

118

AFTER RECORDING RETURN TO:

City of Oregon City, City Recorder
P.O. Box 3040
Oregon City, Oregon 97045-0304

Clackamas County Official Records
Sherry Hall, County Clerk

2021-049837



02464349202100498370110116

\$148.00

05/18/2021 10:52:50 AM

D-MA Cnt=2 Stn=2 COUNTER3
\$55.00 \$5.00 \$16.00 \$62.00 \$10.00

Planning File: SP-20-00099

Tax Map & Lot: 2-2E-31AA 07300

Impervious Area Served (square feet): 10,205

GRANTOR: City of Oregon City Parks Department

MAINTENANCE AND ACCESS EASEMENT AGREEMENT FOR PRIVATELY-OWNED STORMWATER MANAGEMENT FACILITIES

This MAINTENANCE AND ACCESS EASEMENT AGREEMENT ("Agreement") is made between the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the "City"), and City of Oregon City Parks Department ("Grantor").

This Agreement runs with the land and is binding on Grantor and its successors and assigns, including subsequent purchasers of property within the Development (defined below).

RECITALS

A. Grantor is the owner of certain real property located in the City of Oregon City, Clackamas County, Oregon, legally described on **Exhibit A** attached hereto and commonly known as Latourette Park, the
"Development". *Name of development, property address or tax lot*

B. The following stormwater management facilities ("**Stormwater Facilities**") were constructed or will be constructed at the Development as further described below and depicted in **Exhibit B** (Site Plan, showing and identifying storm facilities):

Grantor's written description of each facility

(3) Storm water planters: SWP#1, #2 & #3

C. The City has approved construction plans submitted by Grantor for the Development, including Stormwater Facilities as described above. The Stormwater Facilities are designed by a registered professional engineer to accommodate anticipated volume of runoff and to detain and treat runoff in accordance with City's Stormwater and Grading Design Standards and its amendments. The Stormwater Facilities enable development of property while mitigating the impacts of additional surface water and pollutants associated with stormwater runoff prior to discharge from the property to the public stormwater system.

D. Failure to inspect, maintain, repair, and replace the Stormwater Facilities after they are constructed can result in an unacceptable impact to the public stormwater system. To protect the owners of property within the Development, as well as owners of neighboring property, the City requires Grantor to enter into this Agreement as a condition to the City's approval of construction plans and building permit(s) for the Development. This Agreement confirms Grantor's, and Grantor's successors and assigns', obligation to inspect, maintain, repair, and replace the Stormwater Facilities. The term "**Owner(s)**" is used herein to refer to the owner or owners of any part of the Development on which Stormwater Facilities are located. "Owner(s)" include Grantor while Grantor owns any part of the Development on which Stormwater Facilities are located and includes any homeowner's association owning common areas in the Development on which Stormwater Facilities are located.

E. In connection with its development of the Development, Grantor may divide the property within the Development into individual lots (each a "**Lot**" and collectively the "**Lots**"). The Stormwater Facilities for the Development will be maintained by the Owner(s). Therefore, although Grantor will be the sole owner responsible for constructing, inspecting, maintaining, repairing, and replacing the Stormwater Facilities while Grantor owns the entirety of the Development, upon Grantor's sale or transfer of ownership of any Lot, or part of the Development, those responsibilities will be transferred to the subsequent Owner(s).

F. The consideration for this Agreement is connection to the City's public stormwater system.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Grantor agree as follows:

1. **Incorporation of Recitals.** The Recitals to this Agreement are incorporated into and made a part of this Agreement.
2. **Run with the Land.** The parties' rights and obligations contained herein shall run with the land and shall be binding upon the Grantor and its successors and assigns (including, without limitation, the Owner(s) of the Lot(s) and any homeowner's association owning common areas in the Development). Those rights and obligations shall inure to the benefit of the City, as well as its successors and assigns.
3. **Agreement to Maintain and Repair.** The Owner(s) shall, at their sole expense, themselves or through qualified independent contractors, at all times during their ownership of the property within the Development maintain the Stormwater Facilities in good working order, condition and repair, clear of all debris, and in compliance with all applicable state and local rules, regulations, and guidelines (including those adopted from time to time by the City and including the City's Stormwater and Grading Design Standards) and the Operation and Maintenance Plan attached as **Exhibit C** of this Agreement.

