

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

FREE RECORDING – GOVERNMENT CODE 27383
R&T 11922 DEED TO PUBLIC AGENCY, -0- TRANSFER TAX DUE

Portions of APNS: 060-060-064 and 060-060-059

EASEMENT AGREEMENT

This Easement Agreement (“Agreement”), dated as of the date of the last signature set forth below (“Effective Date”) is made by and between the City of Santa Rosa, a municipal corporation (“City”) and Sonoma County Water Agency, a body corporate and politic, organized and existing under and by virtue of the laws of the State of California (“Grantee”), who agree as follows.

RECITALS

- A. City owns certain real property commonly known as Brown Farm located at 0 Sebastopol Road, Santa Rosa, California 95407 and identified as Sonoma County Assessor’s Parcel Number 060-060-064, and real property commonly known as Brown Farm located at 2200 Llano Road, Santa Rosa, California 95407 and identified as Sonoma County Assessor’s Parcel Number 060-060-059 (collectively, the “Property”).
- B. Grantee desires to obtain a permanent, non-exclusive easement (“Easement”) from the City to use a portion of the Property more particularly described and depicted in Exhibit A to this Agreement labeled “Parcel A” and “Parcel B,” (collectively, the “Easement Area”) respectively, for the purpose of a well discharge pipeline in “Parcel A” and access rights in “Parcel B” (collectively, the “Activities”).
- C. City is willing to grant the Easement to Grantee to use the Property under the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration City and Grantee covenant and agree as follows:

AGREEMENT

1. GRANT OF EASEMENT:

City grants to Grantee, subject to the terms and conditions of this Agreement, a non-exclusive permanent easement to use the Property location identified as the Easement Area described and depicted in Exhibit A, solely for the purpose of the Activities.

2. NONEXCLUSIVENESS OF EASEMENT:

The Easement is nonexclusive. City shall continue to have, without limitation, the right, in its sole discretion, to issue additional easements or other agreements for the use of the Property.

3. EXISTING LICENSE TO USE PROPERTY:

Grantor acknowledges that Grantee has previous license to use the Easement Area with the permission of Grantor pursuant to that certain license agreement dated April 5, 2022 for Parcel A and March 7, 2022 for Parcel B (as amended, collectively, the "License Agreements"). This Easement Agreement supersedes any prior informal or permissive use arrangements, including the License Agreements, and shall be the controlling document governing Grantee's rights in the Easement Area. Such prior use shall not be deemed adverse or give rise to any claim of prescriptive rights or other interest beyond those expressly granted herein.

4. SCOPE OF USE:

The Easement granted over the Property is a perpetual easement including the right by Grantee, its officers, agents and employees, contractors and subcontractors whenever and wherever necessary to enter upon the described Property with personnel and equipment for the Activities, provided, however, that said use does not in any way interfere with, damage or restrict City's use of the Property or the current improvements existing thereon in any way.

5. MATERIALS AND EQUIPMENT:

City reserves the right to reject the use of certain equipment, materials, and chemicals by Grantee at the Property and may impose conditions on such use in its absolute and sole discretion.

6. RELOCATION OF EQUIPMENT:

In the event City shall at any time so require, Grantee, shall, at its sole cost and expense, immediately relocate its materials, property and equipment at the Property upon notice from City.

7. SUCCESSORS AND ASSIGNS:

The Easement granted herein is personal to Grantee and no right hereunder may be assigned or sublet, in whole or in part, and Grantee shall not permit any other person, firm, or corporation to use, in whole or in part, any of the rights or privileges granted pursuant to this Agreement without first obtaining the written consent of City. City may withhold its consent to any such transfer of this Agreement in its sole and absolute discretion.

8. RELEASE BY GRANTEE:

Grantee agrees to defend, hold harmless and indemnify City, its officers, agents and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by City's staff attorneys or outside attorneys related to Grantee's use of the Property for the Activities or Grantee's failure to comply with the provisions of this Easement.

9. DAMAGE TO PROPERTY:

Grantee assumes all responsibility for any damage to the Property caused by Grantee or its invitees, agents or employees. Grantee shall use Grantee's best efforts to diligently safeguard the Property. Grantee shall promptly perform or cause to be performed any and all maintenance and repairs to Property when notified by City that such maintenance or repairs are necessary due to damage caused by Grantee, or its invitees, agents or employees. In the event Grantee fails to satisfactorily maintain or repair Property as herein required, and Grantee fails to cure such failure within thirty (30) days after written notice to cure is given by City, City, its employees and agents, may cause any maintenance or repair as may be necessary to be done on the Property, and may thereafter invoice Grantee for the entire cost and expense of such maintenance or repair, including administrative costs and interest to the maximum amount permitted by law from and after thirty (30) days from the date the maintenance or repair invoice is mailed by City to Grantee.

City shall have the right under this Section 9 to require Grantee to make repairs or perform maintenance of Property in a shorter period of time if such maintenance or repair is necessary to protect the public safety or prevent property damage, and Grantee shall be responsible to reimburse City for the cost of same. In the event Grantee fails to satisfactorily maintain or repair Property as herein required, and Grantee fails to cure such failure within thirty (30) days after written notice to cure is given by City, City, its employees and agents, may cause any maintenance or repair as may be necessary to be done on the Property, and may thereafter bill Grantee for the entire cost and expense of such maintenance or repair, including administrative costs and interest to the maximum amount permitted by law from and after thirty (30) days from the date the maintenance or repair expense bill is mailed by City to Grantee.

10. ADVERTISING:

No signs or advertisements shall be placed in, on, or about the Property without the prior written consent of City and then only for the activity authorized by this Agreement. Unless otherwise agreed upon by the City, Grantee shall not publicize or cause to be publicized in any manner any activity contemplated by this Agreement prior to the execution of this Agreement by City and Grantee.

