

Recording at the request of:
CITY OF SACRAMENTO
DEPARTMENT OF UTILITIES
No Fee per Government Code 27383

After recording, return to:
Office of the City Clerk
915 I Street, Fifth Floor
Sacramento, CA 95814

This space for Recorder's use

AGREEMENT FOR MAINTENANCE OF DETENTION SYSTEM

This Agreement is made and entered into on November 8th, 2023 by and between 2023 DBYHBROWN FAMILY TRUST ("Owner") and the **City of Sacramento** ("City").

Recitals

- A. Owner owns the real property (the "Property) located on 905 North Avenue, Sacramento, CA, identified by Assessor Parcel Number(s) 237-0200-092-0000, and more particularly described in **Exhibit A**.
- B. The Owner applied for a Building Permit to construct a residential subdivision of 8 lots known as the Nerradscali Subdivision which includes a bioretention basin and associated site improvements, (the "Project") designated by City Building Permit Number COM-2307306.
- C. As part of the Project, the Owner is required to install an onsite drainage detention system consisting of a stormwater detention/ sediment pond and a manhole with an orifice (hereafter referred to as the "Detention System") as shown on **Exhibit B**. The Detention System shall provide 7,000 cubic feet per increased acre of imperviousness and discharge rate of 0.2-cfs/acre. This Detention System located on the Property is a private facility, to be maintained by the Owner or its successor owners.
- D. Under Section 15.88.120 of the Sacramento City Code, the Owner may not develop in such a manner that would cause flooding where it would not otherwise occur, aggravate any existing flooding condition or cause accelerated erosion.
- E. The Owner is entering into this Agreement to satisfy the foregoing requirement, and to ensure that the Detention System will be properly maintained for the benefit of the Project and the adjacent properties.

NOW, THEREFORE, in consideration of City allowing Owner to construct the Project, City and Owner agree as follows:

1. **Maintenance of Detention System:** Owner, on behalf of itself and all future owners of the Property, agrees that at all times the Owner and its successor owners will take all actions necessary to adequately maintain and repair the Detention System as needed to fully maintain its detention function and capacity, at no cost to the City or to the owners or occupants of the adjacent properties. The owner and its successor owners shall be solely responsible for the condition, operation, maintenance, and repair measures of the Detention System specified on Exhibit B, attached hereto and incorporate herein by this reference.
2. **Inspection:** Owner hereby provides the City or City's designee complete access to the Detention System and its immediate vicinity at any time and for any duration, for the purpose of inspection. City shall make all reasonable efforts to (a) notify Owner verbally or in writing not less than 24 hours prior to making any such inspection, and (b) minimize or avoid interference with Owner's use of the Property.
3. **Owner's Failure to Maintain:** If Owner, or its successors, at any time fail to perform and complete the necessary maintenance contemplated by this Agreement, within five (5) days of being given written notice by the City that maintenance is required, the City is hereby authorized (but shall not have any obligation) to cause any maintenance the City deems necessary to be performed, and Owner hereby grants the City, its officers, employees, and contractors the right to enter the Property as needed to perform such maintenance. City shall charge the entire cost to perform such maintenance to the Owner or Owner's successors, including reasonable administrative costs, and shall send Owner a written invoice after the maintenance is performed. Owner shall pay the invoice not later than 30 days after the invoice date, and any amount unpaid more than 30 days after the invoice date shall (a) accrue interest at the maximum rate authorized by the California Civil Code until paid in full, and (b) be a lien against the Property in the City's favor.
4. **Enforcement Costs:** In the event of legal action occasioned by any default of the Owner, or its successors, then the Owner, on behalf of itself and its successors, agrees to pay all costs incurred by the City in enforcing the terms of this Agreement, including reasonable attorney's fees and costs, and further agrees that the same shall become a part of the lien against the Property.
5. **Notice to Successors:** Owner shall notify any successor to title of all or any part of the Property of the existence of this Agreement. Owner shall provide such notice prior to

such successor obtaining an interest in all or part of the Property. Owner shall provide a copy of such notice to the City at the same time such notice is provided to the successor. If Owner conveys all of its interest in the Property, the Owner shall be released from any obligations arising under this Agreement in connection with the maintenance of or failure to maintain the Detention System occurring after the date of such conveyance.