4. **Agreement to Inspect.** The Owner(s) shall perform, at a minimum, annual inspections of all Stormwater Facilities covered by this agreement, per guidelines in **Exhibit C**, attached. The annual inspection required by this Agreement shall identify work necessary to repair or maintain facilities in good working order. The Owner(s) shall provide Oregon City Public Works Department with annual maintenance inspection reports, including identification of the corrective actions taken in response to the annual inspection. If needed, inspection forms can be obtained from the Oregon City Public Works Department.
5. **Easement.** Grantor hereby grants the City, its employees, independent contractors and designees, a nonexclusive easement for ingress and egress over, across and under the Development from time to time at the City's sole discretion to inspect, sample, and monitor components of the Stormwater Facilities and discharges therefrom. Grantor hereby grants to the City permission to undertake the actions described in Sections 6 and 7 of this Agreement. Grantor understands and agrees that this easement limits the ability of Grantor, its successors and assigns, including any Owner(s), from constructing any permanent buildings, structures, landscaping or other improvements that would interfere with the functioning of the Stormwater Facilities or the City's access to perform the inspection and maintenance required under this Agreement.
6. **Failure to Perform Agreement.** If the City, in its sole discretion, determines that the Owner(s) are not in compliance with the Agreement described in Sections 3 and 4, the City or its designee shall provide the non-complying Owner(s) written notice to perform the maintenance and/or repair work specified in the notice. Provided, however, no prior written notice shall be required in the case of an emergency, which shall be governed by Section 7. If such work is not performed to the City's satisfaction within seven (7) days after the date of such notice, or such other time as the City may, in its sole discretion, determine, the City, its employees, independent contractors and designees may exercise their rights under the Easement described in Section 5 of this Agreement to enter the Development to perform any and all work required bringing the Stormwater Facilities into compliance with this Agreement.
7. **Emergency.** If the City, in its sole discretion, determines that there exists or will likely exist an emergency on or about the Development with respect to the Stormwater Facilities, the City, its employees, independent contractors and designees may immediately exercise their rights under the Easement described in Section 5 of this Agreement to immediately enter the Development to perform any and all work required to bring the Stormwater Facilities into compliance with this Agreement, and in such case the City shall use reasonable efforts to notify the affected Owner(s) prior to entering the Development. Notwithstanding the above, the work performed may consist only of avoiding or mitigating the emergency and/or cleaning and/or repairing the Stormwater Facilities to their original condition and standards.
8. **City Under No Obligation.** The City, as well as its departments, employees, independent contractors and/or designees shall have no obligation to exercise its rights under this Agreement, including the right under Sections 6 and 7 of this Agreement, to perform the work required of the Owner(s), or to perform any other maintenance or repair of the stormwater facilities. In addition, neither the City, nor any of its departments, employees, independent contractors and/or designees shall have any liability to any Owner(s) in connection with the exercise or non-exercise of such rights, the maintenance or repair of the stormwater facilities, or the failure to perform the same.

9. **Grantor Obligations.** In addition to the agreements and easement described above, Grantor agrees to the following additional obligations:
- a. Prior to sale of any portion of the Development, Grantor shall provide to the City's Public Works Department, a copy of the Operations and Maintenance Manual for the Stormwater Facilities, which shall include detailed diagrams and descriptions identifying the components and operations of the Stormwater Facilities.
 - b. Prior to final approval of the Development, this document shall be recorded in the deed records of Clackamas County.
 - c. Grantor shall notify the City's Public Works Director in writing of any change in ownership, and the new Owner(s) shall become the "**Grantor Designee**". The Grantor Designee, its successors and assigns shall be bound with respect to the matters described in this Agreement including Grantor's obligations.
 - d. Upon sale or transfer of the Development, or any portion thereof, Grantor shall inform the purchaser of the obligations required under this Agreement.
10. **Reimbursement.** If the City exercises its rights as described in Section 6 and Section 7 to perform compliance work and enters the Development pursuant to the Easement described in Section 5 of this Agreement, the Owner(s) shall reimburse the City for all its costs and expenses incurred in connection therewith within thirty (30) days after receipt of an invoice. If the Development is owned by more than one owner (i.e., multiple lot owners), for each property or Lot where the City exercises its rights as described in Section 6 and Section 7, the Owner(s) shall be severally liable for reimbursing the City for all its costs and expenses incurred in connection therewith within. If any of the Owner(s) fail to pay the invoiced amount within such period, such amount shall thereafter accrue interest at the statutory rate. Such amount, together with interest, shall be a lien on the Development (and each of the Lots within the Development) that may be foreclosed in accordance with ORS Chapter 88.
11. **Indemnification.** Owner(s) agrees to indemnify, defend (with legal counsel reasonably acceptable to the City), and hold harmless the City, its employees, independent contractors and designees harmless from and against any liability, losses, costs, expenses (including reasonable attorney fees), claims or suits arising from failure of the Owner(s) to perform its obligations under this Agreements or the exercise of the City's rights under this Agreement.
12. **Attorney Fees.** If legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and in the appeal therefrom. The term "action" shall be deemed to include action commenced in the bankruptcy courts of the United States and any other court of general or limited jurisdiction.
13. **Assignment.** The obligations of Grantor under this Agreement shall run with the land and therefore shall bind the purchasers of property within the Development without the necessity of any separate agreement evidencing or confirming the assignment and the purchaser's assumption of the obligations. The obligations may not be otherwise assigned except that the obligations may be assigned, with the prior written consent of the City, to a homeowner's association that owns and maintains the common areas of the Development.
14. **Authority.** If Grantor is an entity, the individual executing this Agreement on behalf of Grantor represents and warrants to the City that he or she has the full power and authority to do so and that Grantor has full right and authority to enter into this Agreement and perform its obligations under this Agreement.

