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## DECLARATION

**THIS DECLARATION** is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, [description] (Declarant), in favor of the Riley Purgatory Bluff Creek Watershed District, a governmental subdivision of the State of Minnesota with purposes and powers pursuant to Minnesota Statutes chapters 103B and 103D (RPBCWD).

## RECITALS

**WHEREAS**, Declarant is the owner of real property within the City of \_\_\_\_\_, [Hennepin/Carver] County, Minnesota, platted and legally described as:

[legal description]

(the Property) and no one other than Declarant and [NAME(S) HERE], has any right, title or legal interest in the Property; and

**WHEREAS**, the Property constitutes the entirety of the land to which RPBCWD permit # \_\_\_\_\_ applies; and

**WHEREAS**, Declarant desires to subject the Property to certain conditions and restrictions related to maintenance of facilities and site conditions required by the RPBCWD as a condition of issuance of permit no. \_\_\_\_\_ for the mutual benefit of the RPBCWD and Declarant.

**NOW, THEREFORE,** Declarant makes this declaration and hereby declares that this declaration constitutes covenants to run with the Property in perpetuity, and is binding on all persons owning or acquiring any right, title or interest in the Property and their heirs, successors, personal representatives and assigns. All features requiring maintenance as specified below and on the scaled site plan for the Property attached hereto and incorporated herein as Exhibit A will be maintained in perpetuity as follows:

## 1. BUFFER AREAS

- a. Buffer vegetation must not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality and performance, each as approved by the District in advance in writing or when implemented pursuant to a written maintenance plan approved by the District.
- b. Diseased, noxious, invasive or otherwise hazardous trees or vegetation may be selectively removed from buffer areas and trees may be selectively pruned to maintain health.
- c. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines.
- d. No fill, debris or other material will be placed within a buffer.
- e. No structure or impervious cover (hard surface) may be created within a buffer area beyond that shown in the scaled site plan attached to this declaration as Exhibit A.
- f. Permanent wetland buffer monuments will be maintained in the locations shown on the approved site plan attached as Exhibit A. Language shall indicate the purpose of the buffer, restrictions and the name and website address of the Riley Purgatory Bluff Creek Watershed District.

## 2. WATERBODY CROSSINGS & STRUCTURES

- a. Crossings and structures in contact with the bed or bank of a waterbody will be inspected at least once a year and maintained in good repair in perpetuity to ensure adequate hydraulic and navigational capacity is retained in accordance with approved plans; to ensure no net increase in the flood stage beyond that achieved by the approved plans; to prevent adverse effects to

water quality, changes to the existing flowline/gradient and increased scour, erosion or sedimentation; and minimizing the potential for obstruction of the waterbody.

### 3. STORMWATER FACILITIES

- a. **Stormwater retention and treatment basin(s).** Stormwater retention and treatment basin(s) must be inspected at least once a year to determine if the basin's retention and treatment characteristics are adequate and continue to perform per design. Culverts and outfall structures must be inspected at least annually and kept clear of any obstructions or sediment accumulation. Sediment accumulation must be measured by a method accurate to within one vertical foot. A storage treatment basin will be considered inadequate if sediment has decreased the wet storage volume by 50 percent of its original design volume. Based on this inspection, if the stormwater basin(s) is identified for sediment cleanout, the basin(s) will be restored to its original design contours and vegetation in disturbed areas restored within one year of the inspection date.
- b. **Raingardens, infiltration basins and filtration basins.** Raingardens, infiltration basins and filtration basins will be inspected annually to ensure continued live storage capacity at or above the design volume. Invasive vegetation, excess sediment and debris will be removed as needed and healthy plant growth will be maintained to ensure that the facilities continue to perform per design.
- c. **Vegetated swales.** Vegetated swales will remain free from mowing or other vegetative disturbance, fertilizer application, yard or other waste disposal, the placement of structures or any other alteration that impedes the function of the vegetated swale.
- d. **Pervious pavement.** Pervious pavement will be inspected after at least one major storm per year and otherwise annually to ensure continuing performance per design. Surface openings will be vacuumed in dry weather to remove dry, encrusted sediment as necessary. Broken units that impair the structural integrity of the surface will be replaced. If water stands for an extended period of time, the base materials will be removed and replaced.
- e. **Underground storage facilities.** Underground storage facilities will be inspected at least annually to ensure continuing performance per design. Capacity will be considered inadequate if sediment has decreased the storage volume by 50 percent of the original design volume. Accumulated debris and sediment will be removed, and inlet and outlet structures will be kept clear of any flow impediments.

- f. **Grit chambers, sump catch basins and sump manholes.** Grit chambers, sump catch basins and sump manholes will be inspected in the spring, summer and fall of each year. All sediment and debris will be removed as needed such that the stormwater facilities operate as designed and permitted.
  - g. **Proprietary stormwater facilities.** Proprietary stormwater facilities will be inspected at least annually and maintained as specified or recommended by the manufacturer and/or installer as described in Exhibit B.
3. **Written Report.** Property owner will submit to the RPBCWD annually a brief written report that describes the maintenance activities performed under this Declaration, including dates, locations of inspections and the maintenance activities performed.
  4. **Violation.** The RPBCWD may seek any remedy in law or equity against the Declarant as long as the Declarant owns the Property and thereafter against the Property Owner for a violation of this declaration. "Property Owner" as used in this declaration means the owner of the Property or a lot or outlot of record within the Property to which a maintenance obligation herein applies.
  5. **Recitals.** The recitals set forth above are expressly incorporated herein.

**IN WITNESS WHEREOF**, the undersigned has executed this instrument the day and year first set forth.

**DECLARANT:**

By: \_\_\_\_\_  
 [name, and company and representative capacity, if applicable]

By: \_\_\_\_\_  
 [name, and company and representative capacity, if applicable]

STATE OF MINNESOTA    )  
   )ss.  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

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Notary Public

This instrument was drafted by:

template

