COVENANT TO MAINTAIN STORM WATER DETENTION AND BMP FACILITIES
PLAT OF [insert PLAT NAME in caps]

THIS COVENANT made and entered into this ____ day of _____, 2____, by and between Kansas City, Missouri, a constitutionally chartered Municipal corporation (**City**), and of [company name], a [insert company type], (**Owner**).

WHEREAS, Owner has an interest in certain real estate generally located at the [insert location description from Planning Staff Report] in Kansas City, of [insert county] County, Missouri, **(Property)** more specifically described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Owner intends to cause the Property to be platted as Plat of [insert plat name], **(Plat)**, in accordance with Chapter ~~66~~88, Code of Ordinances of the City of Kansas City, Missouri; and

WHEREAS, Owner intends to subdivide the Property and create pursuant to the Plat Lots of [insert lot numbers] and Tract(s) of [insert tract name(s)] as shown on Exhibit "B" attached hereto.

WHEREAS, the improvement proposed by Owner on the Property warrant storm water management control and water quality Best Management Practice facilities (BMPs), collectively hereinafter referred to as (The Facilities); and

WHEREAS, The Facilities, located on Tract(s) of [insert tract name(s)] within the Plat, require preservation and maintenance in order to ensure continuous and perpetual operation and effectiveness in controlling storm water runoff rates, volumes, and quality; and

WHEREAS, the City and Owner agree that it is in the public interest to detain storm water and provide BMP(s) to treat the stormwater for the benefit of the Property and surrounding areas; and

WHEREAS, these covenant provisions for proper operation, preservation, and maintenance of The Facilities are necessary to serve the development;

NOW, THEREFORE, Owner and City, for and in consideration of the benefits to themselves, their assigns and future grantees do hereby agree as follows:

Sec. 1. Owner at its sole cost shall:

a. Be responsible for the perpetual preservation, maintenance, repair and replacement, if necessary of The Facilities located on of Tract(s) [insert tract name(s)].
b. Maintain the pipes, structures, BMPs, grounds, and appurtenances for the Facilities located on Tract(s) [insert tract name(s)].
c. Keep the pipes, structures, BMPs, and appurtenances open and free of silt and non-beneficial vegetation.
d. Keep the pipes, structures, BMPs, and appurtenances in good working condition or replace same if necessary.

e. Control the growth of the vegetation and grass areas, not identified as beneficial to the BMPs, on Tract(s) ___ to the limits prescribed by the Kansas City Code of Ordinances.

f. Maintain the grades within Tract(s) [insert tract name(s)] pursuant to the approved plan on file in the office of the Director of City Planning & Development and identified as File No _____. [leave blank]

g. Obtain all necessary improvement and repair permits prior to performing any work on The Facilities.

Sec. 2. City is granted the right, but is not obligated to enter upon Tract(s) [insert tract name(s)] in order to inspect, maintain, repair, and/or replace The Facilities including the pipes, structures, grounds, and appurtenances if Owner fails to maintain same. In the event that the City does provide maintenance for the facilities, then City may:

a. Charge the costs for such maintenance, repair, or replacement against Owner, and/or the owner of Tract(s) [insert tract name(s)], and/or the owners of Lots [insert lot numbers-.Note: just those lots served by the facility – not necessarily all plat lots] served by the Facility on Tract(s) [insert tract name(s)];

b. Assess a lien on either the Tract(s) [insert tract name(s)] or on the Lots [insert same lot numbers as above] or both served by the Facility on Tract(s) [insert tract name(s)];

c. Maintain suit against Owner, and/or the owner of Tract(s) [insert tract name(s)] and/or the owners of Lots [insert same lot numbers as above] served by the Facility on Tract(s) [insert tract name(s)] for all cost incurred by the City for such maintenance.

Unless necessitated by a threat to life and/or safety, City shall notify Owner and/or the then-current owners of Tract(s) [insert tract name(s)] and Lots [insert same lot numbers as above] not less than thirty (30) days before it begins maintenance of The Facilities.

Sec. 3. Owner and/or the owner of Tract(s) [insert tract name(s)] shall not use, nor attempt to use, in any manner which would interfere with the operation of The Facilities, in such manner as would interfere with the proper, safe, and continuous maintenance and use thereof, and, in particular, shall not build, thereon or thereover, any structure which may interfere, or cause to interfere, with the maintenance and use thereof.