IN WITNESS WHEREOF, the GRANTOR has executed this instrument this 10th day of May, 20 21. The person(s) whose name(s) is/are subscribed to the within instrument acknowledge that he/she/they executed the instrument in his/her/their legally authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

[Signature Page(s) Follow]

GRANTOR: City of Oregon City Parks Department

As shown on Page 1 (name of organization or individual property owner(s))

Kendall Reid
Signature No. 1

Kendall Reid
Signer's printed name

Parks & Recreation Director
Title (if applicable)

N/A
Signature No. 2

N/A
Signer's printed name

Title (if applicable)

STATE OF OREGON)

County of Clackamas)

This record was acknowledged before me on (month & day) May 10, 2021

by Kendall Reid
Signer's printed name

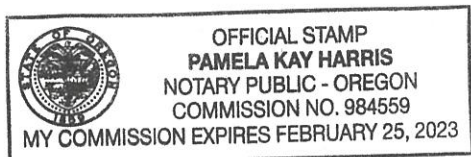
, as Parks & Recreation Director
Title (write "N/A" if not applicable)

of City of Oregon City Parks Department

Name of Corporation on whose behalf record is executed (write "N/A" if not applicable)

Stamp notary seal:

WITNESS my hand and official seal.



Pamela Kay Harris
Signature of Notary Public

My commission expires: 2/25/2023

Accepted on behalf of the City of Oregon City:

Anthony J. Konkol III
By: Anthony J. Konkol III, City Manager

John M. Lewis
By: John M. Lewis, Public Works Director

Kattie Riggs
Attest: Kattie Riggs, City Recorder

EXHIBIT A

Legal Description of Property

Lots 1, 2, 3, 5 & 6, Block 126, OREGON CITY, in the County of Clackamas and State of Oregon.

EXHIBIT B 1 of 5

11TH STREET

LIMIT OF WORK

LIMIT OF WORK

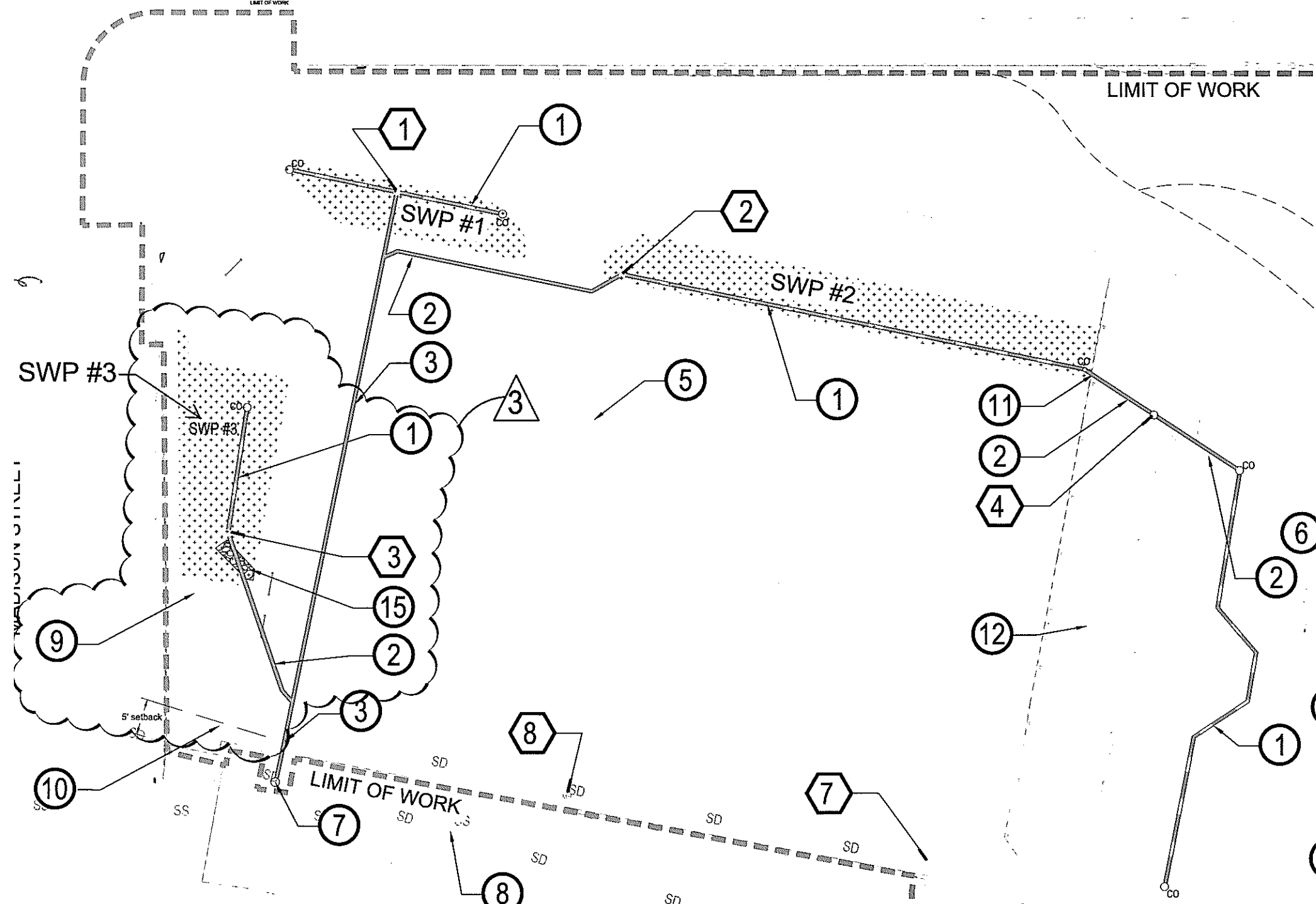
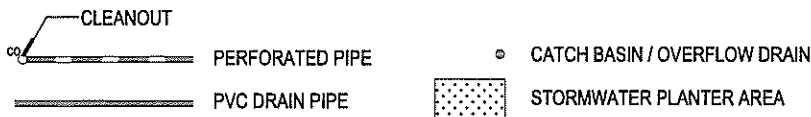


