



City Council Memorandum

To: Mayor Fasbender and City Council
From: John Hinzman, Community Development Director
Date: March 6, 2023
Item: Authorize Signature: Stormwater Management Facilities Agreement - Suite Living of Hastings - SE Corner of 33rd and Vermillion Streets

Council Action Requested:

Authorize signature of the attached Stormwater Management Facilities Agreement between the City of Hastings and Landco Investments of Hastings LLC establishing construction and maintenance obligations for stormwater management facilities.

A simple majority is necessary for action.

Background Information:

On October 3, 2022 the City Council approved several actions related to development for Suite Living, a 32 unit assisted living facility. The 2.71-acre property is generally located southeast of 33rd and Vermillion Streets. Execution of a Stormwater Agreement was a condition of Final Plat approval.

Financial Impact:

The addition of 32 assisted living units will add to the tax base and create needed housing opportunities.

Advisory Commission Discussion:

N/A

Attachments:

- Stormwater Management Facilities Agreement

(Reserved for Recording Data)

STORMWATER MANAGEMENT FACILITIES AGREEMENT

This Stormwater Management Facilities Agreement (“Agreement”) is made, entered into and effective this ____ day of _____, 2023, by and between the City of Hastings, a Minnesota municipal corporation (“City”), and Landco Investments of Hastings, LLC, a Minnesota limited partnership (“Developer”).

WHEREAS, Developer is the fee owner of certain real property situated in the City of Dakota, County of Dakota, State of Minnesota legally described as follows:

Lot 1, Block 1, Suite Living of Hastings, according to the recorded plat thereof.

Abstract Property
PID: 19-18400-00-030

(the “Property”); and

WHEREAS, Developer has obtained the approval of the City for the development of the Property for a Stormwater Management Facilities; and

WHEREAS, as used herein, the term “Stormwater Management Facilities” may refer to water quality and/or water quantity facilities (i.e. detention basins, retention basins, swales, pipes, oil/water separators, sand filtering devices, infiltration facilities, sump structures, etc.) which are located outside the public road right-of-way; and

WHEREAS, the City has required that the Developer make provision for the construction, maintenance and repair of the Stormwater Management Facilities located within the boundaries of the Property as shown on the Stormwater Facilities Location Map on **Exhibit A** attached hereto; and

WHEREAS, the City and Developer desire to set forth their understanding with respect to the construction, repair and maintenance of the Stormwater Management Facilities and the

responsibility relating to the costs of the repair and maintenance of the Stormwater Management Facilities.

NOW THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Construction and Maintenance of Stormwater Management Facilities. The Developer agrees to construct the Stormwater Management Facilities according to the construction plans drawn by Civil Site Group dated February 1, 2023 (“Plans”) and repair and maintain the Stormwater Management Facilities at its sole cost and expense. Maintenance of the Stormwater Management Facilities shall include but is not limited to compliance with the Stormwater BMP Inspection and Maintenance Plan (“Inspection Plan”) attached as **Exhibit B**. Developer shall submit an annual inspection report that complies with the Inspection Plan by September 30th of each year. If the required annual inspection report is not submitted to the City by September 30th, the City shall have the right to enter onto the property to conduct the annual inspection. If it is determined that the Stormwater Management Facilities (1) have not been maintained; or (2) are not functioning as originally designed and intended; or (3) are in need of repair, the Developer agrees to restore the Stormwater Management Facilities so that it functions as it was designed and intended. Failure to comply with the restoration ordered by the City shall be an event of default. The Developer further agrees that it will not use the Stormwater Management Facilities for snow storage and will inform its snow removal contractors of this provision of the Agreement.

2. Developer’s Default. In the event of default by the Developer as to any of the work to be performed by it hereunder, following at least thirty (30) days prior written notice and Developer’s failure to cure such default within such time-frame, except in an emergency as determined by the City, the City may, at its option, perform the work and the Developer shall promptly, following receipt of an invoice and reasonable substantiation of such costs, reimburse the City for any reasonable out-of-pocket expense incurred by the City.

