

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

EXAMPLE EASEMENT AGREEMENT

This Easement Agreement (this "Agreement") is made by and between the Sonoma County Water Agency ("Sonoma Water") and _____, ("Grantee").

R E C I T A L S

WHEREAS, Sonoma Water is the owner of certain real property within City of Petaluma, County of Sonoma, State of California commonly known as Sonoma County Assessor's Office as Assessor's Parcel Number 006-163-037, and being more particularly described as follows:

All that certain real property conveyed to the Sonoma County Flood Control and Water Conservation District by that certain Grant Deed recorded on April 11, 1961 in Book 1817 of Official Records of Sonoma County, California, beginning at page 814 (hereinafter referred to as "Sonoma Water's property"); and

WHEREAS, MP 414 Petaluma Associated, LP a California Limited Partnership (hereinafter referred to as "MidPen") desires to obtain an easement over portions of Sonoma Water's property for the construction and maintenance of certain parking lot and landscaping improvements in Sonoma Water's easement as shown and represented upon the improvement plans entitled "414 Petaluma Boulevard Apartments, Site Improvement Plans", dated June 24 2020, prepared by Adobe Associates, Inc., and "414 Petaluma Boulevard Apartments, Entitlement Set", dated March 18, 2020 prepared by LPAS Architecture + Design, within and across said Sonoma Water property, as said improvement plans have been approved for construction by Sonoma Water subject to Sonoma Water's Board of Directors approval of the this and other agreements needed to fully approve the Project on Sonoma Water's property (hereinafter referred to as the Project).

WHEREAS, the Project proposes the relocation of certain of Grantee's improvements (consisting of _____, hereafter referred to as the "Facilities") over Sonoma Water Property for which the Sonoma Water requires Grantee to obtain a permanent easement over portions of the Sonoma Water Property as described in Exhibit "A" and shown for reference in Exhibit "A-1", attached hereto and made a part hereof (hereinafter, the "Easement Area").

NOW, THEREFORE, for good and valuable consideration and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, Sonoma Water and

Grantee covenant and agree as follows:

A G R E E M E N T

1. Grant of Non-Exclusive Easement. Sonoma Water hereby grants to Grantee a non-exclusive easement over the Easement Area of the nature, character, and extent described below and subject to the conditions set forth in this Agreement.

2. Description of Easement over Sonoma Water Property. The easement granted over the Easement Area pursuant to this Agreement (the "Easement") is a perpetual easement and right-of-way for the purpose of laying down, installing, constructing, reconstructing, removing, replacing, repairing, maintaining, operating, and using the Facilities in, under, along, and across the Easement Area, and the right at all times to enter in, over, and upon said Easement Area for all purposes connected with the laying down, installing, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using the Facilities provided that said use does not damage or restrict Sonoma Water's full use of the Sonoma Water Property or the improvements existing thereon in any way. Sonoma Water reserves the right to install, construct, operate, and maintain both its existing improvements and any future improvements on the Sonoma Water Property, provided that Grantee's use of the Easement Area for the purposes set forth herein is not materially impaired. The Easement is granted on the condition that upon the completion of any of its work hereunder, Grantee shall restore as near as reasonably possible the surface of the ground to the condition it was in prior to the commencement of said work; and that Grantee's use of easement does not damage or restrict Sonoma Water's full use of existing Sonoma Water improvements in any way. The grant of the Easement is subject and subordinate to the rights of Sonoma Water and its successors and assigns to use the Sonoma Water Property in the performance of its governmental and proprietary functions.

3. Term. The Easement shall continue indefinitely so long as Grantee is in compliance with the terms and conditions of this Agreement.

4. Maintenance of Easement. Grantee shall maintain all of its Facilities within the Easement Area at Grantee's sole cost and expense. Any reconstruction or maintenance activities performed by Grantee and related to the Facilities or the Easement shall not interfere with the Sonoma Water's continued use of the Sonoma Water Property or the Easement Area for any purpose.

5. Waste or Nuisance; Sonoma Water's Rights in Property. Grantee shall not commit or suffer: (i) any waste or nuisance on the Easement Area; (ii) any action or use of the Easement Area that interferes or conflicts with the use of the Easement Area by Sonoma Water or any authorized person; or (iii) any action on the Easement Area in violation of any law or ordinance. Except as otherwise provided in this Agreement, Grantee shall not undertake or permit any activity or use on the Easement Area that is inconsistent with the purpose of this Agreement, including, without limitation, the following activities: (a) constructing, reconstructing, replacing, repairing, or maintaining any building, structure, utilities, or other improvement other than the Facilities (provided, however, that Grantee may, with the written consent of Sonoma Water, which consent shall not be unreasonably withheld, replace or supplement any element of the Facilities); (b)

altering the surface or contour of the land in any manner whatsoever, including, but not limited to, excavating or removing soil, sand, gravel, rock, sod, trees, shrubs, plants, or vegetation, that is not reasonably necessary for installing, constructing, reconstructing, removing, replacing, repairing, maintaining, operating, and using the Facilities; (c) degrading or eroding the soil or polluting any surface or sub-surface waters; (d) dumping, accumulating, or storing trash, ashes, garbage, waste, junk, non-operative vehicles, or other materials; (e) damaging the integrity of the surface beyond normal wear and tear or what is reasonably necessary for installing, constructing, reconstructing, removing, replacing, repairing, maintaining, operating, and using the Facilities; (f) exploring for or developing and extracting minerals and hydrocarbons by any mining method, surface or otherwise; (g) parking any vehicle unless such parking is temporary and reasonably necessary for installing, constructing, reconstructing, removing, replacing, repairing, maintaining, operating, and using the Facilities; and (h) placing or leaving any personal property of Grantee or Grantee's tenants, other than the Facilities.