EXHIBIT B 2 of 5

UTILITY LEGEND



KEY NOTES

- 1 6" SOLID WALL PERFORATED DRAIN PIPE @ 1% MIN.
- 2 6" PVC STORM PIPE @ 1% MIN.
- 3 6" PVC STORM PIPE @ 1% MIN.
- 4 8" PVC STORM PIPE @ 1% MIN.
- 5 APPROX. LOCATION OF 12" ABANDONED WATER LINE - SHOWN FOR REFERENCE ONLY
- 6 CONNECT NEW CATCH BASIN TO EXISTING STORM PIPE. VERIFY PIPE ELEVATION IN FIELD PRIOR TO INSTALLATION.
- 7 CONNECT TO EXISTING 12" CONCRETE PIPE WITH LINED SIZED INSERTA TEE OR APPROVED EQUAL. PIPE ELEVATION IS ESTIMATED AT ELEVATION 152.75. CONTRACTOR TO VERIFY AND NOTIFY OWNER.
- 8 EXISTING 16" PUBLIC STORM LINE - INFORMATION FROM OREGON CITY GIS.
- 9 AT GRADE PLANTING WITHIN 5-FT SETBACK OF EXISTING 16" STORM LINE - SEE GRADING PLAN FOR ELEVATIONS.
- 10 EXISTING CATCH BASIN TO BE REMOVED. CUT AND CAP EXISTING STORM PIPE.
- 11 BORE HOLE FOR STORM PIPE THROUGH EXISTING CONCRETE WALL.
- 12 SWALE ADJACENT TO PLAYGROUND IS INTENDED AS A LANDSCAPE FEATURE AND NOT INCLUDED IN STORMWATER MODEL. EXISTING UNDERDRAINAGE IS HANDLED THROUGH WEEP HOLES ON EXISTING CONCRETE WALL OPEN TO COURT BELOW.
- 13 DEMO EXISTING CONCRETE DRAIN PIPE.
- 14 6" PERFORATED DRAIN PIPE @ 1% MIN. EMBED IN 8" WIDE TRENCH LINED WITH FILTER FABRIC AND BACKFILLED WITH OPEN GRADED DRAINAGE ROCK. CONNECT TO EXISTING CONCRETE PIPE WITH APPROVED COUPLING.
- 15 INSTALL SPLASH PAD TO TRANSITION TO GROWING MEDIUM. MATERIAL TO BE 1" - 3" ANGULAR ROCK.