11. CONDUCT OF PERSONS:

Grantee shall be solely responsible for the orderly conduct of all persons at the Property by its invitation, either express or implied.

12. OBSTRUCTIONS:

Grantee shall not do, nor permit to be done, anything which may interfere with City's use of the Property.

13. INSURANCE:

Grantee, and Grantee's contractors using the Property, if any, shall obtain and maintain in full force and effect during the term of the Easement, including any period during which Grantee is using the Property or so long as Grantee's equipment remains on City property, the insurance requirements in Attachment One to this Agreement which is incorporated herein by this reference. Grantee may meet the insurance requirements in Attachment One through evidence of self-insurance satisfactory to the City.

14. SEVERABILITY:

Each provision of this Agreement is intended to be severable. If any term or provision shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

15. CONDITION OF EFFECTIVENESS:

As a condition precedent to the use of this Agreement, Grantee shall have provided satisfactory proof of insurance during the term of the Easement and shall have executed a User Agreement with City which will govern the connection of the well discharge pipe installed in the Property and the discharge of well flush water, system flush water and analyzer discharge water to the City's 42" recycled water main that runs through this section of the Property.

16. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND REQUIREMENTS:

Grantee shall comply with all applicable state and federal laws that apply to the Property, including the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101, *et seq.*), and any regulations and guidelines issued pursuant to the ADA, as well as all applicable State, Federal and local environmental requirements for all activities that occur pursuant to this Easement.. Grantee shall comply with all applicable provisions of the Santa Rosa City Code, and, will consult with and seek any necessary approvals from the Sonoma County Agricultural Preservation and Open Space District to ensure that any activities are consistent with all existing easements and requirements. Grantee understands that the Easement Area is encumbered by a Conservation Easement held by the Sonoma County Agricultural Preservation and Open Space District (the "District"), recorded as Instrument Number 2001173432 in the Official Records of Sonoma County (the "Conservation Easement"), which is attached hereto as Exhibit B and incorporated herein by reference, and agrees to abide by the restrictions on use of the real property contained in the Conservation Easement. The parties agree that the District may bring an action directly against the Grantee for violating any of the restrictions on use contained in the Conservation Easement, and the Grantee waives any defense it may have to such enforcement on the grounds of privity of contract. Grantee hereby agrees to indemnify City for any claims, losses, costs, fees, liabilities, regulatory penalties, damages or injuries suffered by City arising out of, or related to, the breach of this Section 16.

17. INTEGRATION:

This Agreement constitutes the complete expression of the agreement between the parties and supersedes any prior agreements, whether written or oral, concerning the subject of this

Easement. Any modification of or addition to this Agreement must be in writing signed by both parties.

18. INDEPENDENT CAPACITY OF GRANTEE:

Grantee, its officers, agents, and employees shall act in an independent capacity and shall not represent themselves to be or be construed to be officers, agents, or employees of City.

19. EASEMENT ENFORCEMENT:

This Easement constitutes a permanent and non-exclusive Easement and Grantee is limited to the use of the Property expressly and specifically described above. Grantee disclaims any interest that when coupled with the Easement herein granted would render it irrevocable.

20. TIME OF ESSENCE:

Time is and shall be of the essence of this Agreement and of each and every provision contained in this Agreement.

21. RELATIONSHIP:

The parties intend by this Agreement to establish the relationship of licensor and Grantee only and do not intend to create a partnership, joint venture, joint enterprise, or any business relationship other than that of licensor and Grantee.

22. CAPTIONS:

The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions hereof, and shall have no effect upon the construction or interpretation of any part hereof.

23. CHOICE OF LAW; VENUE:

This Agreement shall be construed, and its performance enforced, under California law. Any judicial proceeding in connection with any dispute under, or enforcement of, this Agreement shall be brought in Sonoma County, California.

24. NOTICES:

Except as otherwise specifically provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Either City or Grantee may from time to time designate an alternate person or office for service in a written notice given to the other. Notices shall be deemed sufficiently served five (5) days after the date of mailing by certified or registered mail, one (1) day after mailing by overnight courier, or upon personal delivery. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

To Grantee: Sonoma County Water Agency
 General Manager
 404 Aviation Blvd.

Santa Rosa, CA 95403

To City: Water Department
Director of Water
69 Stony Circle
Santa Rosa, CA 95401

With Copy to: Real Estate Manager
100 Santa Rosa Avenue, Room 6
Santa Rosa, CA 95404

25. SIGNATURES REQUIRED:

This Agreement shall have no force or effect whatsoever unless and until it has been executed by Grantee and City of Santa Rosa. By its execution, Grantee covenants and agrees that it will faithfully perform and abide by each and every term, condition, and limitation of the Easement granted herein, each of which shall be a condition subsequent to continuance in effect of the Easement.

[signatures appear on following page]

The parties have executed this Agreement as of the Effective Date.

Sonoma County Water Agency

City of Santa Rosa,
a Municipal Corporation

Signatures of Authorized Persons:

By: _____

By: _____

Print Name: Grant Davis

Print Name: _____

Title: General Manager

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Adam Brand, County Counsel

Office of the City Attorney

Attachments:

Attachment One – Insurance Requirements
Exhibit A –Easement Area
Exhibit B- Conservation Easement

Attachment One
Insurance Requirements

Exhibit A
Easement Area

Exhibit B

Conservation Easement (See attached)

NOTARY PUBLIC CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SONOMA

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS by my hand and official seal,

NOTARY PUBLIC CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SONOMA

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS by my hand and official seal,

[County to provide Certificate of Acceptance]