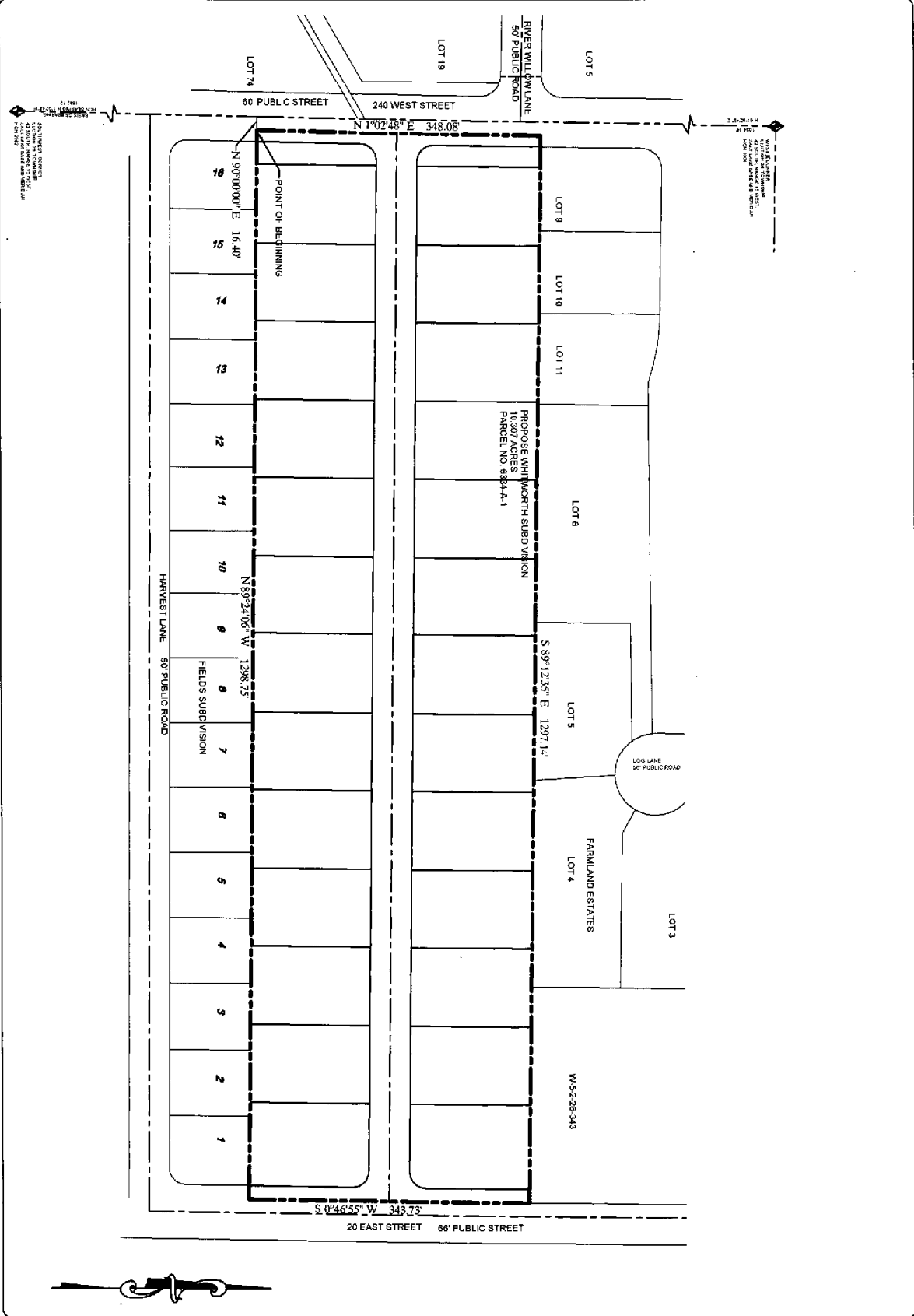
CONTAINING: 10.307 ACRES

Exhibit B

Storm water Management BMP  
Schedule of Long Term Maintenance Activities  
Washington City, Utah

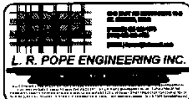
Activity	Frequency	Notes
Inspection	Annually	It is recommended that the SMP Operation and Maintenance Checklist, referenced by this agreement, be used as a guiding document. This annual inspection should be submitted to City upon completion.
Mowing and maintenance of vegetation	Variable, depending on vegetation and desired aesthetics	Landscaping and vegetation should be cared for throughout the year to ensure that proper sediment removal and infiltration is maintained and the Facilities remain aesthetically appealing.
Remove trash and debris	As needed or following each storm	Trash and debris should be removed regularly to ensure that the Facilities function properly and operate effectively. Trash often collects at inlet and outlet structures.
Inspect and maintain inlet and outlet structures	Annually	The inlet and outlet structures should be inspected for damage and proper operation.
Sediment removal	Variable (2-5 years is typical)	The removal of sediment is necessary if the Facilities begin to lose capacity or effectiveness.

Exhibit C



MATT FERGUSON  
WHITWORTH ESTATES  
EXHIBIT C

LOCATED IN SECTION 26, TOWNSHIP 42 SOUTH, RANGE 15 WEST, GLSEN

[illegible]