INLETS

- 1 OVERFLOW DRAIN @ SWP-1
RIM = 157.83
6" PERF IN = 153.80
6" PVC IE OUT = 153.60
ORIFICE Ø = 0.7"
- 2 OVERFLOW DRAIN @ SWP-2
RIM = 158.83
6" PERF IN = 154.58
6" PVC IE OUT = 154.38
DETAIL: 2/C2.0, TYP.
ORIFICE Ø = 0.7"
- 3 OVERFLOW DRAIN @ SWP-3
RIM = 158.70
6" PERF IE IN = 155.00
6" PVC IE OUT = 154.80
ORIFICE Ø = 0.6"
- 4 CATCH BASIN
RIM = 161.00
IE IN = 159.00
IE OUT = 158.80
DETAIL: 1/C2.0, TYP.
ORIFICE Ø = 0.7"
- 5 CATCH BASIN
RIM = 162.20
IE OUT = (VIF)
DETAIL: 1/C2.0, TYP.
- 6 EXISTING MANHOLE
EXISTING RIM = 162.27 (VIF)
16" IE OUT = 160.02
- 7 EXISTING CATCH BASIN
RIM = 158.78 (VIF)
X" IE IN = VERIFY
X" IE OUT = VERIFY
- 8 EXISTING MANHOLE
EXISTING RIM = 159.15 (VIF)
NEW RIM = 153.36