6. **Notices:** Any written notice to a party required or called for in this Agreement shall be served in person, or by deposit in the U.S. Mail, first class postage prepaid, to the address set forth below. Notice(s) shall be deemed effective upon receipt, or seventy-two (72) hours after deposit in the U.S. Mail, whichever is earlier. A party may change a notice address only by providing written notice thereof to the other party.

IF TO CITY:

Director of Utilities – Onsite Drainage Detention
City of Sacramento, Department of Utilities
1395 35th Avenue
Sacramento, CA 95822

IF TO OWNER:

2023 DBYHBROWN FAMILY TRUST

3960 Kingsbarns Drive

Roseville, CA 95747

7. **Recording:** In order to provide notice of Owner's obligations hereunder to potential future owners of the Property, the City may record this Agreement in the official records of the Sacramento County Recorder, prior to any Certificate of Occupancy being issued for any portion of the Project.
8. **Covenants Run with Owner's Land:** The parties agree that all of Owner's agreements and obligations contained herein are covenants which benefit and run with the Property, in accordance with Section 1468 of the Civil Code.
9. **Binding on Successors:** This Agreement shall be binding on the parties' successors and assigns, provided that the Owner may not assign this Agreement without the City's written consent, and any purported assignment without such consent shall be void.
10. **Third Party Beneficiary:** This Agreement requires the maintenance of the Detention

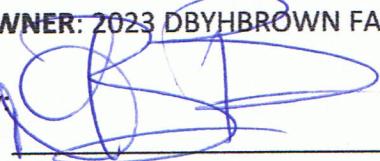
System for the benefit of the owner(s) and occupant(s) of the adjacent properties, who may enforce this Agreement against the Owner as third-party beneficiaries of this Agreement. This Section 10 shall authorize such third-party beneficiaries to seek injunctive relief and/or damages for any violation or breach of this Agreement by the Owner or any of its successor owners of the Property.

11. **Owner's Representations Regarding Ownership:** Owner certifies that it owns full legal title to the Property. Each individual executing this Agreement on behalf of a corporation or partnership represents and warrants to City that he or she has been authorized to do so by the entity on whose behalf he or she executes this Agreement and that said entity will thereby be obligated to perform the terms of this Agreement.
12. **Joint and Several Liability:** In the event that Owner consists of more than one party, each person, entity, or other party described as the "Owner" in the first paragraph of this Agreement or executing this Agreement for Owner, shall be jointly and severally liable for each and every obligation and requirement imposed on Owner herein.
13. **Attorney's Fees:** If the services of any attorney are required by the City or by any third party beneficiary to secure the performance of this Agreement by Owner or any successor owners of the Property, or otherwise upon any breach or default, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and other expenses, in addition to any other relief to which such party may be entitled.
14. **Indemnity:** Owner and its successor owners of the Property shall defend, indemnify and hold harmless City, its officers, employees and agents against and from all actions, damages, costs, liability, claims, losses, judgments, penalties 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 and any fees and expenses incurred in enforcing this provision, arising from the failure to adequately maintain and repair the Detention System or from any action or failure to act by Owner or its successor owners of the Property, or their respective officers, employees or agents, in connection with this Agreement.
15. **Exhibits Incorporated:** The Exhibits described above and attached hereto are incorporated herein by this reference as if fully set forth at this place.
16. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

OWNER: 2023 DBYH BROWN FAMILY TRUST

By:



Signature

Print Name: Darren B. Brown
Title: Owner

By:



Signature

Print Name: Yu Hui Brown
Title: Owner

Attach Notary Certification for Owner's Signature

Original Approved as to Form:

CITY OF SACRAMENTO:

City Attorney

By: _____
Pravani Vandeyar, Director of Utilities

ATTEST:

City Clerk

ACKNOWLEDGMENT

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 Sacramento)

On November 13, 2023 before me, Sheeri Baumgarten Notary Public.
(insert name and title of the officer)

Yuu Hui Brown.

personally appeared Yuu Hui 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 Yuu Hui (Seal)



ACKNOWLEDGMENT

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 Sacramento)

On November 13, 2023 before me, Sheree Baumgart Notary Public
(insert name and title of the officer)

personally appeared Darren B. Brown

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.


Sherri Baumgart
Signature

