

RECORDING REQUESTED BY:
TOWN ENGINEER

WHEN RECORDED RETURN TO:
Town Engineer
Town of Windsor
P. O. Box 100
Windsor, CA 95492-0100

File No: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Project Name: _____ **1.**
Project Address(es)/Lot Number(s): _____ **2.**
Original Lot APN(s): _____ **3.**

**DECLARATION OF COVENANTS RELATED TO THE MAINTENANCE
OF COMMONLY OWNED STORM WATER LID BMP(S)**

This Declaration of Covenants Related to Maintenance of permanent Storm Water Low Impact Design Best Management Practices (LID BMPs) ("Declaration") is made on this 4. day of 5., 20 , by 6., (collectively, "Landowners").

RECITALS

- A. Landowner(s) is/are the fee simple owners of certain real property located in the Town of Windsor ("Town"), Sonoma County, California, at the address(es) of: _____ **7.** and corresponding APN(s) (_____ **8.**);, more fully described as Lot Number(s) 1-9. respectively and set forth in Exhibit A to this Declaration ("Property"). The Property is part of a larger development referred to herein as the "Project."
- B. The Town's National Pollutant Discharge Elimination System ("NPDES") Municipal Separate Storm Sewer System ("MS4") Permit, issued by the North Coast Regional Water Quality Control Board, requires the Town to implement and enforce specific requirements for the construction and maintenance of onsite storm water management Low Impact Design best management practices (collectively, the "LID BMPs") for development, redevelopment, and other applicable projects with the goal of mitigating impacts to storm water quality and runoff volume discharges to the Town's storm drain system (MS4) and/or waters of the State of California. Provisions of Town Municipal Code Title IX, Chapter 4 and other applicable sections of the Town Municipal Code shall apply to the construction, inspection and maintenance of the LID BMPs and the enforcement of MS4 Permit requirements.
- C. Provisions of Title IX, Chapter 4 and other applicable sections of the Town Code shall apply to the construction, inspection, and maintenance of LID BMP(s) on the property and the enforcement of MS4 Permit requirements.

- D. On _____ **10.** _____, the Town Engineer approved Improvement Plans titled: _____ **11.** _____
 _____ (“Plans”) including a Final Storm Water LID Plan (“F-SWLID”) and Maintenance
 Plan for the Property which requires the construction and maintenance of LID BMP(s) on the Property by
 the **12. number of property owners** _____ Landowners of the Property. The LID BMP(s) required under the
 F-SWLID may include both built and landscaping features. The F-SWLID and Maintenance Plan may be
 inspected, upon appointment, at the Town of Windsor, Public Works Department, 8400 Windsor Road.
- E. The Town’s MS4 Permit and/or the F-SWLID requires that all **13. number of property owners** _____
 Landowners make and execute this Declaration.

DECLARATION OF COVENANTS

NOW, THEREFORE, in consideration of the foregoing recitals, Landowners hereby covenant, agree, and
 declare as follows:

1. Landowner(s) shall, at the cost and expense of the Landowner(s), construct, inspect, and maintain such
 common area LID BMP(s) on the Property in perpetuity, all in accordance with the Plans and the F-SWLID
 and Maintenance Plan. Landowners shall ensure that all common area LID BMP(s) on the Property remain
 fully functional and that all common area(s) identified in the Plans and F-SWLID for treatment and/or
 volume capture discharge to the specified common area LID BMP as designed. All Landowners and/or any
 entity designated in writing by all **13. number of property owners** _____ **Landowners and approved by
 the Town, assume all responsibility for conducting a maintenance inspection of the common area
 LID BMP on the Property at least annually and shall submit an annual inspection report to the Town
 no later than September 1st of each year.** The Owner(s) shall ensure that the common area LID BMP(s)
 will be maintained and fully functional until such time that the responsibility is legally transferred to an
 entity designated and trained to take over permanent responsibility for common area LID BMP
 maintenance. Landowners shall be jointly and severally liable under this section.
2. The Landowner(s) each shall keep all records related to annual inspections of the common area LID BMP(s)
 on the property and all records related to the common area LID BMP maintenance by the Landowner(s)
 for a period of at least five (5) years. The records shall include all corrections, repairs, and replacements of
 all common area LID BMP(s) on the Property. The Landowner(s) shall make these records available to the
 Town upon request.
3. In the event the Landowner(s) fail(s) to maintain the common area LID BMP(s) in good working condition
 as solely determined by the Town, in the exercise of its reasonable discretion, and fail(s) to repair within
 thirty (30) days following Town’s written notice thereof to Landowners, the Town may enter upon the
 common area LID BMP(s) and take whatever steps it deems reasonably necessary to maintain and/or place
 in good working condition such common area LID BMP(s); provided, however, that such notice and
 opportunity to repair shall not be required when, in the Town’s sole determination in the exercise of its
 reasonable discretion, the Town’s immediate entry and repair are required in the interest of the public
 health, safety and welfare. It is expressly understood that the Town is under no obligation to maintain or
 repair the common area LID BMP(s) on the property, and in no event shall this Declaration be construed to
 impose such an obligation on the Town. The Landowner(s) has/have no obligation with respect to
 performing physical maintenance of any public LID BMP which are annexed into the Town’s 1982 Act
 Benefit Assessment District.
4. In the event that the Town 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(s) to
 perform the maintenance obligations under this Declaration, as solely determined by Town, in the exercise
 of its reasonable discretion, all **14. number of property owners** _____ Landowner(s) (each responsible for

