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I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobernicht, Director of Assessment and Taxation, Ex-Officio County Clerk



After Recording Return to:  
City of Sherwood  
22560 SW Pine Street  
Sherwood, OR 97140

**PRIVATE STORMWATER FACILITIES  
AGREEMENT**

This Agreement is made and entered into this 18th day of June, 2013, by and between City of Sherwood ("City") and Robert James Claus ("Owner").

**RECITALS**

- A. Owner has developed or will develop eight individual "rain gardens" (the "Facilities"), one each for lots 1 through 6, 8 and 9 of the subject real property described in Recital C below and on Exhibit A (the "Property"). The Facilities enable development of property while mitigating the impacts of additional surface water and pollutants associated with stormwater runoff prior to discharge from the property to the public stormwater system. The consideration for this Agreement is connection or discharge to the public stormwater system.
- B. The Property benefited by the Facilities and subject to the obligations of this Agreement is described below and depicted in Exhibit A (Property) attached hereto and incorporated by reference.

Lots 1, 2, 3, 4, 5, 6, 8 and 9 of the McFall Estates Subdivision, located in the Southeast and Southwest Quarters of Section 20, Township 2 South Range 1 West, Willamette Meridian, Washington County, Oregon, and approved by the City of Sherwood as SUB-09-01.

- C. A professional engineer registered in the State of Oregon must design the Facilities. The Facilities must accommodate the anticipated volume of runoff and to detain and treat runoff in accordance with City's Design and Construction Standards.
- D. Failure to inspect and maintain the Facilities can result in an unacceptable impact to the public stormwater system.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the above recitals (which are incorporated into the terms of this Agreement as if set out fully below) the parties agree as follows:

- 1. OWNER INSPECTIONS Owner shall provide City with an approved Operations and Maintenance Plan ("O&M Plan") for each Facility. Owner agrees to operate, inspect and maintain each Facility in accordance with the current O&M Plan and any subsequent modifications to the Plan. Owner shall maintain a log of inspection activities. The log must include any Deficiencies. The log shall be available to City upon request and during City inspections.
- 2. DEFICIENCIES All aspects in which the Facilities fail to satisfy the O&M Plan are "Deficiencies".

3. CITY INSPECTIONS Owner grants City the right to enter the Property to inspect the Facilities. City will endeavor to give ten (10) days prior written notice to Owner, except that no notice shall be required in case of an emergency. City shall determine whether Deficiencies need to be corrected. City will notify Owner in writing of the Deficiencies and Owner shall make corrections within 30 days of the date of the notice.
4. OWNER CORRECTIONS All Deficiencies shall be corrected at Owner's sole expense within thirty (30) days after completion of the inspection. If more than 30 days is reasonably needed to correct a Deficiency, Owner may request City to authorize an additional amount of time to correct the Deficiency. If City agrees that additional time is warranted, City will authorize such additional time with written notice to Owner. Owner shall have a reasonable period to correct the Deficiency so long as the correction is commenced within the 30-day period and is diligently prosecuted to completion.
5. CITY CORRECTIONS If correction of all Owner or City identified Deficiencies is not completed within thirty (30) days after Owner's inspection or City's notice (or within additional time permitted by City under paragraph 4), City shall have the right to have any Deficiencies corrected. Without further notice to Owner, City (i) shall have access to the Property and the Facilities for the purpose of correcting such Deficiencies and (ii) shall bill Owner for all costs reasonably incurred by City for work performed to correct the Deficiencies (City Correction Costs) following Owner's failure to correct any Deficiencies in the Facilities. Owner shall pay City the City Correction Costs within thirty (30) days of the date of the invoice. Owner understands and agrees that upon non-payment, City Correction Costs shall be secured by a lien on the Property for the City Correction Cost amount plus statutory interest and penalties, if any.
6. EMERGENCY MEASURES If at any time City reasonably determines that the Facilities create any imminent threat to public health, safety or welfare, City may immediately and without prior notice to Owner take measures reasonably designed to remedy the threat. City shall provide notice of the threat and the measures taken to Owner as soon as reasonably practicable, and charge Owner for the cost of these corrective measures.
7. FORCE AND EFFECT This Agreement has the same force and effect as any deed covenant running with the land and shall benefit and bind all owners of the Property present and future, and their heirs, successors and assigns.
8. AMENDMENTS The terms of this Agreement may be amended only by mutual agreement of the parties. Any amendments shall be in writing, shall refer specifically to this Agreement, and shall be valid only when executed by the owners of the Property and the City and recorded in the official records of Washington County, Oregon.
9. PREVAILING PARTY In any action brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover all costs, including reasonable attorney's fees as may be determined by the court having jurisdiction, including any appeal.
10. SEVERABILITY The invalidity of any section, clause, sentence, or provision of this Agreement shall not affect the validity of any other part of this Agreement, which can be given effect without such invalid part or parts.
11. NOTICES. When this Agreement requires written notice, it must be sent first class through the U.S. Postal Service at the addresses that follow. Either party may modify its address from time to time with written notice to the other party.

Owner:



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City:



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IN WITNESS WHEREOF, Owner and City have signed this Agreement.

OWNER:

[Signature]  
Owner  
June 18<sup>th</sup> - 2013  
Date

CITY OF SHERWOOD:

By: [Signature]  
City Manager

APPROVED AS TO FORM:

[Signature]  
City Attorney

STATE OF OR )  
County of Yamhill )



This instrument was acknowledged before me this 18 day of June, 2013, by Robert Slaus as the Owner.

[Signature]  
Notary Public

STATE OF Oregon )  
County of Washington )

This instrument was acknowledged before this 1<sup>st</sup> day of July, 2013, by Joseph Gall as City Manager for the City of Sherwood.

[Signature]  
Notary Public

