

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

Sonoma County Community Development Commission  
1440 Guerneville Road,  
Santa Rosa, CA 95403

**With Copy to:**

City of Santa Rosa- Utilities Department  
Storm Water & Creeks Section- Supervising Engineer  
69 Stony Circle  
Santa Rosa CA 95401  
Project/Property: 665 & 675 Sebastopol Rd,  
Santa Rosa, California 95407  
APN: 125-101-031 & APN 125-111-037

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Space above this line has been reserved for the Recorder's use

**DECLARATION OF COVENANTS REGARDING MAINTENANCE OF  
STORM WATER BMP FACILITIES**

This Declaration of Covenants Regarding Maintenance of Storm Water BMP Facilities (“Declaration”) is made on this \_\_ day of \_\_\_\_\_, by Sonoma County Community Development Commission (“Landowner”).

**RECITALS**

- A. Landowner is the fee simple owner of certain real property located at 665 and 675 Sebastopol Road in the City of Santa Rosa (“City”), Sonoma County, California, and more fully described in Exhibit A to this Declaration (“Property”).
- B. The City’s National Pollutant Discharge Elimination System (“NPDES”) Municipal Separate Storm Sewer System (“MS4”) Permit, Order number R1- 2015-0030, issued by the North Coast Regional Water Quality Control Board, requires the City to implement and enforce specific requirements for the construction and maintenance of onsite storm water management facilities/best management practices (collectively, “BMP”) for development, redevelopment, and other applicable projects with the goal of mitigating impacts to storm water quality and runoff volume discharges into the MS4.
- C. Provisions of Chapter 17-12 and other applicable sections of the Santa Rosa City Code shall apply to the construction, inspection and maintenance of BMP facilities and the enforcement of MS4 Permit requirements.
- D. On \_\_\_\_\_, 2021, the City Engineer approved Landowner’s Improvement Plans (“Plan”), City File No. 2021 - \_\_\_\_\_ and Final Stormwater Low Impact Development Submittal (“SWLID”) for the Property which requires the construction and maintenance of BMP facilities (“BMP Facilities”) on the Property and in the public right of way by Landowner. The SWLID may be inspected at the City of Santa Rosa, Department of Utilities, Storm Water & Creeks Section, 69 Stony Circle upon appointment.

- E. The City of Santa Rosa Design Review Resolution Number 11654 requires that Landowner make and execute this Declaration.

## DECLARATION OF COVENANTS

NOW, THEREFORE, in consideration of the foregoing recitals, Landowner hereby covenants, agrees and declares as follows:

1. Landowner shall, at Landowner's sole cost and expense, construct, inspect, and maintain the BMP Facilities in accordance with the Plan and the SWLID. Landowner shall assure that all BMP's remain fully functional and that all areas identified in the Plan and SWLID for treatment and/or volume capture discharge to the specified BMP as designed.
2. Landowner shall keep all records related to annual inspections of BMP's by City and all records related to BMP maintenance for a period of at least five years. The records shall include records of any BMP Facilities corrections, repairs, and replacements. Landowner shall make these records available to the City upon request.
3. In the event Landowner fails to maintain the BMP Facilities in good working condition as solely determined by the City, the City may enter upon the Property and take whatever steps it deems reasonably necessary to maintain and/or make in good working condition, such BMP Facilities. It is expressly understood that the City is under no obligation to maintain or repair the BMP Facilities, and in no event shall this Declaration be construed to impose such an obligation on the City.
4. In the event that the City performs work of any nature, or expends any funds in the performance of such work for labor, use of equipment, supplies, materials, or the like, due to failure of the Landowner to perform its maintenance obligations under this Declaration, as solely determined by City, Landowner shall reimburse the City within 60 days of receipt of notice for all costs incurred by the City to undertake such work. Costs shall include, but are not limited to, the actual cost of construction, maintenance and/or repair, and administrative costs directly related to such work.
5. Any violation of the or SWLID by Landowner shall be deemed a public nuisance under Chapter 1-30 of the Santa Rosa City Code and City shall be entitled to the remedies available to it under Chapter 1-30 in addition to those available to it under Chapter 17-12. The remedies identified herein shall be in addition to and cumulative of all other remedies, criminal or civil, which may be pursued by the City.
6. Landowner shall indemnify, defend and hold harmless the City and its employees, officials, and agents, from and against any liability, (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, interest, defense costs, and expert witness fees), where the same relates to, or arises out of, the construction, presence, existence, inspection, or maintenance of BMP Facilities on the Property or the performance of the covenants underlying this Declaration by Landowner, its officers, employees, agents, contractors or sub-contractors, excepting only that resulting from the sole, active negligence or intentional misconduct of the City, its employees, officials, or agents. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for the Landowner or its agents under workers' compensation acts, disability benefits acts or other employees' benefits acts. If any judgment or claim against the City, its officials, agents, or employees, shall be entered, Landowner shall pay all cost and expenses in connection therewith.

7. If any provisions of this Declaration shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
8. This Declaration shall be governed according to the laws of the State of California. The parties hereto agree that the forum for the adjudication of any dispute related to this Declaration shall be brought exclusively and solely in Sonoma County, California.
9. Landowner shall not assign this Declaration to a third party without the express prior written consent of the City, provided that such consent will not be unreasonably withheld and that such consent shall not be required for Landowner to sell or lease the property to a third party.
10. Landowner binds itself, its partners, successors, legal representatives and assigns to the City, and to the partners, successors, legal representatives and assigns of the City with respect to all promised and agreements contained herein.
11. This Declaration shall be recorded by Landowner, and shall: a) constitute a "covenant running with the land;" b) be binding upon Landowner and Landowner's successors, heirs, and assigns in perpetuity; and, c) benefit the City of Santa Rosa, its successors, and assigns. Any breach of this Declaration shall render Landowner or Landowner's heirs, successors or assigns liable pursuant to the provisions of the Santa Rosa City Code.
12. Any notice, submittal or communication required or permitted to be served on Landowner or City may be served by personal delivery to the person or the office of the person identified below. 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:

City Representative:

Landowner or Landowner Representative:

City of Santa Rosa  
 Utilities Department  
 Storm Water & Creeks Section  
 Supervising Engineer  
 69 Stony Circle  
 Santa Rosa CA 95401

Name: Sonoma County Community Development Commission  
 Address: 1440 Guerneville Road, Santa Rosa, CA 95403

Executed as of the day and year first above stated.

**LANDOWNER:**

*Signatures of Authorized Persons:*

By: \_\_\_\_\_

Print Name:

Title:

ATTACHMENTS: Exhibit A- Property Description

Notary Acknowledgment