15. fraction divided by number of landowners (ex: 1/4) of the costs) shall reimburse the Town within sixty (60) days of receipt of notice for all costs incurred by the Town 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. Notwithstanding the above, allocation, Landowners shall be jointly and severally liable for any and all costs.

5. Any violation of the Plans or F-SWLID and Maintenance Plan by the Landowner(s) shall be deemed a public nuisance and the Town shall be entitled to the remedies available to it under Town Municipal Code Title IX, Chapter 4. The remedies identified herein shall be in addition to and cumulative of all other remedies, criminal or civil, which may be pursued by the Town. The Landowner(s) shall be jointly and severally liable for any and all such violations.
6. All 16. number of property owners Landowner(s) shall indemnify, defend and hold harmless the Town and its employees, officials, and agents, from and against any liability, (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, related 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 the common area LID BMP(s) or the performance of the covenants contained in or arising from this Declaration by any of the Landowners, its officers, employees, agents, contractors or subcontractors, excepting only that resulting from the sole, active negligence or intentional misconduct of the Town, its employees, officials, or agents. This indemnification obligation is not restricted in any way by any limitation on amount or type of damages or compensation payable to or for the Landowners or its agents under workers' compensation acts, disability benefits acts or other employees' benefits acts. If any judgment or claim against the Town, its officials, agents, or employees, shall be entered, each Landowner shall pay 17. fraction divided by number of landowners ex: 1/4 of all costs and expenses in connection therewith, subject to the aforementioned exception for cost resulting from the sole, active negligence or intentional misconduct of the Town. All 18. number of property owners Landowners shall be jointly and severally liable for any and all costs required under this section.
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. The Landowner(s) may not assign this Declaration to a third party without the express prior written consent of the Town and the consent of all the other non-assigning Landowner(s), provided that such consent will not be unreasonably withheld. However, such consent shall not be required for Landowners to sell or lease the adjoining lots to a third party who expressly assumes the obligations of the Landowner(s) hereunder pursuant to an Assignment and Assumption Agreement or similar document between the Landowner(s) and the third party, in a form reasonably acceptable to the Town.
10. The Landowner(s), and each of them, binds themselves/themselves, their partner(s), successor(s), legal representative(s) and assign(s) of the Town with respect to all promises and agreements of the Landowner(s) contained herein.
11. This Declaration shall be recorded by each Landowner and shall: (a) constitute a covenant running with the land; (b) be binding upon each Landowner and the Landowners' successors, heirs, and assigns in perpetuity; and (c) benefit the Town of Windsor, its successors, and assigns. Any breach of this Declaration

by the Landowner(s) shall render each Landowner or Landowner's/Landowners' heirs, successors or assigns liable pursuant to the provisions of the Town Municipal Code. Upon a valid transfer of title to the adjoining lots from the Landowner(s) to a third party and Town's approval of an Assignment and Assumption Agreement or similar document between each Landowner and the third party, each Landowner shall be released from all responsibility under this Declaration.

12. Any notice, submittal or communication required or permitted to be served on each Landowner or Town 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:

To Landowner(s): 19. _____

Attention: 20. _____

To Town: Town of Windsor
 P.O. Box 100
 Windsor, CA 95492-0100
 Attention: Town Engineer

Executed as of the day and year first above stated.

LANDOWNER(S):

Name(s)/Title(s): 21. _____

Corresponding Address(es)/Lot Number(s): 22. _____

Signatures of Authorized Persons:

ATTACHMENTS:

- (1) Exhibit A- Legal Property Description
- (2) Exhibit B- Storm Water LID Feature Operation and Maintenance Plan

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189



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 _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

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 my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Exhibit A – Legal Property Description

Revised: 5.31.2022

Declaration of Covenants for Common Area

Town of Windsor Attorney form approved: 7.6.19

Exhibit B –Storm Water LID Feature Operation and Maintenance Plan

Revised: 5.31.2022

Declaration of Covenants for Common Area

Town of Windsor Attorney form approved: 7.6.19