3. License, Easement, and Assessment. This Agreement is a license for the City to act when so authorized under this Agreement, and it shall not be necessary for the City to seek a Court order for permission to enter the Property. When the City does any such work, the City may, in addition to its other remedies, assess the reasonable out-of-pocket cost in whole or in part. The Developer has conveyed to the City and the public a permanent drainage and utility easement, described and depicted in more detail on the easement document, which is dedicated to the public for the purpose of providing perpetual access to the City, or its successors responsible hereunder, for purposes of inspecting and performing any necessary maintenance to the Stormwater Management Facilities.

4. Changes to Site Configuration or Stormwater Management Facilities. If site configurations or Stormwater Management Facilities change, causing decreased effectiveness of Stormwater Management Facilities, new or improved Stormwater Management Facilities must be implemented to ensure the conditions for post-construction stormwater management continue to be met.

5. Terms and Conditions. This Agreement shall run with the land and shall be binding upon Developer’s successors and assigns with respect to the Property. The terms and conditions

of this Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective successors and assigns.

6. Developer Warranty. Developer warrants and represents the following to the City and acknowledges that this Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms. The party signing on behalf of the Developer has been duly authorized by the entity to sign the Agreement and bind the entity. Developer has been duly formed under the laws of the State of Minnesota and is in good standing under the laws of the jurisdiction in which the Property is located, is duly qualified to transact business in the jurisdiction in which the Property is located, and has the requisite power and authority to enter into and perform this Agreement and the documents and instruments required to be executed and delivered by Developer pursuant hereto. This Agreement and the documents and instruments required to be executed and delivered by Developer pursuant hereto have each been duly authorized by all necessary action on the part of Developer and such execution, delivery and performance does and will not conflict with or result in a violation of Developer's organizational agreement or any judgment or order. The execution, delivery and performance by Developer of this Agreement will not (a) violate any provision of any law, statute, rule or regulation or any order, writ, judgment, injunction, decree, determination or award of any court, governmental agency or arbitrator presently in effect having applicability to Developer, or (b) result in a breach of or constitute a default under any indenture, loan or credit agreement or any other agreement, lease or instrument to which Developer is a party or by which it or any of its properties may be bound.

7. Amendment and Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

10. Consent. Developer consents to the recording of this Agreement.

11. Limitation of Liability. Notwithstanding any other provision of this Agreement, in no event shall either party or any of their affiliates, by reason of any of their respective acts or omissions be liable whether in contract, tort, misrepresentation, warranty, negligence, strict

**EXHIBIT A
STORMWATER FACILITIES LOCATION MAP**

**Storm Drainage and Utility Easement
Suite Living of Hastings
Hastings, Dakota County, Minnesota**

DESCRIPTION

An easement for storm drainage and utility purposes, over, under and across that part of Lot 1, Block 1, SUITE LIVING OF HASTINGS, according to the recorded plat thereof, Dakota County, Minnesota described as follows:

Commencing at the northwesterly corner of said Lot 1; thence on an assumed bearing of South 27 degrees 02 minutes 31 seconds West along the westerly line of said Lot 1 for 332.28 feet to a point of curvature in said westerly line, thence southwesterly for 13.98 feet along said westerly line along a tangential curve, concave to the southeast, said curve having a radius of 2217.02 feet, and a central angle of 00 degrees 21 minutes 40 seconds, to the point of beginning of the easement to be described; thence continuing southwesterly along said curve and said westerly line for 25.40 feet; thence North 78 degrees 17 minutes 45 seconds East, not tangent to last described curve for 112.83 feet; thence South 57 degrees 59 minutes 06 seconds East for 49.00 feet; thence South 85 degrees 08 minutes 04 seconds East for 62.00 feet; thence North 33 degrees 51 minutes 16 seconds East for 55.45 feet; thence North 83 degrees 04 minutes 31 seconds West for 56.75 feet; thence North 69 degrees 00 minutes 03 seconds West for 45.50 feet; thence North 36 degrees 12 minutes 49 seconds West for 25.00 feet; thence South 72 degrees 42 minutes 31 seconds West for 25.00 feet; thence South 37 degrees 19 minutes 26 seconds West for 26.00 feet; thence South 16 degrees 24 minutes 04 seconds East for 13.30 feet; thence South 78 degrees 17 minutes 45 seconds West for 85.75 feet to the point of beginning and there terminating.



