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Jay Lawson, Recorder



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Document Title: Covenant to Maintain Storm Water Detention Facility
(Hunt Midwest Business Park - Fourth Plat)
Date of Document: November 14, 2012
Grantor Name: Hunt Midwest Real Estate Development, Inc.
Grantee Name: Kansas City, Missouri
Statutory Address: 414 East 12th Street
Kansas City, MO 64106
Legal Description: see Exhibit A, page 6
Reference Book and Page: N/A

KANSAS CITY TITLE

163624

**COVENANT TO MAINTAIN STORM WATER DETENTION FACILITY
PLAT OF HUNT MIDWEST BUSINESS PARK - FOURTH PLAT**

NOVEMBER

THIS COVENANT made and entered into this 14 day of ~~October~~ 2012, by and between Kansas City, Missouri, a constitutionally chartered Municipal corporation (City), and **Hunt Midwest Real Estate Development, Inc., a Missouri Corporation** (Developer).

WHEREAS, Developer has an interest in certain real estate generally located **on the west side of N. Arlington Avenue about 800 feet south of N.E. Parvin Road** in Kansas City, **Clay** Missouri, **(Property)** more specifically described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Developer intends to cause the Property to be platted as Plat of **HUNT MIDWEST BUSINESS PARK - FOURTH PLAT (Plat)**, in accordance with Chapter 88, Code of Ordinances of the City of Kansas City, Missouri; and

WHEREAS, Developer intends to subdivide the Property and create pursuant to the Plat Lot 28, as shown on Exhibit "B" attached hereto.

WHEREAS, the improvements proposed by Developer on the Property warrant storm water control to serve Lot 28; and

WHEREAS, the storm water detention facilities to serve the Plat are located on Tracts "F" and "G" of Hunt Midwest Business Park Third Plat ("Third Plat") and Developer of this Plat is also the Developer of Hunt Midwest Business Park Third Plat; and

WHEREAS, the City and Developer agree that it is in the public interest to detain storm water for the benefit of the Property and surrounding areas; and

WHEREAS, the provisions for the maintenance of the storm water detention facility is necessary to serve the development;

WHEREAS, the Developer of Third Plat executed a Covenant to Maintain Storm Water Detention Facility for Hunt Midwest Business Park Third Plat ("First Covenant") and in this First Covenant agreed at its cost to:

- a. Be responsible for the continuous and perpetual preservation, maintenance, repair and replacement, if necessary, of the Common Facilities located on Tracts "F" and "G", Hunt Midwest Business Park Third Plat.
- b. Maintain the pipes, structures, grounds, BMP(s) and appurtenances for the Common Facilities.
- c. Keep the pipes, structures, BMP(s) and appurtenances open and free of silt and vegetation.
- d. Keep the pipes, structures, BMP(s) 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 BMP(s) on Tracts "F" and "G".

- f. Maintain the elevation and grades within Tracts "F" and "G", Hunt Midwest Business Park Third Plat pursuant to the approved plan on file in the office of the City Planning & Development and identified as File No. 2008-070.
- g. Obtain all necessary permits required for the improvement and/or repair prior to performing any work on the Common Facilities.

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

Sec. 1. Through the execution of the First Covenant, City was granted the right, but was not obligated to enter upon Tracts "F:" and "G", Hunt Midwest Business Park Third Plat, in order to maintain the Common Facilities including the pipes, structures, BMP(s), grounds, and appurtenances if Developer fails to maintain same. The First Covenant provided that the City may also (a) charge the costs for such maintenance against the Developer or the owners of Lots 19 through 22, Hunt Midwest Business Park Third Plat, served by the Common Facilities on Tracts "F" and "G"; (b) assess a lien on either Tract "F" and "G" as provided in the First Covenant or on Lots 19 through 22 or both served by the Common Facilities; and (c) maintain suit against the Developer and/or Owners Tracts "F" and "G" and/or Owners of Lots 19 through 22 served by the Common Facilities for the unpaid cost of such maintenance, repair or replacement. Unless necessitated by a threat to life and/or safety, City shall notify the Developer and/or the then current owners of Tracts "F" and "G:" and Lots 19 through 22 not less than thirty (30) days before it begins maintenance of the Common Facilities.

Sec. 2. In addition to the rights granted to the City in the First Covenant, Developer hereby grants that the City may also (a) charge the costs for such maintenance against the Developer and/or the Owner of Lot 28, Hunt Midwest Business Park-Fourth Plat, served by the Common Facilities on Tracts "F" and "G"; (b) assess a lien on Lot 28 served by the Common Facilities; and (c) maintain suit against the Developer and/or Owner of Lot 28, Hunt Midwest Business Park-Fourth Plat, served by the Common Facilities for the unpaid cost of such maintenance, repair or replacement. Unless necessitated by a threat to life and/or safety, City shall notify the Developer and/or the then current owners of Lot 28, Hunt Midwest Business Park-Fourth Plat not less than thirty (30) days before it begins maintenance of the Common Facilities.