Sec. 4. This covenant shall run with the land legally described in Exhibit "A." Owner shall remain liable under the terms of this Covenant unless and until Owner assigns its rights and obligations to a third party and such assignment is accepted by the City.

Sec. 5. To the extent allowed by law, in the event of a default under a loan agreement by a third party who is assigned the rights and obligations in accordance with the terms of this Covenant, the City will agree to an assignment from the defaulting third party to the secured lender.

Sec. 6. Notices. All notices required by this Covenant shall be in writing sent by regular United States mail, postage prepaid, commercial overnight courier or facsimile and addressed as hereinafter specified. Each party shall have the right to specify that notice be addressed to any

other address by giving the other party ten (10) days notice thereof. Unless a party to this Agreement has given ten (10) days notice of a change of person and address for purposes of notice under this Agreement to the other party in writing, notices shall be directed to the following:

Notices to the City:
Director of City Planning & Development
City Hall, 414 East 12th Street
Kansas City, Missouri 64106
Fax number: (816) 513-2548

Notices to Owner shall be addressed to:
[insert name of business]
[sole proprietorship, partnership, corporation, LLC]
[insert City, State, Zip]
[insert name(s) of signer(s)]
[insert fax and phone number]

Sec. 7. This Agreement shall not be amended, modified, canceled or abrogated without the prior written consent of the City.

Sec. 8. Invalidation of any part or parts of this Covenant by judgment or other court action shall in no way affect any of the other provisions, which shall remain in full force and effect.

Sec. 9. This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri.

Sec. 10. Upon the effective date of this Covenant, the City shall file this Covenant in the Office for recording real estate documents in [insert county], Missouri, and shall be binding on Owner, its successors, assigns and transferees.

Sec. 11. Owner shall jointly and severally release, hold harmless, indemnify and defend City and its agents, officers and employees from any and all responsibility, liability, loss, damage or expense resulting to Owner or to any person or property caused by or incidental as to the design, function, construction, maintenance or failure to maintain The Facilities.

ATTESTATION BY CITY CLERK:

_____
City Clerk

KANSAS CITY, MISSOURI

By: _____
Director of City Planning and Development

Approved as to form:

_____
Assistant City Attorney

STATE OF MISSOURI)
) SS
COUNTY OF _____)

BE IT REMEMBERED that on this ___ day of _____, 2_____, before me, the undersigned, a notary public in and for the county and state aforesaid, came _____, Director of City Planning and Development, of Kansas City, Missouri, a corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Missouri, and _____, _____ of Kansas City, Missouri, who are personally known to me to be the same persons who executed, as officials, the within instrument on behalf of Kansas City, Missouri, and such persons duly acknowledge the execution of the same to be the act and deed of said Kansas City, Missouri.

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

_____
Notary Public

My Commission Expires:_____

OWNER
[insert name of business]
[sole proprietorship, partnership, corporation, LLC]
[insert City, State, Zip]
[insert name(s) of signer(s)]
[insert fax and phone number]

I hereby certify that I have authority to execute this document on behalf of Owner.
By: _____

Title:_____

Date:_____

Check one:
( ) Sole Proprietor
( ) Partnership
( ) Corporation
( ) Limited Liability Company (LLC)

Attach corporate seal if applicable

STATE OF _____)
) SS
COUNTY OF _____)

BE IT REMEMBERED, that on the _____ day of _____, 2____, before me, the undersigned notary public in and for the county and state aforesaid, came _____, to me personally known, who being by me duly sworn did say that he/she/they is/are the [insert title such as proprietor, general or limited partner, president, or member(s)] of [insert name of business], and that said instrument was signed on behalf of said [proprietorship, partnership, corporation or LLC] by authority of **its** [for partnerships, corporations, or LLCs, add one of the following respective descriptions partners, Board of Directors or members] and acknowledged said instrument to be the free act and deed of said [proprietorship, partnership, corporation or LLC].

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

_____
Notary Public

My commission expires:_____

EXHIBIT “A”

EXHIBIT “B”