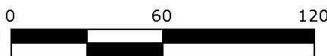
MINNESOTA CERTIFICATION

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 1st day of February, 2023

Rory L. Synstelien

Minnesota License No. 44565



SCALE IN FEET

**CivilSite
GROUP**

5000 GLENWOOD AVENUE
GOLDEN VALLEY, MN 55422
CivilSiteGroup.com

Drawn By: CJ
Project No. 22053

SHEET 1 OF 1

EXHIBIT B
STORMWATER BMP INSPECTION AND MAINTENANCE PLAN



Stormwater Best Management Practices (BMPs)
Inspections and Maintenance Plan

Project Name: Suite Living Hastings
CSG Project Number 22053

Project Owner: Hampton Companies/Suite Living

Property Address: 33rd St W and Hwy 61
Hastings, MN 55033

Date: 11/09/2022

**Maintenance Contact
Person/Property Owner:** Jeremy Larson
Executive Vice President
Hampton Companies, LLC
1824 Buerkle Rd
White Bear Lake, MN 55110
651-200-4365
Jeremy@hamptoncos.com

This Operation and Maintenance Plan has been prepared by Civil Site Group.
Robert A. Latta PE, License No. 59612

**Table of Contents:**

1. Summary Narrative
2. BMP Inspection and Maintenance Report

Introduction:

Stormwater treatment for this site is accomplished by implementing an **Infiltration Basin** (hereafter referred to as the "system" or "basin"). The system for this project is directing the project stormwater runoff via surface drainage and storm sewer piping from rain events to a surface infiltration basin on the south side of the site. The stormwater leaves the basin via an outlet control structure within the basin then it is discharged into the city's existing stormwater sewer system. This basin is designed to provide water quality treatment and meet rate control requirements of the City of Hastings. The basin must be inspected annually, and maintenance must be carried out within 7 days of inspection.

Need for Inspection and Maintenance:

The stormwater system is the first line of defense from conveying pollutants downstream into city storm sewer and public water ways, worsening water quality. The purpose of regular inspection and maintenance is to ensure the proper operation of the system and the overall storm system. Regular maintenance of the system and all its components is required to achieve the water quality objective. **This Operations and Maintenance plan requires frequent inspections, per inspection activities table. Maintenance activities required per maintenance activities table for each flagged inspection item are required to be completed as soon as possible following any inspection.**

Responsibility of Property Owner following construction/completion:

Upon installation of the approved system, the property manager assumes responsibility and all costs associated with the system's long-term operation and maintenance. The property owner shall maintain records of all inspections and maintenance of the system/s and submit reports to the proper authority (city, watershed, etc.) if required. The following document is a guide to the inspection and maintenance of the system.



INSPECTION & MAINTENANCE REPORT

BMP ID #: _____ Inspector: _____

Date: _____ Owner: _____

Location: _____

System Type: Filtration Basin Underground Filtration Device (Cartridges) Wet Basin
 Infiltration Basin Underground Storm Chamber Other

Access to the System is: Clear Obstructed Unable to Access

Inspection Observed:

Check all that apply and note location, amount, etc.

- Trash/Debris _____
- Oil/Grease _____
- Sediment _____
If yes, where? Sump Forebay Pretreatment
- Erosion _____
- Damaged Plant Material _____
- Additional Plant Growth _____
- Illicit Discharge _____
- Structural Damage _____
- Standing Water _____
If yes, describe: _____

Maintenance Activities Completed:

Check all that apply and note activity

- Trash/Debris Removal _____
- Oil/Grease Removal _____
- Sediment Removal _____
if yes, provide depth _____
- Eroded Areas Stabilized _____
- Damaged Plant Material Replaced _____
- Additional Plant Growth Removed _____
- Illicit Discharge Identified _____
- Structural Damage Repaired _____
- Replaced Cartridges _____
- Residuals Removed _____
If yes, describe disposal: _____

Do BMP components match original design? Yes No If no, why? _____

Do BMP components require maintenance? Yes No If yes, describe: _____

Items needing further work: _____

Additional Comments: _____

Please complete this inspection record for the referenced property. Retain the original for your files and forward a copy of the completed form to:

City of Hastings, Dept. of Engineering
1225 Progress Drive, Hastings, MN 55033
651-480-2334

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