Sec. 3. Developer shall not use nor attempt to use Tracts "F" and "G", Hunt Midwest Business Park Third Plat, in any manner which would interfere with the continuous and perpetual preservation and maintenance and use thereof and, in particular, shall not build thereon or thereover any structure, except approved BMP(s), 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" and shall be equal in force and effect to the Developer and all other persons, owners, entities, transferees or grantees to who the Developer may subsequently sell or transfer all or portions of the Property or to the Developer's heirs, assigns or successors.

Developer shall remain liable for all permitted Common Facilities or related improvements issued to Contractor(s) on behalf of the Developer under the terms of this Covenant until the permits issued have satisfied their performance and warranty surety requirements. Once the

permits issued have satisfied their performance and warranty surety requirements, Developer shall no longer have any obligation under the terms of this Covenant, including no further obligation under Section 2 of this Covenant, and City shall have no authority to charge Developer for costs of maintenance, repair and/or replacement of the Common Facilities or to maintain suit against Developer for the costs incurred by the City for such maintenance, repair or replacement.

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 and such assignment is accepted by the City 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 Covenant has given ten (10) days notice of a change of person and address for purposes of notice under this Covenant to the other party in writing, notices shall be directed to the following:

Notices to the City:

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

Notice to Developer shall be addressed to:

Hunt Midwest Real Estate Development, Inc.
c/o Ora Reynolds
8300 N.E. Underground Drive, Suite 100
Kansas City, Missouri 64161
Fax number: (816) 455-8701

With copies to:

Patricia R. Jensen, Esq.
White Goss Bowers March Schulte & Weisenfels
4510 Belleview; Suite 300
Kansas City, Missouri 64111
Fax number: (816) 753-9201

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

Sec. 8. Invalidity 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 Clay County, Missouri, and shall be binding on Developer, its successors, assigns and transferees.

Sec. 11. Developer 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 Developer or to any person or property caused by or incidental as to the design, function, construction, maintenance or failure to maintain the Common Facility.

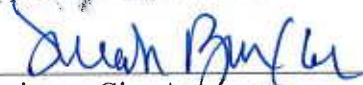
ATTESTATION BY CITY CLERK:


City Clerk

KANSAS CITY, MISSOURI

By: 
City's Director of City Planning
and Development

Approved as to form:


Assistant City Attorney

STATE OF MISSOURI)
COUNTY OF Jackson) SS

BE IT REMEMBERED that on this 14th day of November, 2012, before me, the undersigned, a notary public in and for the county and state aforesaid, came Robert Lagenkamp, 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 Lajoi Howell, City Clerk 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: Nov 29, 2015
{30008 / 64607; 413410. }



DEVELOPER:

**HUNT MIDWEST REAL ESTATE
DEVELOPMENT, Inc., a Missouri
Corporation**

I hereby certify that I have authority to
execute this document on behalf of
Developer.

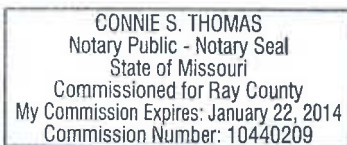
By: Ora Reynolds
Ora Reynolds
Title: President
Date: 10/12/12

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

STATE OF Missouri)
COUNTY OF Clay) ss.

On this 12th day of October, 2012, before me appeared Ora Reynolds, to me personally know, who, being by me duly sworn, did say that she is the President of **Hunt Midwest Real Estate Development, Inc.**, a Missouri Corporation, and that said instrument was signed in behalf of said corporation, by authority of its board of directors, and she acknowledged said instrument to be the free act and deed of said corporation.

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



Connie S Thomas
Notary Public within and for said
County and State

My term expires: 1-22-14

EXHIBIT "A"

A tract of land in the Southwest Quarter and the Southeast Quarter of Section 2, Township 50 North, Range 32 West of the 5th Principal Meridian in Kansas City, Clay County, Missouri, being bounded and described as follows: Beginning at the Northeast corner of Tract F, Hunt Midwest Business Park – Third Plat, a subdivision of land in said Clay County, being also a point on the Westerly right-of-way line of N. Arlington Avenue, as now established; thence North 87°24'23" West, along the Northerly line of said Tract F 559.73 feet; thence North 01°18'06" East, 834.65 feet; thence South 88°41'54" East, 664.63 feet to a point on the Westerly right-of-way line of said N. Arlington Avenue; thence South 01°19'14" West, along said right-of-way line, 13.40 feet; thence Southerly, continuing along said right-of-way line, along a curve to the right, being tangent to the last described course, with a radius of 1,960.00 feet, a central angle of 08°41'49" and an arc distance of 297.51 feet; thence South 10°01'03" West, continuing along said right-of-way line, 543.79 feet to the Point of Beginning. Containing 523,037 square feet or 12.01 acres, more or less. All lying above elevation 700 (NAVD 88).

EXHIBIT B