SITE AREA TABLE (SF)		
	EXISTING	PROPOSED
TOTAL SITE AREA	34,973	34,973
IMPERVIOUS	18,225	14,360
PERVIOUS	16,748	20,613

EXHIBIT B 3 of 5

MADISON STREET

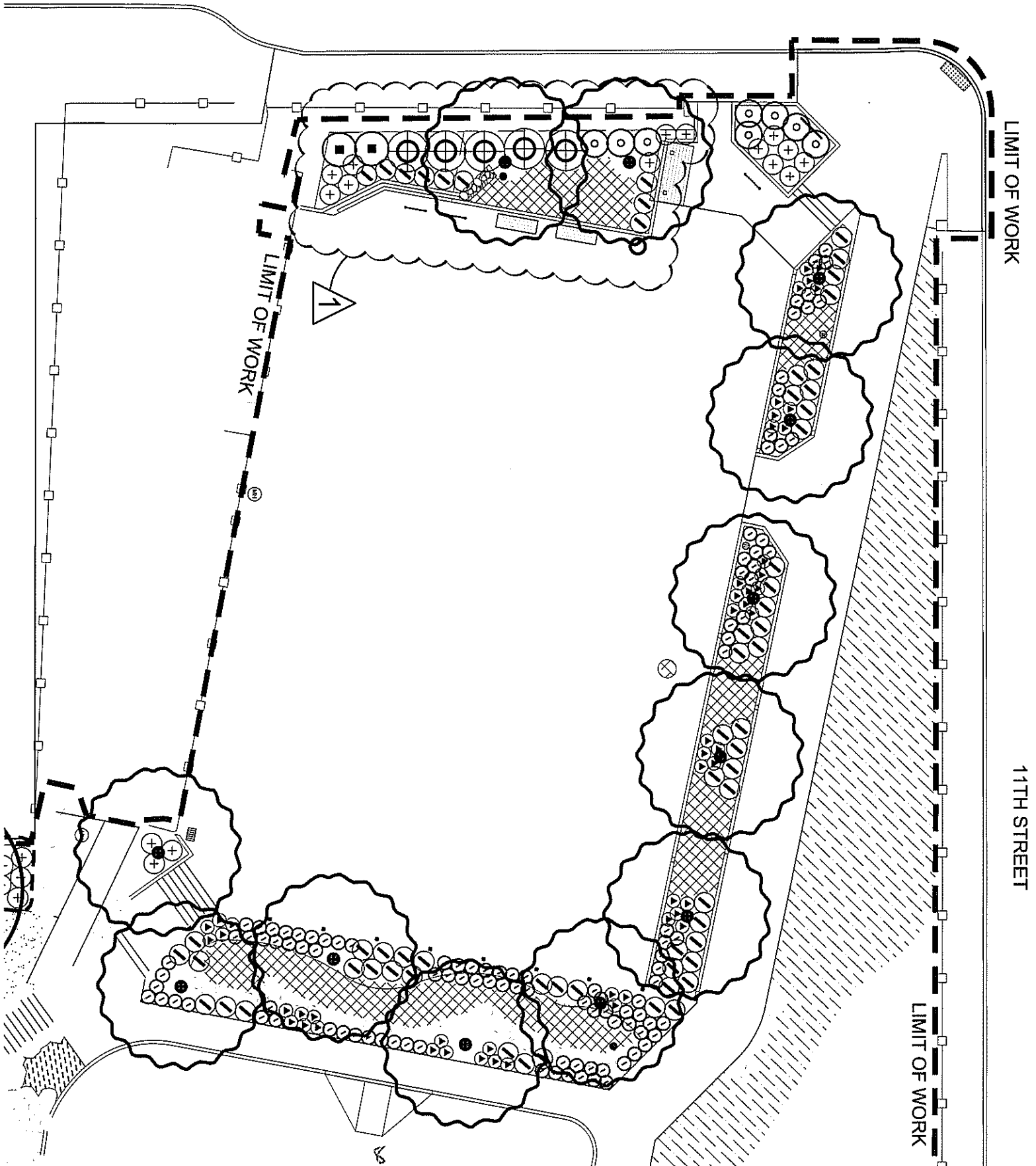


EXHIBIT B 4 of 5

PLANTING LEGEND

TREES

1	6
L5.6	L5.6

BOTANICAL NAME	COMMON NAME	SIZE & TYPE	SPACING	QTY.
ACER BUERGERIANUM	TRIDENT MAPLE	1.5" CAL., B&B	AS SHOWN	3
BETULA NIGRA 'CULLY'	MULTI-STEMMED HERITAGE RIVER BIRCH	2" CAL., B&B	AS SHOWN	12
ZELKOVA SERRATA 'GREEN VASE'	GREEN VASE JAP. ZELKOVA	2" CAL., B&B	AS SHOWN	3

SHRUBS / GROUNDCOVERS

2	3	4	5
L5.6	L5.6	L5.6	L5.6

BOTANICAL NAME	COMMON NAME	SIZE & TYPE	SPACING	QTY.
BACCHARIS PILULARIS	COYOTE BRUSH	5 GAL. CONT.	AS SHOWN	
CARYOPTERIS CLANDONENSIS 'DARK KNIGHT'	'DARK KNIGHT' BLUEBEARD	2 GAL. CONT.	2' ON CENTER	
CEANOTHUS X 'BLUEJEANS'	'BLUE JEANS' CALIFORNIA LILAC	5 GAL. CONT.	AS SHOWN	
CHOISYA 'AZTEC PEARL'	'AZTEC PEARL' MEXICAN MOCKORANGE	5 GAL. CONT.	AS SHOWN	
CISTUS PULVERULENTUS 'SUNSET'	'SUNSET' ROCKROSE	2 GAL. CONT.	AS SHOWN	
CORNUS SERICEA	RED TWIG DOGWOOD	5 GAL. CONT.	AS SHOWN	
COTONEASTER ADPRESSUS 'LITTLE GEM'	'LITTLE GEM' COMPACT COTONEASTER	1 GAL. CONT.	15" ON CENTER	
ILEX CRENATA 'GREEN ISLAND'	'GREEN ISLAND' JAP. HOLLY	5 GAL. CONT.	AS SHOWN	
MAHONIA REPENS	CREeping OREGON GRAPE	1 GAL. CONT.	2' ON CENTER	
PHILADELPHUS LEWISII	WESTERN MOCKORANGE	2 GAL. CONT.	AS SHOWN	
STIPA GIGANTEA	GIANT NEEDLEGRASS	1 GAL. CONT.	AS SHOWN	

STORMWATER

2	3	4
L5.6	L5.6	L5.6

FESTUCA CALIFORNICA	CALIFORNIA FESCUE	1 GAL. CONT.	2' ON CENTER
IRIS FOETIDISSIMA	GLADWIN IRIS	1 GAL. CONT.	2' ON CENTER
JUNCUS PATENS 'ELK BLUE'	'ELK BLUE' SPREADING RUSH	1 GAL. CONT.	1.5' ON CENTER
SPIRAEA BETULIFOLIA 'TOR'	'TOR' BIRCHLEAF SPIRAEA	2 GAL. CONT.	AS SHOWN