6. Non-Liability of Water Agency; Indemnity. Sonoma Water and its officers, agents, and employees shall not be liable to Grantee or any third party for any injury, loss, or damage arising out of or in connection with the use of the Easement. Grantee agrees to defend, indemnify, hold harmless, and release the Sonoma County Water Agency, its officers, agents, and employees from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Grantee, arising out of Grantee's use of the Easement. Grantee agrees to compensate Sonoma Water for any damage to Sonoma Water property as a result of installing, constructing, reconstructing, removing, replacing, repairing, maintaining, operating, or using the Facilities or Grantee's use of the Easement. If future laws or regulations or Sonoma Water necessity requires a greater separation between the Facilities and any Sonoma Water improvements, Grantee shall relocate the Facilities accordingly and be responsible for any costs associated with the relocation.

7. Enforcement. If through inspection or otherwise Sonoma Water determines that Grantee is in violation of the provisions of this Agreement or that a violation is threatened, Sonoma Water shall give written notice to Grantee of such violation and demand corrective action sufficient to cure the violation. If Grantee fails to cure the violation within fourteen (14) days after receipt of notice thereof from Sonoma Water, or under circumstances where the violation cannot reasonably be cured within a fourteen (14) day period, fails to begin curing such violation within the fourteen (14) day period, or fails to continue diligently to cure such violation until finally cured, Sonoma Water may bring an action to enforce the provisions of this Agreement, enjoin the violation, recover damages and enforcement costs for the violation, and require restoration of the Easement Area to the condition that existed prior to the violation. If Sonoma Water reasonably determines that circumstances require immediate action to prevent or mitigate a violation or threatened violation of the provisions of this Agreement that poses an immediate threat to public health and safety or property, Sonoma Water may pursue its remedies under this paragraph without prior notice to Grantee and without waiting for the period for cure to expire.

8. Enforcement Discretion. Enforcement of the provisions of this Agreement shall be at the discretion of the parties, and any forbearance by a party to exercise its rights under this Agreement in the event of any breach of any provision of this Agreement by the other party shall not be deemed or construed to be a waiver by the party of such provision or of any subsequent

breach of the same or any other provision of this Agreement or of any of the party's rights under this Agreement. No delay or omission by a party in the exercise of any right or remedy upon any breach by the other party shall impair such right or remedy or be construed as a waiver.

9. Access and Control. Except as otherwise expressly provided in this Agreement, Sonoma Water retains the exclusive right of access to and control over the Easement Area. Nothing contained in this Agreement shall be construed as precluding Sonoma Water's right to grant access to third parties across the Easement Area provided that such grant does not unreasonably affect Grantee's use of the Easement or the Facilities.

10. Successors. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors, heirs, assigns and transferees.

11. Amendment. If circumstances arise under which an amendment or modification of this Agreement would be appropriate, Grantee and Sonoma Water shall be free to jointly amend this Agreement. Any such amendment or modification shall be set forth in a written instrument executed by both parties and shall be recorded in the Office of the Sonoma County Recorder.

12. Notices. Any notice, demand, request, approval, or other communication that either party desires or is required to be given under this Agreement shall be in writing and may be given by personal delivery or by certified or registered mail. Notices, demands, requests, approvals, or other communications sent by mail should be addressed as follows:

Sonoma Water: Sonoma County Water Agency
 Attn: General Manager
 404 Aviation Boulevard
 Santa Rosa, CA 95403

Grantee:

with a copy to:

and when so addressed, shall be deemed given 3 business days after deposit in the United States Mail, registered or certified, return receipt requested, postage prepaid. In all other instances, notices, demands, requests, approvals, or other communications shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the persons to whom notices, demands, requests, approvals, or other communications are to be given by giving notice pursuant to this section.

13. Applicable Law and Forum. Interpretation and performance of this Agreement shall be governed by California law, and any action to enforce the provisions of this Agreement, or the breach thereof, shall be brought and tried in the County of Sonoma.

14. No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

15. Integration. This Agreement is the final and complete expression of the agreement between the parties with respect to the subject matter hereof, and any and all prior or contemporaneous agreements written or oral are merged into this instrument.

16. Captions. The captions in this Agreement have been included solely for convenience of reference. They are not a part of this Agreement and shall have no effect upon its construction or interpretation.

17. Survival of Agreement. This Agreement, including all representations, warranties, covenants, agreements, releases and other obligations contained herein, shall survive the closing of this transaction and recordation of any deed or other document related hereto.

IN WITNESS WHEREOF, Sonoma Water and Grantee have executed this Agreement as set forth below.

Sonoma County Water Sonoma Agency:

Executed by the Sonoma County Water Agency this _____ day of _____, 2022, pursuant to authority granted by Agenda Item No. _____ dated _____, 2022:

By: _____
Grant Davis, General Manager

Approved as to Form:

By: _____ Date: _____
Adam Brand
Deputy County Counsel

_____ (Grantee)

By: _____ Date: _____

Name: _____

Title: _____

Exhibit “A”



Exhibit "A-1"