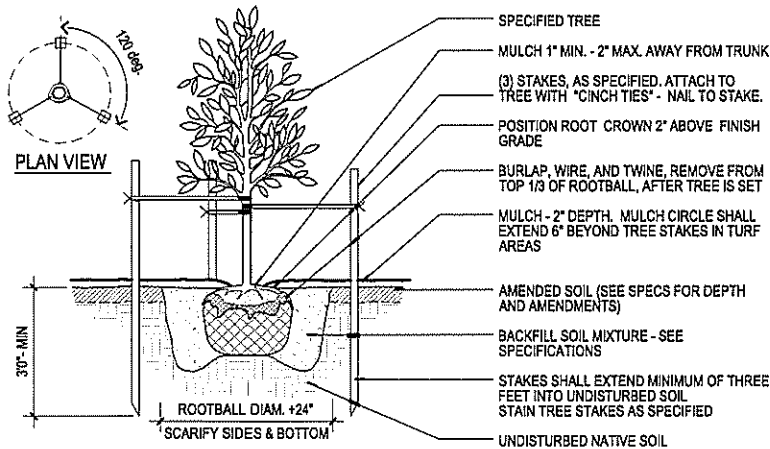
POLLINATOR GARDEN - BY OTHERS

SEEDED LAWN

PLANTING NOTES

- CONTRACTOR SHALL PROVIDE PLANTING SOIL, SOIL AMENDMENTS, AND BARK MULCH TO THE COMPOSITION AND DEPTHS IN ACCORDANCE WITH THE DRAWINGS AND SPECIFICATIONS OF THE CONTRACT DOCUMENTS.
- ALL PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE DRAWINGS AND THE SPECIFICATIONS PROVIDED AS PART OF THE CONTRACT DOCUMENTS.
- QUANTITIES ARE LISTED FOR THE CONTRACTOR'S CONVENIENCE ONLY. ALL COUNTS MUST BE VERIFIED BY THE CONTRACTOR. IN THE CASE OF A DISCREPANCY BETWEEN THE LEGEND AND THE PLAN, PLANTS INDICATED ON THE PLAN SHALL SUPERCEDE QUANTITIES LISTED IN THE LEGEND.
- UTILITY LOCATIONS SHOWN ON PLANS MAY DIFFER FROM FIELD CONDITIONS. CONTRACTOR TO FIELD VERIFY ALL UTILITIES BEFORE INSTALLATION. CONFLICTS BETWEEN ANY EXISTING AND PROPOSED UTILITIES ARE TO BE BROUGHT TO THE ATTENTION OF THE OWNER'S REPRESENTATIVE IMMEDIATELY.

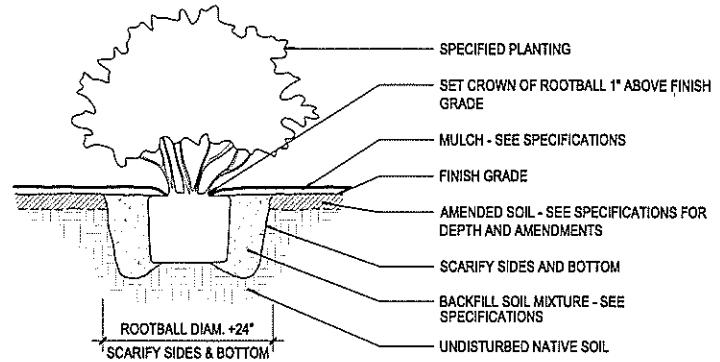
EXHIBIT B 5 of 5



1 DECIDUOUS TREE PLANTING - STAKING

SECTION

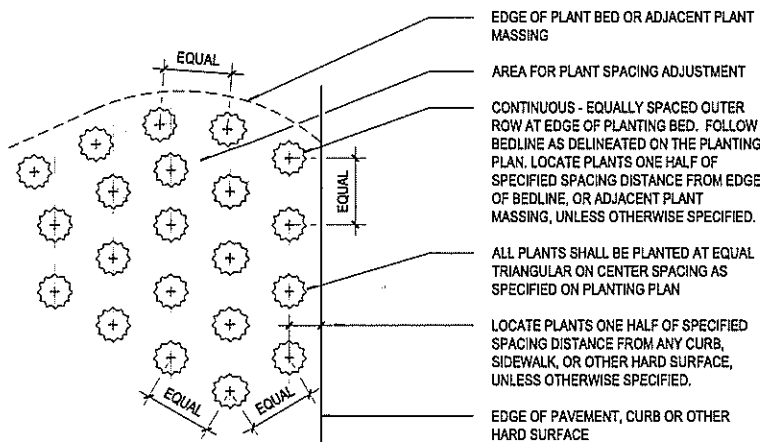
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2 SHRUB PLANTING - CONTAINER

SECTION

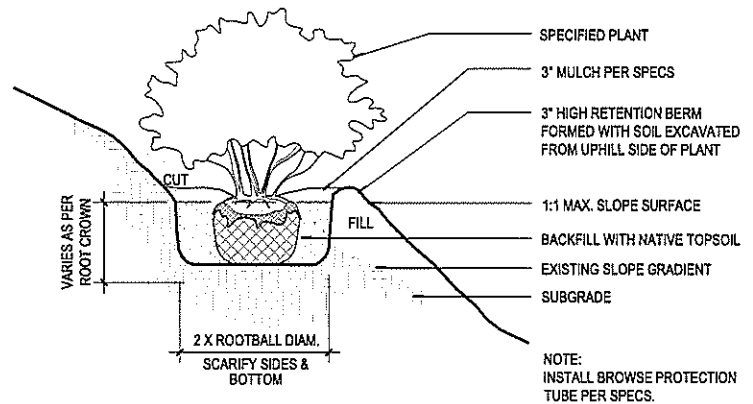
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4 PLANT SPACING DIAGRAM

PLAN

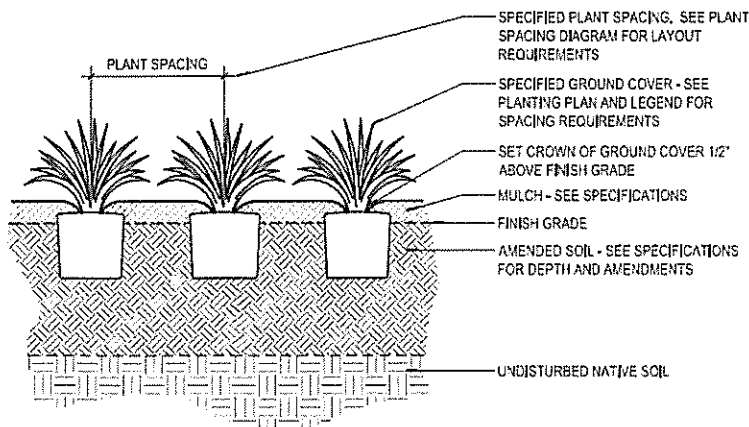
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5 B&B PLANTING ON SLOPES

SECTION

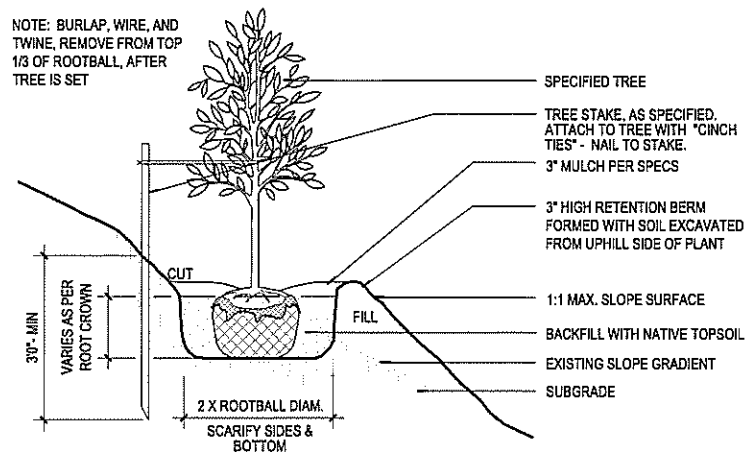
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3 GROUND COVER PLANTING

SECTION

NOT TO SCALE



6 B&B DECIDUOUS TREE PLANTING ON SLOPES

SECTION

NOT TO SCALE

EXHIBIT C

Stormwater Planters Operations & Maintenance Plan

What to Look For	What to Do
Structural Components , including inlets and outlets/overflows, shall freely convey stormwater.	
Clogged inlets or outlets	-Remove sediment and debris from catch basins, trench drains and curb inlets and pipes to maintain at least 50% conveyance capacity at all times.
Cracked Drain Pipes	-Repair/seal cracks. Replace when repair is insufficient.
Check Dams	-Maintain 4 to 10 inch deep rock check dams at design intervals.
Vegetation	
Dead or strained vegetation	-Replant per original planting plan, or substitute from Appendix A. -Irrigate as needed. Mulch banks annually. DO NOT apply fertilizers, herbicides, or pesticides.
Tall Grass and Vegetation	-Cut back grass and prune overgrowth 1-2 times per year. Remove cuttings.
Weeds	-Manually remove weeds. Remove all plant debris.
Growing/Filter Medium , including soil and gravels, shall sustain healthy plant cover and infiltrate within 72 hours.	
Gullies	-Fill, lightly compact, and plant vegetation to disperse flow.
Erosion	-Replace splash blocks or inlet gravel/rock.
Slope Slippage	-Stabilize 3:1 slopes/banks with plantings from Appendix A.
Ponding	-Rake, till, or amend to restore infiltration rate.

Annual Maintenance Schedule:

Summer. Make any structural repairs. Improve filter medium as needed. Clear drain. Irrigate as needed.

Fall. Replant exposed soil and replace dead plants. Remove sediment and plant debris.

Winter. Monitor infiltration/flow-through rates. Clear inlets and outlets/overflows to maintain conveyance.

Spring. Remove sediment and plant debris. Replant exposed soil and replace dead plants. Mulch.

All seasons. Weed as necessary. Clean scuppers or curb inlets as needed.

Maintenance Records: Record date, description, and contractor (if applicable) for all structural repairs, landscape maintenance, and facility cleanout activities. Keep work orders and invoices on file and make available upon request of the inspector.

Access: Maintain ingress/egress to design standards.

Infiltration/Flow Control: All facilities shall drain within 72 hours. Record time/date, weather, and site conditions when ponding occurs.

Pollution Prevention: All sites shall implement best management practices to prevent hazardous or solid wastes or excessive oil and sediment from contaminating stormwater. Contact emergency response agencies for immediate assistance responding to spills. Record time/date, weather, and site conditions if site activities contaminate stormwater.

Vectors (Mosquitoes & Rodents): Stormwater facilities shall not harbor mosquito larvae or rats that pose a threat to public health or that undermine the facility structure. Monitor standing water for small wiggling sticks perpendicular to the water's surface. Note holes/burrows in and around facilities. Call Clackamas County Vector Control for immediate assistance to eradicate vectors. Record time/date, weather, and site conditions when vector activity observed.

